

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 6-14-0691

Applicant: City of San Diego Parks and Recreation Department

Agent: Daniel Daneri

Location: Children's Pool Beach, west of Coast Boulevard, southwest of Jenner Street, La Jolla, San Diego, San Diego County.

Project Description: Closure of Children's Pool beach to all public access during Harbor Seal pupping season, December 15 to May 15, of each year. Installation of "Area Closed" signage on barrier chain at the top of the lower staircase leading to the beach from the second landing area and on the western emergency access gate adjacent to the seawall.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending **approval** of the proposed project with special conditions to minimize long-term impacts to public access and marine resources.

The City of San Diego Parks and Recreation Department proposes to restrict public access at Children's Pool beach in the La Jolla community of the City of San Diego each year in perpetuity from December 15 to May 15 in order to protect the harbor seals from harassment and disturbance during their pupping season. The proposed "Area Closed" signs would be placed on the western emergency access gate adjacent to the seawall, which is closed except for emergency personnel, and on a barrier chain at the top of the lower staircase on the second landing to seasonally prevent public access to the sandy beach area where the seals haul out and give birth (**Exhibits 3 and 4**).

Addressing the conflicts between people and seals at Children's Pool Beach has a long history. In 1930, philanthropist Ellen Browning Scripps provided funding for the construction of a 300-ft. arced concrete breakwater at Children's Pool Beach in order to create a safe bathing pool for children. Since the completion of the breakwater in 1931, the public has used Children's Pool Beach for sunbathing, swimming, fishing, and diving. Controversy arose in the early 1990s when harbor seals began to regularly "haul out," or exit the water to rest, onto Children's Pool Beach, and in greater numbers. As a result of the seals' increased use of Children's Pool Beach as a haul out site, there has been ongoing disagreement on how the seals and their habitat should be protected, how public access can be protected, and whether seals and people can share the beach.

To address this issue, the City first installed a rope barrier with an opening to maintain public access directly upland of the Mean High Tide Line (MHTL) approved through various emergency and regular coastal development permits for the duration of the seal pupping season and eventually year-round beginning in 2006. However, the rope barrier was controversial, and the City continued to examine options for addressing use conflicts between seals and the public. Thus, in 2010, the City adopted a resolution establishing a Seasonal Shared Use Policy consisting of five adaptive management strategies for Children's Pool Beach that, in their collective implementation, were intended to protect the seals by providing a visual buffer and guideline with a year-round rope barrier that continued to allow shared use of the beach by seals and people; eliminating disturbance from dogs; educating the public on how to respectfully share the beach with the seals with informational signage; providing a qualified expert to specifically oversee further public education and enforcement at Children's Pool; and last, limiting access during pupping season while allowing for public access during non-pupping season. All of the measures have since been implemented, except for the seasonal beach closure at Children's Pool. Unfortunately, despite the Shared Use Policy measures and protective barriers implemented to date (**Exhibit 5**), accidental and intentional harassing of the seals by the public has been continuously observed and recorded. Thus, the City determined that the existing rope barrier is not sufficient to provide the seals with undisturbed protection during the five critical months of their pupping season. The City is now proposing to restrict public access during the seal pupping season at Children's Pool Beach to eliminate the potential for and the impacts of human disturbance. This limited closure is the fifth and final directive that would complete the protective measures to provide the seals with an undisturbed habitat during their pupping season as intended by the Seasonal Shared Use Policy.

As proposed, restrictions on public access at Children's Pool Beach would occur for five months of the year. The breakwater would remain open to public access year-round; public access to the sandy beach would only be prohibited during pupping season each year. During these five months, there would be limited impacts on public access and recreation as the public will still be able to enjoy walking, fishing, and viewing the seals on the breakwater. Unrestricted access to the many nearby beaches would remain, including areas where disabled persons may access the beach and ocean. The opportunity afforded the public at Children's Pool to observe seals close up has become a significant tourist draw and natural attraction that provides a form of public recreation and interpretive opportunity that is unique in Southern California. In the other seven non-pupping season months of the year, there would be no public access restrictions and no regulations against public use of the sandy beach or the water. Visitors will continue to be encouraged to maintain a safe and respectful distance from the seals, as mandated by the MMPA. While the proposed project will impact public access from December 15 to May 15 of each year, this is not only necessary but also the least possible restriction necessary, as all lesser means of protecting the seals while still providing continuous public access have failed to prevent a small but significant number of people from harassing the seals during their vulnerable months of pupping season. Given the past actions at this site, there is every reason to expect that the seals will continue to be subject to harassment and endangerment if the beach is not closed off during pupping season. The seasonal beach closure will improve the protection and enhancement of the harbor seal population, while maintaining public access to all but a small area of beach. The Commission's staff ecologist has reviewed the proposed project and concurs with the staff recommendation that the seasonal beach closure will benefit the seal population and provide enhanced marine resource protection (**Exhibit 8**).

Staff is recommending approval of the project with several minor modifications. Rather than maintain the closure in perpetuity as proposed by the City, **Special Condition #1** limits the duration of the proposed seasonal beach closure to a period not to exceed five years. **Special Condition #2** requires the City to prepare a monitoring plan and submit annual monitoring reports for throughout the five-year permit term that measure the level of use by seals of the haul-out site and the effectiveness of the public access restrictions on reducing or eliminating harassment of the seals. With these two conditions, the City will be required to monitor the site to determine the seasonal beach closure's effectiveness and then, based on the monitoring results, come back to the Commission in five years to extend and/or modify the permit. Commission staff is also recommending **Special Condition #3**, requiring the City to submit a comprehensive Sign Program with clear signage to alert the public of the seasonal access restrictions at Children's Pool Beach. **Special Condition #4** requires the applicant to accept liability for costs and attorney fees that the Coastal Commission may incur in defending its action should there be litigation challenging its approval of this permit.

A jurisdictional boundary determination conducted by the Commission's mapping department determined that the the entire sandy beach area is located in the Commission's original coastal development permit jurisdiction, and the City's jurisdiction begins at the bottom of the lower stairs (**Exhibit 7**). The proposed project spans both jurisdictions. Section 30601.3 of the Coastal Act provides that when a project

requires a coastal development permit (CDP) from both a local government with a certified LCP and the Coastal Commission, a single, consolidated CDP for the entire project may be processed. At the request of the applicant, who in this case is the local government, Commission staff has agreed to process the subject permit as a consolidated CDP. Thus, the standard of review for the proposed project is the Chapter Three policies of the Coastal Act. However, because the City's certified LCP is used for guidance in this area, the subject Coastal Development Permit is being concurrently processed with Local Coastal Program Amendment No. LCP-6-LJS-14-0607-1. This amendment will add policy language to the La Jolla Community Plan (the certified Land Use Plan) and a new ordinance to the San Diego Municipal Code to protect the seals by restricting access to Children's Pool beach during pupping season each year (**Exhibit 6**). As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act and with the Local Coastal Program as proposed to be amended.

Commission staff recommends **approval** of coastal development permit application 6-14-0691 as conditioned.

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I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-14-0691 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves coastal development permit 6-14-0691 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Permit Term.**

- A. This coastal development permit authorizes development on a temporary basis only. The development is authorized for a period of five (5) years, commencing upon the date of Commission approval of Coastal Development Permit No. 6-14-0691, after which time the authorization for continuation and/or retention of any development approved as part of this permit shall cease. After the authorization for the development expires, the retention of seasonal beach closure and associated signage at Children's Pool Beach will require the issuance of a new coastal development permit or an amendment to this coastal development permit.

- B. If the applicant does not obtain a coastal development permit or amendment from the California Coastal Commission to continue implementation of seasonal beach closure and installation of associated signage at Children's Pool Beach prior to the date that authorization for the development expires, the City shall cease implementation of the seasonal beach closure.

- C. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved project plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is legally required.

2. **Monitoring Plan.**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a Monitoring Plan for the management and monitoring of the seasonal beach closure at Children's Pool Beach. The plan shall include, but not be limited to, the following criteria:

1. A physical description and exhibit delineating the precise location of the public access restrictions and associated signage at Children's Pool;

2. A discussion of the goals and objectives of the plan, which shall include the method by which the applicant will assess the level of use by seals of the haul out site at Children's Pool Beach throughout the year and the method of determining the effectiveness of the seasonal beach closure at minimizing harassment of hauled out seals with both methods employing, at a minimum, the procedures described in section 3 and 4, below, of this special condition;
3. Upon implementation of the seasonal beach closure, a qualified biologist, environmental resources specialist, park ranger, lifeguard, and/or City-trained volunteer shall record the number of seals hauled out at Children's Pool Beach, the number of people present on the beach, the number of people present in the water from the tip of the breakwater across to the point of rock directly below the green gazebo, the number of harassment instances, the number of citations and warnings issued, the outcomes of issued citations and warnings if available, the tide, the weather (including water and air temperature), and the date at least 16 days per month (to include weekends and holidays). Monitoring shall be conducted a minimum of 16 days per month and measurements shall be recorded a minimum of 3 times per day, to include 10 AM, 1 PM, and 4 PM;
4. Provisions for taking measurements of the number of harassment instances, including what activities would qualify as harassment consistent with relevant regulatory definitions of harassment (e.g. seals flushing into water) under the MMPA.

B. The City shall submit, for the review and approval of the Executive Director, on an annual basis, a written monitoring report from a qualified biologist or other qualified experts, as necessary to comply with the requirements of the monitoring report. Each monitoring report shall contain the following:

1. All records of measurements, analyses and conclusions created in conformance with the approved Monitoring Plan;
2. Recommendations for repair, maintenance, modifications, or other work to the development; and
3. Photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the condition, performance, and/or effectiveness of the seasonal beach closure and associated signage.

If a monitoring report contains recommendations for repair, maintenance, modifications, or other work, the permittee shall contact the San Diego Coastal Commission Office to determine whether such work requires an amendment or new coastal development permit.

C. The permittee shall undertake development in accordance with the approved final Monitoring Plan. No changes to the approved final Monitoring Plan shall occur without a Commission amendment to this coastal development

permit unless the Executive Director determines that no amendment is legally required.

3. **Sign Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a final comprehensive sign program in substantial conformance with the plans submitted by the applicant with the subject application on April 29, 2014 and as shown in Exhibits 3 and 4. As part of the sign program, signs shall not exceed 36 inches wide by 30 inches tall and a maximum of two (2) signs may be posted on the beach, one on a barrier chain at the top of the lower staircase leading to beach from the second landing area and one on the western emergency access gate adjacent to the seawall.

The applicant shall undertake the development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit, unless the Executive Director determines that non amendment is legally required.

4. **Liability for Costs and Attorney Fees.**

By acceptance of this coastal development permit, the Applicants/Permittees agree to reimburse the Coastal Commission in full for all Coastal Commission costs and attorney's fees including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorney's fees that the Coastal Commission may be required by a court to pay that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

IV. FINDINGS AND DECLARATIONS

A. PROJECT AND AREA DESCRIPTION

The City of San Diego Parks and Recreation Department proposes to restrict public access at Children's Pool beach in the La Jolla community of the City of San Diego each year in perpetuity from December 15 to May 15 in order to protect the harbor seals from human interference and harassment during pupping season. The "Area Closed" signs would be placed on the western emergency access gate adjacent to the seawall, which is only open for emergency vehicle access, and on a barrier chain at the top of the lower staircase on the second landing to prevent public access to the sandy beach area (**Exhibit 4**). The sign on the gate would be 24 inches wide by 18 inches tall, and the sign on the barrier chain would be 36 inches wide by 30 inches tall. The signage would clearly state that no beach access is allowed during the harbor seal pupping season from December 15

to May 15, and include the Coastal Commission permit number and action date as well as the City Council resolution number and action date (**Exhibit 3**).

The purpose of the proposed beach closure is to provide the seals with an undisturbed rookery during pupping seasons so they can properly care for their newborn pups. The breakwater, which includes a public path/viewing area with excellent views of the ocean, cove, and seals would remain open and available to the public for seal viewing year-round as currently so, as well as the area landward of the barrier chain at the lower staircase that includes the upper staircase and the walkway adjacent to the lifeguard station that is currently under construction (**Exhibit 4**), and the pedestrian path along Coast Boulevard above the sandy beach area. The beach area would have unrestricted public access from May 16 to December 14 of each year, during which time the “Beach Closed” signs would be stored off-site.

The project site is located at Children’s Pool Beach (also known as Casa Beach), west of Coast Boulevard and southwest of Jenner Street in the La Jolla community of the City of San Diego (**Exhibits 1 and 2**). Children’s Pool Beach is a 0.7-acre artificial pocket beach held in place by a seawall/breakwater constructed in 1931. Children’s Pool Beach is designated as “Parks, Open Space” in the City’s certified Land Use Plan. Children’s Pool Beach provides recreational opportunities for swimmers, divers, fisherman, tourists, and the general public through its provision of lifeguard facilities, access stairway from Coast Boulevard, parking along Coast Boulevard, viewing gazebo along Coast Boulevard, benches, portable restrooms, pedestrian walkway atop the breakwater, and an emergency vehicle beach access ramp that has remained closed by the City via a gate. It is bounded on the north and west by the Pacific Ocean; on the east by Coast Boulevard and Casa de Manana Retirement Community; and on the south by South Casa Beach. In addition, an adjacent haul out site (Seal Rock) is located approximately 500 feet northeast of Children’s Pool Beach. Several beaches are located adjacent to or in close proximity to Children’s Pool, including La Jolla Shores, Marine Street Beach, La Jolla Cove, Whispering Sands Beach, Shell Beach, South Casa Beach, Ravina, Boomer Beach, and Windansea.

It was initially unclear whether the Children’s Pool area was in the City or the Commission’s coastal permit jurisdiction; thus in the past several permits were issued by the City and reviewed by the Commission on appeal. However, a jurisdictional boundary determination conducted by the Commission’s mapping department determined that the the entire sandy beach area is located in the Commission’s original coastal development permit jurisdiction, and the City’s jurisdiction begins at the bottom of the lower stairs (**Exhibit 7**). The proposed project spans both jurisdictions. Section 30601.3 of the Coastal Act provides that when a project requires a coastal development permit (CDP) from both a local government with a certified LCP and the Coastal Commission, a single, consolidated CDP for the entire project may be processed. At the request of the applicant, who in this case is the local government, Commission staff has agreed to process the subject permit as a consolidated CDP. Therefore, the standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified La Jolla Community Plan and Local Coastal Program Land Use Plan (LUP), as proposed to be amended, serve as guidance. Because the City’s certified LCP is used for

guidance in this area, the subject Coastal Development Permit is being concurrently processed with Local Coastal Program Amendment No. LCP-6-LJS-14-0607-1. This amendment will add policy language to the La Jolla Community Plan (the certified Land Use Plan) and a new ordinance to the San Diego Municipal Code to protect the seals by restricting access to Children's Pool beach during pupping season each year (**Exhibit 6**).

B. PROJECT HISTORY AND PAST COMMISSION ACTION

Addressing the conflicts between people and seals at Children's Pool Beach has a long history. In 1930, philanthropist Ellen Browning Scripps provided funding for the construction of a 300-ft. arced concrete breakwater at Children's Pool Beach in order to create a safe bathing pool for children. In 1931, as a condition of the California Legislature's tide and submerged lands grant, in which the State of California granted Children's Pool area tide and submerged lands to the City of San Diego, the area was to be devoted 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." (Statute of 1931, Chapter 937.) The grant also provided for "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 purpose is hereby reserved to the people of the State of California." Subsequent to this grant, the State of California relinquished its trustee responsibilities over these public trust tide and submerged lands and the City of San Diego became the successor trustee for these tide and submerged lands. Since the completion of the breakwater in 1931, the public has used Children's Pool Beach for sunbathing, swimming, fishing, and diving.

Controversy arose in the early 1990s when harbor seals began to regularly "haul out," or exit the water to rest, onto Children's Pool Beach, and in greater numbers. Historic maps from 1887 and 1894 show that the sandstone reef and adjacent rocks on which the breakwater was built were originally identified as Seal Rock Point and Seal Rock. These maps demonstrate that seals most likely utilized this area as a natural haul out site prior to the breakwater's construction. As a result of the seals' increased use of Children's Pool Beach as a haul out site, there has been ongoing disagreement on how the seals and their habitat should be protected, how public access should be protected, or whether seals and people can share the beach. The City has been trying to develop a solution to address the issue of competing uses.

Harbor seals have also used a flat-topped, offshore rock that is known as Seal Rock, located between Children's Pool Beach and Shell Beach, as a haul out site. In 1993, the Commission approved the City of San Diego Park and Recreation Department's permit application (CDP No. 6-93-026) to establish Seal Rock Marine Mammal Reserve for five years. In 2001, the Commission approved another five-year permit (CDP No. 6-00-126) to continue the reserve. The reserve protected 1.35 acres of open coastal waters, prohibiting human access within reserve boundaries except for permitted commercial fishing, emergency access and fishing consistent with the Federal Marine Mammal Protection Act. Signs were installed for identification purposes and for public education and information.

Since the seals started using this area more heavily, the water quality of the “pool” has deteriorated to such a point that the San Diego County Health Department has deemed the water unsafe, as it poses a serious health risk. It was determined that due to limited tidal exchange in the pool and use of the area by so many seals, the water has become contaminated with high levels of bacteria that exceed health standards. Since September 1997, a water quality advisory has been posted at Children’s Pool Beach advising against water contact.

After a number of legal challenges, the City was ordered to clean the water in the pool and return the beach to its 1941 configuration. As such, the City began the environmental review and permitting process to dredge the pool and return it to its historic configuration (refer to withdrawn CDP Application No. 6-05-098). Subsequently, Senate Bill 428 was passed by the State Legislature and signed by the Governor into law effective January 1, 2010. This law amended the conditional uses of the 1931 Tidelands Grant of the tide and submerged lands at Children’s Pool, giving the City Council the discretion to allow Children’s Pool Beach to be used as a “marine mammal park for the enjoyment and educational benefit of children.” (Statute of 2009, Chapter 19.) As a result of this law, the court order to dredge the pool was vacated and the City Council denied the request to dredge the pool to return it to its 1941 configuration.

However, while the City was pursuing the necessary permits for the dredging project, a new issue arose, which was the need to protect the seals from human disturbance by separating the seals from people on the beach during the seal pupping season. To address this issue, the City first installed a rope barrier directly upland of the Mean High Tide Line (MHTL). After consultation with Commission staff, the City was informed that installation of the rope barrier constituted development (physical development and change of intensity of access to the water) and thus required review pursuant to a coastal development permit. Subsequently, in 2006 and 2007, the City issued emergency coastal development permits for the temporary installation of the rope barrier during seal pupping season. A subsequent legal challenge prevented the installation of the rope barrier for the 2008 pupping season. However, on March 10, 2008, the Ninth Circuit Court of Appeals stayed the earlier ruling preventing the placement of the rope barrier and allowed the rope to be placed until May 30, 2008. The City then issued an emergency permit for the temporary rope barrier and the barrier was installed.

Subsequently, the City approved a regular coastal development permit (CDP No. 545642) as a follow-up to the emergency permit for the installation of the rope barrier during the 2008 seal pupping season. On July 7, 2008, the Coastal Commission’s San Diego District Office received a Notice of Final Action from the City of San Diego for this after-the-fact coastal development permit and the 10 working day appeal period was opened. On July 15, 2008, an appeal was filed by John Leek (Appeal No. A-6-LJS-08-065). Because this was a follow-up to an emergency permit, and the emergency permit only allowed the rope barrier to remain until May 30, 2008, by the time the follow-up CDP was approved and the Notice of Final Acton was received in the Commission’s San Diego District Office, the rope barrier had already been removed, making the appeal moot and no longer in need of review by the Commission. The applicant (City of San Diego Park and

Recreation Department) had waived the right to a hearing within 49 days and thus, the matter was never brought before the Commission. Because that appeal was for essentially the same development as a subsequent appeal (Appeal No. A-6-LJS-10-009 discussed in the following paragraph), Appeal No. A-6-LJS-08-065 was determined to be moot and no longer in need of review by the Commission.

On December 2, 2009, the City of San Diego approved Coastal Development Permit No. 701673 for the annual placement of a temporary rope barrier at Children's Pool Beach to provide a buffer between people and seals during the seal pupping season (December 15 to May 15). The rope barrier was installed on December 16, 2009. The City's decision on the coastal development permit was appealed to the Planning Commission; however, on January 21, 2010, the Planning Commission upheld the Hearing Officer's decision for the annual placement of the rope barrier. On February 3, 2010, an appeal was filed with the Commission by John Leek (Appeal No. A-6-LJS-10-009) and on March 10, 2010 the Commission determined that there was no substantial issue with respect to the grounds on which the appeal was filed.

On May 17, 2010, the City Council adopted Resolution No. R-305837 establishing a new Seasonal Shared Use Policy at Children's Pool Beach directing City staff to: 1) acquire a coastal development permit to maintain a year-round rope barrier; 2) amend the Local Coastal Program (LCP) to prohibit public access to the beach during pupping season; 3) prohibit dogs on the beach year-round; 4) seek grant or private funding for a full-time Park Ranger or Lifeguard position and create a Volunteer Docent Program led by this Park Ranger or Lifeguard; and 5) establish clear signage explaining the rules to the public. To carry out this resolution, the City acquired funding for a park ranger assigned specifically to Children's Pool and installed informational signage on how to share the beach by staying a respectful distance from the seals and moving slowly to avoid disturbing them. In May 2011, the City adopted an ordinance amending the Municipal Code to prohibit all dogs except for service dogs in service on the beach area and the immediate beach areas of Children's Pool, including the breakwater, ramp, and stairways. Subsequently, the City of San Diego Parks and Recreation Department applied for CDP No. 6-11-078 for the installation and maintenance of a year-round rope barrier at Children's Pool Beach, submitted on October 19, 2011. The permit was approved on July 11, 2012 with a three-year permit term to expire on July 11, 2015. The rope barrier was put into effect once the City fulfilled their "prior to issuance" conditions on May 14, 2013. The Shared Use Policy was intended to act as a combination of adaptive beach management strategies that in their collective implementation would protect the seals by discouraging access during pupping season while allowing for public access during non-pupping season, providing a visual buffer and guideline with a year-round rope barrier, eliminating disturbance from dogs, educating the public on how to respectfully share the beach with the seals, and providing a qualified expert to specifically oversee further public education and enforcement at Children's Pool.

On January 25, 2013, the City installed a "Seal Cam" video camera at the Children's Pool lifeguard station so people could access live video footage of the seals and the birthing process on the Internet at any time. Shortly after installation, the video camera captured several nights of footage of people breaching the rope barrier at night and intentionally

harassing, kicking, and sitting on the seals. These egregious harassment events prompted the mayor to authorize an emergency CDP on March 7, 2013 for the closure of Children's Pool Beach from sunset to sunrise through May 15, 2013-- the remainder of the pupping season. The emergency permit was issued on March 19, 2013; however, due to the jurisdictional boundary assumed at the time, the City's emergency permit was adequate to close the stairs leading to the beach but required Coastal Commission approval to close the actual beach. Thus the City applied to the Coastal Commission for emergency CDP No. 6-13-014-G on March 29, 2013, which was subsequently approved by the Commission and put into effect on April 10, 2013. As conditioned, the City was not required to apply for a follow-up coastal development permit with the Commission as the emergency permit was only in effect through May 15, 2013.

There were numerous harassment events observed and recorded by the Park Ranger assigned to Children's Pool throughout the 2013-2014 pupping season as well as outside of the pupping season months, despite the year-round protective rope barrier. Of about 30 recorded harassment incidents that resulted in flushing of the seals between June 22, 2013 and May 14, 2014, half occurred during the 2013-2014 pupping season (**Exhibit 9**). Following reports of seal harassment, as described in greater detail below, the City determined that the rope barrier was not adequately protecting the seals, therefore a seasonal closure was necessary to provide undisturbed protection during the vulnerable months of their pupping seasons. The proposed project is intended to eliminate the potential for harassment of the seals by the public during the vulnerable pupping season, and subsequently eliminate the adverse impacts that can result from such harassment events.

Although the subject site is within the CCC's jurisdiction, the City's LCP is used by the Commission for guidance in this area, and the City wanted to ensure that the subject project is consistent with the LCP policies regarding the protection of marine resources and public access and recreation. Therefore, on March 12, 2014, the City adopted Resolution No. R-308759 approving an amendment to the La Jolla Community Plan (certified Land Use Plan) for the seasonal closure of Children's Pool Beach. The City submitted the proposal for this LUP amendment to the Commission concurrently with the subject CDP application. As proposed to be amended, the La Jolla Community Plan would revise its public access and marine resource protection policies to facilitate prohibition of public access on Children's Pool Beach during the Harbor Seal pupping season. Language regarding the seasonal access restrictions would be added to the sections entitled "Planning Context," "Physical Access Points," "Natural Resources and Open Space System," and "Subarea E: Coast Boulevard" (**Exhibit 6**). In addition, Ordinance No. O-20360 was passed on April 3, 2014 approving an amendment to the San Diego Municipal Code making it unlawful for any person to be upon or cause any person to be upon the beach of Children's Pool during pupping season from December 15 to May 15 of each year.

The subject CDP and associated LCPA are being taken into consideration for action at the same Commission hearing per the request of the applicant so the seals will be protected during the 2014-2015 pupping season.

C. MARINE RESOURCES

Section 30230 of the Coastal Act states:

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

In addition, the certified La Jolla Community Plan and Local Coastal Program Land Use Plan contain policies regarding the protection of marine resources which include the following:

The City should limit public access in open space areas that contain sensitive resources to scientific or educational use. Access should be confined to designated trails or paths and no access should be approved which would result in the disruption of habitat areas.

The City shall ensure the preservation of portions of public and private property that are partially or wholly designated as open space to the maximum extent feasible. Development potential on open space lands shown on Figure 7 shall be limited to preserve the Park, recreation, scenic, habitat and/or open space values of these lands, and to protect public health and safety...

The City should preserve and protect the coastal bluffs, beaches and shoreline areas of La Jolla assuring that development occurs in a manner that protects these resources, encourages sensitive development, retains biodiversity and interconnected habitats and maximizes physical and visual public access to and along the shoreline...

As proposed to be amended, the certified La Jolla Community Plan and Local Coastal Program Land Use Plan would contain language regarding the specific marine resources protection of Children's Pool during pupping season, including the following (proposed language is underlined):

PLANNING CONTEXT

Environmentally Sensitive Habitat Areas and Marine Resources

The Natural Resources and Open Space System and Residential Elements recommend that development be designed to prevent significant impacts upon sensitive habitats and identified endangered or threatened plant and animal species. In addition, seasonal access restrictions and a buffer are designated for

the Children's Pool Beach in order to protect breeding pinnipeds pursuant to Section 30230 of the California Coastal Act. No public access is permitted below the top of the lower staircase leading down to the sand from the sidewalk during seal pupping season.

The project site is Children's Pool Beach, a 0.7-acre artificial pocket beach held in place by a seawall/breakwater constructed in 1931. Children's Pool Beach is designated as "Parks, Open Space" in the City's certified Land Use Plan. Children's Pool Beach provides recreational and educational opportunities for swimmers, divers, tourists, scientists, and the general public through its provision of lifeguard facilities, access stairway from Coast Boulevard, parking along Coast Boulevard, viewing gazebo along Coast Boulevard, benches, restrooms, pedestrian walkway atop the seawall, and a closed, gated emergency beach access ramp. The City has indicated that this ramp was installed for emergency purposes, including for Parks & Recreation and lifeguards vehicles, not for public access. In addition to being a public beach, Children's Pool is a "marine mammal park for the enjoyment and educational benefit of children" as declared by the amended 1931 Tidelands Grant (Statute of 2009, Chapter 19).

Harbor seals (*Phoca vitulina*) and other pinnipeds used Seal Rock (located approximately 500 feet northeast of Children's Pool) and Children's Pool Beach as haul out sites prior to the construction of the breakwater, but started to haul on in greater numbers in the early 1990s. Historic maps from 1887 and 1894 show that the sandstone reef and adjacent rocks on which the breakwater was built were identified as Seal Rock Point and Seal Rock. These maps demonstrate that seals utilized this area as a natural haul out site prior to the breakwater's construction. In response to the increased use of Seal Rock as a haul out site in the 1990s, the Coastal Commission approved the City of San Diego's request to designate that area as a Marine Mammal Reserve in November 1993 pursuant to CDP No. 6-93-026. As of 1996, when National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) began to regularly survey the number of seals present at Children's Pool Beach, data indicates that haul out numbers ranged from as little as 11 seals on a day in November 1996 to as many as 160 seals on a day in June 1996.¹ More recent data, collected by the Park Ranger in spring 2012, indicates that it is not unusual for over 200 seals to haul out onto Children's Pool Beach, as demonstrated by counts on March 18, April 2, April 14, April 29, April 30, and May 1. The first of three annual monitoring reports submitted by the Park Ranger on June 2, 2014 pursuant to Special Condition No. 4 of CDP No. 6-11-078 provides similar data, with peak seal haul out counts reaching into the 200's occurring on April 16, May 28, October 24, December 4, and December 8 of 2013 and on March 1, March 17, April 26, and May 6 of 2014. Although peak haul out numbers have been recorded predominantly during the pupping season (December 15 to May 15), seal count data from a variety of sources (refer to substantive file documents) indicates that seals use Children's Pool Beach as a haul out site on a year-round basis.

¹ NOAA's National Marine Fisheries Service Southwest Regional Office. *California Pinniped Rookeries and Haul-out Sites*. <http://www.arcgis.com/home/webmap/viewer.html?webmap=2ff3fabe20cf4c83959cae1597500b09>. May 30, 2012.

Harbor seals are generally non-migratory and are found on both the U.S. east and west coasts. On the west coast, harbor seals are found in near-shore coastal and estuarine waters off Baja California, north to British Columbia, west through the Gulf of Alaska and in the Bering Sea. Since the passage of the Marine Mammal Protection Act (MMPA) of 1972, the California coast stock has begun to stabilize at approximately 34,233 seals.² NOAA's National Marine Fisheries Service (NMFS) is the agency that manages the California stock of harbor seals and is responsible for enforcement of the MMPA. The Southwest Region of NMFS has created a map depicting pinniped haul out areas and rookeries (pupping sites) in California. According to NMFS data, the Children's Pool Beach is the only mainland rookery and haul-out site in San Diego and Los Angeles Counties. The next closest mainland rookery is located at Point Mugu Lagoon within the Point Mugu Naval Air Weapons Station. Public access is restricted at this site. The City of Carpinteria is also home to a mainland rookery; this beach is not readily accessible to the public who must walk over half a mile to reach the bluff top overlook. Additionally, the City closes this beach 750 feet to the east and west of the site during pupping season (December 1 through May 31) pursuant to Municipal Code 12.23.090. Offshore, there are harbor seal rookeries located at the Channel Islands. In Northern California, Fitzgerald Marine Reserve is a very publically accessible state marine reserve that has been a haul-out site and rookery to harbor seals since the mid-1900's and requires visitors to remain 300 feet away from all marine mammals for their year-round protection.

The Legislature enacted the MMPA to prevent the extinction or depletion of marine mammal stocks as a result of human activity. (Title 16 U.S.C. Section 1361(1); *Natural Resources Defense Council, Inc. v. Evans* (2003) 279 F.Supp.2d 1129, 1141.) In achieving this goal, the MMPA generally prohibits the "taking" of marine mammals, with limited statutory exemptions, with an act of "taking" meaning "to harass, hunt, capture, collect or kill, any marine mammal." (Title 50 C.F.R. section 216.3; Title 16 U.S.C. section 1362(13); see, e.g. *Natural Resources Defense Council, Inc. v. Evans* (2003) 279 F.Supp.2d 1129, 1141.) Harassment, as defined under the MMPA, is "any act of pursuit, torment or annoyance which – (i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering." (Title 16 U.S.C., section 1362(18).) No person has an authorized incidental take permit from NMFS to incidentally take the seals at Children's Pool, nor is there an option for intentional take permits (See 16 U.S.C. section 1371(5)(A)(i) [procedures related to incidental take permits]).

While the Commission does not regulate the taking of marine mammals, the statutory framework provided in the MMPA on this issue provides the Commission with a platform from which it can evaluate whether or not a proposed development is consistent

²NOAA's National Marine Fisheries Office of Protected Resources. *Harbor Seal Population Trends*. <http://www.nmfs.noaa.gov/pr/species/mammals/pinnipeds/harborseal.htm>. Updated April 24, 2012. Accessed May 30, 2012.

with section 30230 of the Coastal Act. In other words, if the Commission finds that if there is unauthorized harassment, or incidental “taking”, of the seals at the Children’s Pool area, then such acts of harassment are not consistent with Chapter 3 policies of the Coastal Act because such activities would not achieve the protections provided under section 30230. Even if there were authorization from NMFS to incidentally take seals at Children’s Pool, depending on the authorized activity, such authorization might not be consistent with Chapter 3 of the Coastal Act.

Unlike the state’s other pinniped haul out areas and rookeries, the seal rookery and haul-out site at Children’s Pool Beach is unique due to its location in an urban setting that is easily accessible to the public. As a result, over the years there has been ongoing disturbance and harassment of the hauled out seals. While a distance of at least 100 yards, or 300 feet, is recommended by NMFS’s “Guidelines for Viewing Seals and Sea Lions in California,” due to the relatively small sandy beach area available at Children’s Pool Beach, NMFS Regional Administrator Rodney McInnis has recommended in a letter to the Coastal Commission dated June 27, 2012 that people maintain a minimum distance of 50 feet for viewing hauled out seals while standing on the sandy beach area at the subject site. McInnis also asserted that although this is a guideline that does not have the force of law, unauthorized harassment is a violation of the MMPA regardless of the distance from which it occurs. Efforts by the public to closely approach or otherwise interact with seals have led to unauthorized harassment of the hauled out seals, which is illegal under the MMPA. According to observations by the Park Ranger assigned to Children’s Pool, although the seals at this location are more acclimated to human presence than other areas of the coast, harassment and flushing of the seals into the water does occur which disturbs the seals’ behavior pattern of hauling out so that they can rest, sleep, thermal regulate, maintain skin and molt, socially interact, evade predators, give birth, and nurse and wean pups. However, due to the shared use nature of the beach, NMFS only pursues harassment penalties in cases of extreme or malicious harassment. Activities that have caused hauled out seals to flush into the water, thus disrupting their behavior patterns, include people making loud noises, approaching or surrounding seals to take pictures, pet, feed, chase, follow, throw rocks/sand/seaweed at, and entering and exiting the water. A study conducted at Children’s Pool found that disturbances associated with construction activities (for the replacement of the wall and bluff improvements) only caused seals to flush into the water once during the week when demolition and heavy debris removal was conducted; however, humans in the water or on land resulted in 144 flush events.³ Not only are the seals at risk, but public health and safety are also at risk from defensive seal bites and nips when people attempt to interact too closely with the seals.

Although Harbor seals are neither endangered nor threatened, the haul out sites and pupping sites, otherwise known as rookeries, that they use provide valuable habitat for the seal life cycle that warrant protection under Section 30230. Harbor seals may use rocks, reefs, beaches, intertidal sandbars, and drifting glacial ice as haul out and pupping

³ Yochem P. 2005. Summary of conclusions regarding the harbor seal rookery at Children’s Pool Beach, La Jolla, CA. La Jolla Cove Wall Replacement and Bluff Improvements Project (Sept 21, 2004 – Jan 1, 2005). March 25, 2005. Hubbs-SeaWorld Research Institute Paper.

sites. Harbor seals can haul out any time of the day or night on a year-round basis; however, the number of seals hauled out at a certain moment may vary dependent upon several factors, including tide height, weather, time of day, season, and level of disturbance.⁴ Haul out sites provide essential habitat that seals utilize for a variety of functions, including but not limited to rest, sleep, thermal regulation, skin maintenance and molting, social interaction, predator evasion, giving birth during the spring and summer, and nursing and weaning pups.^{5 6}

The potential adverse impacts of disturbance to hauled out seals are particularly significant during pupping season when seals haul out and remain on the beach for longer periods of time in order to prepare for birth, go through the birthing process, and nurse the seal pups once they are born. Through the entire range of harbor seals, pupping is typically from January to October; however pupping season occurs earlier in southern areas such as San Diego.⁷ As determined by the City in consultation with NMFS representatives as part of the permit approval for the annual placement of a rope barrier during seal pupping season, pupping season at Children's Pool Beach is generally from January through April but can start as early as mid-December through mid-May. Pups are typically born and weaned during the late spring, and nursing lasts about 3-6 weeks. Thus, per the recommendation of the NMFS, it was determined that the seal pupping season at Children's Pool Beach is December 15 to May 15 in order to bracket the general time when vulnerable pups are present. Pups are capable of swimming immediately after birth and they are weaned from their mothers after approximately three to six weeks of nursing.⁸ During that time, seal pups are frequently left on the beach by their mothers, who spend time in the water foraging for food. Additionally, during this period, the mother seals become more aggressive due to their instinct to protect themselves and their pups from people who get too close. Harbor seals will usually return to breed in the same location as they were born, unless frequent disturbances cause them to abandon the site. Further, harassment during the pupping season may cause mothers to abandon their pups. When a disturbance causes the seals to flush quickly into the water, a seal pup may become separated from its mother and abandoned. Additionally, too many disturbances on the beach may prevent a mother from returning from the water to reunite with her pup after hunting. Abandonment severely decreases the pup's chance for

⁴ Watts, P. 1993. Possible Lunar Influence on Hauling-Out Behavior by the Pacific Harbor Seal (*Phoca vitulina richardsi*). *Marine Mammal Science* 9(1):68-76.

⁵ NOAA's National Marine Fisheries Office of Protected Resources. *Species: Harbor Seal*. <http://www.nmfs.noaa.gov/pr/species/mammals/pinnipeds/harborseal.htm>. Updated April 24, 2012. Accessed May 30, 2012.

⁶ Terhune, J.M. and M. Almon. 1983. Variability of Harbour Seal Numbers on Haul-Out Sites. *Aquatic Mammals* 10(3):71-78.

⁷ NOAA's National Marine Fisheries Service Southwest Regional Office. *California Seal and Sea Lion Viewing Guidelines*. <http://swr.nmfs.noaa.gov/psd/rookeryhaulouts/CASEALVIEWBROCHURE.pdf>. May 30, 2012.

⁸ NOAA's National Marine Fisheries Service Southwest Regional Office. *California Seal and Sea Lion Viewing Guidelines*. <http://swr.nmfs.noaa.gov/psd/rookeryhaulouts/CASEALVIEWBROCHURE.pdf>. May 30, 2012.

survival. At Children's Pool Beach there have been several cases of seal pup abandonment. Avoiding potential adverse impacts such as seal pup abandonment was the goal of the rope barrier with an opening installed during pupping season.

Although the potential adverse impacts of harassment to hauled out seals are not as significant during the non-pupping season, disturbance and flushing does have the potential to disrupt the natural habitat that seals require for a variety of life cycle functions. As discussed above, as a part of seals' behavior patterns, they use haul out sites on a year-round basis for rest, sleep, thermal regulation, skin maintenance and molting, social interaction, predator evasion, giving birth during the spring and summer, and nursing and weaning pups. Therefore, in order to avoid potential adverse impacts from human disturbance such as seal pup abandonment, the City has considered and implemented a variety of alternatives to protect the seals while maintaining public access have been considered and implemented. The City has installed a rope barrier with an opening for the duration of the seal pupping season annually since 2006. In 2010, the City established the Shared Use Policy at the beach consisting of several adaptive management strategies to provide the public with guidelines on proper marine mammal protection and to provide the seals with protective measures to prevent harassment and disturbance. With CDP No. 6-11-078, the City asserted that the installation of a rope barrier on the beach on a year-round basis would extend the protection offered by the existing permit (CDP No. 701673) and provide a necessary visual barrier between the public utilizing the sandy beach and accessing the ocean at Children's Pool Beach, and the seals that haul out on the sand on a year-round basis to enhance the public's awareness that the seals deserve particular treatment and special protection under the MMPA and the Coastal Act.

However, after installation of the "Seal Cam" at the Children's Pool lifeguard station in January 2013, it became apparent that the rope barrier was not sufficient for proper protection of the seals and their pups from harassment. The video camera captured footage of people breaching the rope barrier at night and intentionally harassing, kicking, and sitting on the seals. These harassment events prompted the issuance of emergency CDP No. 6-13-014-G for the closure of Children's Pool Beach from sunset to sunrise through the remainder of the 2013 pupping season. Even with these protective measures, the Children's Pool Park Ranger's first annual monitoring report for Special Condition 4 of CDP No. 6-11-078 recorded about 30 harassment incidents that resulted in flushing of the seals between June 22, 2013 and May 14, 2014, half of which occurred during the 2013-2014 pupping season, which resulted in the flushing of 662 seals total (**Exhibit 9**). In addition, Dr. Jane Reldan, founder of the Seal Conservancy, along with members of the Seal Conservancy and additional volunteers, observed and recorded a total of 269 flushing incidents from April 9, 2013 to May 15, 2014. Of these flushing incidents, 79 occurred during pupping season. Whether done ignorantly or intentionally, any form of harassment poses a serious threat to the survival of the seals and their pups. Furthermore, while these instances may be few relative to the amount of people who visit and use the beach, these harassment events are illegal under the MMPA and inconsistent with section 30230 of the Coastal Act. Aside from flushing incidents, the rope barrier has been repeatedly ignored and even vandalized by visitors, requiring replacement of the rope on December 19, 2013 after it was found cut down two separate times.

As an alternative to rope barriers, various members of the public have raised the viability of a plan known as the “Harris/Lifeguard Plan,” which would partition off approximately 75% of the sandy beach area for the seals with large boulders during pupping season and 25% of the beach for the seals during non-pupping season. However, this would require adjusting the boulders twice a year, removal of polluted sand at the time of the boulder adjustments, and sand disposal. In addition, as Commission staff indicated to the City in a letter dated 12/13/12, the Harris/Lifeguard Plan would likely not be sufficient for improved protection of the seals during pupping season, as all of the same concerns as the existing rope barrier would still exist; the seals would still be free to occupy all beach areas and the on-going enforcement issues would remain since people could continue to disobey the partitioning. In addition, any effort to corral the seals into a bouldered-off area would be inconsistent with the MMPA, and the boulders would create a physical and visual barrier that would impact public access much more than a rope.

The “no project” alternative would clearly be ineffective at providing proper protection for the seals as well. The existing guidelines provided by the rope barrier, informational signage, and stationed park ranger have not deterred or eliminated seal harassment, as described above with the numerous recordings of flushing and harassment incidents. The seals will continue to be subject to harassment and endangerment if the beach is not closed off during pupping season. The issue of seal harassment is exacerbated by the fact that the existing rope barrier is a guideline that relies on the respect and compliance of the public, and lacks a strict threshold between what is viewing the seals from a distance that does not disturb them and what is harassment and thus an illegal taking under the MMPA. Unfortunately, for as long as the rope barrier has been in place, a relatively small but persistent number of people have continued to deliberately bother the seals, rendering the shared use concept unsuccessful.

Therefore, the City has proposed to seasonally restrict public access at Children’s Pool Beach to provide the seals with unimpeded protection during the five vulnerable pupping season months. In comparison to the existing conditions, the proposed project is expected to provide far more effective protection for the seals, because prohibiting all public access beyond the “Area Closed” signs at the lower staircase and the emergency access gate (**Exhibit 4**) requires the public to stay farther away from the seals. The clear demarcation between permitted and restricted areas will eliminate any gray area in interpretation of where the public is allowed at Children’s Pool Beach, thus ensuring no accidental encroachment into the seal rookery occurs, and also allowing for more precise enforcement of the restrictions by rangers, lifeguards, and safety officers. Thus the seasonal beach closure will maintain, enhance, and restore the habitat as a safe sandy beach area for the seals to birth and care for their pups by eliminating all potential for human interference during the pupping season. The Commission’s staff ecologist, Dr. John Dixon, has reviewed the proposed project and concurs with the staff recommendation that the seasonal beach closure will benefit the seal population and provide enhanced marine resource protection (**Exhibit 8**).

Any development that results in restrictions on public access, even on a seasonal basis raises concerns, as discussed in detail below in this staff report under section D. Public

Access and Recreation. However, as previously mentioned, there are multiple locations across the state where the Commission has approved CDPs, LCPAs, or Federal Consistency Determinations that require limiting public access in order to protect marine resources. The following provides several significant examples. The Commission established a Marine Mammal Reserve as Seal Rock, just north of Children's Pool, prohibiting all public access except for permitted commercial fishing, emergency access, and fishing consistent with the MMPA within the designated 1.35-acre reserve boundary from 1994-1999 with CDP #6-93-26, and from 2001-2006 with CDP #6-00-126. Similar to the subject proposal, the applicant for those permits (the City of San Diego Parks and Recreation Department) proposed to establish the marine mammal reserve in perpetuity, but the Commission approved each CDP with a five-year permit limit to provide protection for marine resources while maintaining limited types of public access. Earlier this year, the Commission approved CDP #3-13-1175-W for installation of minimal, "symbolic" fencing and educational signage at various locations along the Pacific Grove shoreline in Monterey County to temporarily reduce public use of the beach and shoreline and prevent harassment of the local harbor seals for the 2014 pupping season.

Aside from harbor seals, the federally threatened western snowy plover and endangered California least tern have been the subject of many Commission actions involving partial or total beach closures to provide habitat and population protection. In November 2001, the Commission approved CDP #4-01-139 for year-round symbolic fencing and associated signage creating a restricted roost area near the mouth of the Devereux Slough near UC Santa Barbara, Ventura County, to protect the local snowy plover population. This permit was approved with a two-year permit term, with permission for a one-year extension for good cause, due to the project's impacts on public access and to allow time to collect and analyze data from the required monitoring plan. The same project was proposed with CDP #4-08-007 and approved by the Commission in June 2008 with a five-year permit term and permission for a one-year extension for good cause. In February 2014, the Commission approved CDP #2-13-1020 for year-round and seasonal fencing at Pacifica State Beach, San Mateo County, for protection of and public access restriction from a section of the backbeach sand dunes that provide snowy plover habitat. The year-round fencing was approved in perpetuity, while the seasonal fencing is authorized for a five-year period with permission for an additional five years with Executive Director approval. In December 2002, the Commission approved CDP amendment #5-87-847-A1 to increase an existing 4-acre restricted least tern nesting area by five additional acres with protective fencing, limiting public access in the designated restricted areas at Venice Beach and Dockweiler State Beach, Los Angeles County. In an act of much broader marine resource protection, the Commission approved CDP #2-00-005 in August 2000 for prohibition of personal motorized watercraft within all shoreline waters and estuaries of Marin County to eliminate adverse impacts to the diverse and sensitive marine resources found in said shoreline waters and estuaries.

In each of these cases, the Commission placed limits on public access in areas that require special protection due to the sensitive species and marine resources. The subject project involves seasonal restrictions on a popular beach, but as the subject beach is an area that provides valuable habitat for the seal life cycle, it warrants special protection under Section 30230. Although it is unusual for the Commission to approve access

restrictions to state waters, this is also an unusual circumstance because access to the water is available on either side of Children's Pool Beach and will be available at Children's Pool for seven months of the year. As discussed above, the proposed seasonal beach closure would maintain and enhance the seal rookery and haul out site as well as the seal population at Children's Pool Beach, consistent with Section 30230 of the Coastal Act, by minimizing human-seal interaction and eliminating any potential for harassment of the seals during the vital pupping months. Although harbor seals are not an endangered or threatened species, the haul out site at Children's Pool Beach provides habitat of biological and economic significance. It is the only mainland rookery in San Diego and Los Angeles counties and has become a destination for visitors, residents, scientists/researchers, and students to respectfully view and study the seals. The proposed seasonal beach closure would help maintain a healthy seal population for long-term recreational, scientific, and educational purposes.

Over the last decade, the City has tried various alternative means of protecting the seals without resorting to a seasonal closure of the beach. Unfortunately, as described, the rope barriers have proved ineffective. The proposed project will provide a much clearer, more enforceable line between public access restrictions and seal protection at Children's Pool than the current rope barrier and shared use guidelines, and is expected to eliminate or significantly reduce the seal harassment and disturbance by the public. The seasonal beach closure will improve the protection and enhancement of the harbor seal population, consistent with Coastal Act Section 30230.

However, it is possible that changed circumstances at Children's Pool may negate the need for perpetual seasonal public access restrictions in the future. For that reason, the Commission imposes **Special Condition #1** to limit the permit term to five (5) years and require the City to apply for an amendment or new coastal development permit to continue authorization of the public access restrictions. While the proposed seasonal beach closure is the minimum necessary at the current time for marine resource protection, the five-year permit term will allow the Commission to revisit the issue at a later date to confirm both that the project is adequately protecting the seals, and review any changed circumstances that might suggest revisions to the restrictions are necessary. In order for the Commission to have the opportunity to review the circumstances at Children's Pool and determine if any significant changes have occurred, it is necessary to assess the effectiveness of the seasonal beach closure.

Therefore, the Commission imposes **Special Condition #2** requiring the preparation, submission to the Executive Director for review and approval, and implementation of a monitoring plan. The monitoring plan will help the City and the Commission assess a) the level of use by seals of the haul out site at Children's Pool Beach, and b) the effectiveness of the seasonal beach closure at eliminating harassment of hauled out seals. A qualified biologist, environmental resources specialist, park ranger, lifeguard, or City-trained volunteer shall record the number of seals hauled out at Children's Pool Beach, the number of people present on the beach, the number of people present in the water, the number of violations of the beach closure and harassment instances, the number of citations and warnings given to violators and the outcomes of these violations if applicable and possible, the tide, the weather (including water and air temperature), and

the date, a minimum of three times per day, 16 days per month. This data may be used for comparison against baseline data collected per Special Condition No. 4 of CDP #6-11-078 for the year-round rope barrier to help determine the effectiveness of the seasonal beach closure and identify any changes in conditions at Children's Pool Beach.

In conclusion, the Coastal Act policies regarding marine resources require protection of the valuable habitat that Children's Pool Beach provides harbor seals in the form of a rookery, for giving birth to pups, and a haul out site that seals use for other important life functions/behavioral patterns, including rest, sleep, thermal regulation, skin maintenance and molting, social interaction, predator evasion, nursing and weaning pups. The proposed seasonal beach closure will maintain and enhance the harbor seal habitat, consistent with Section 30230 of the Coastal Act. The seasonal beach closure will ensure that the use of the marine environment, Children's Pool area, will sustain the biological productivity of coastal waters and will assist to maintain healthy populations of the seals, as mandated under section 30230, because it will significantly reduce or eliminate the existing periodic harassment of the seals. Therefore, the Commission hereby finds that the proposed permit application, as conditioned, is consistent with the applicable Coastal Act policies regarding protection of marine resources, as well as with the La Jolla Community Plan and Local Coastal Program Land Use Plan as proposed to be amended.

D. PUBLIC ACCESS AND RECREATION

Section 30604(c) of the Coastal Act states:

Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200)

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212(a) of the Coastal Act states, in part:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby...

Section 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

Section 30214(a) of the Coastal Act states, in part:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.*
- (2) The capacity of the site to sustain use and at what level of intensity.*
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Upon reliance of these policies of the Coastal Act, the certified La Jolla Community Plan and Local Coastal Program Land Use Plan contains policies to protect public access as well, which include the following:

La Jolla's relationship to the sea should be maintained. Existing physical and visual access to the shoreline and ocean should be protected and improved...

The City should preserve and protect the coastal bluffs, beaches and shoreline area of La Jolla assuring development occurs in a manner that protects these resources, encourages sensitive development, retains biodiversity and interconnected habitats and maximizes physical and visual public access to and along the shoreline...

The City should ensure that new development does not restrict or prevent lateral, vertical or visual access to the beach on property that lies between the shoreline and first public roadway...

New development should not prevent or unduly restrict access to beaches or other recreational areas...

The City's beach and parkland along the shoreline should be expanded wherever possible...

Construction, grading, or improvements of any sort, except those mentioned in this plan, should be discouraged at beach areas. Public access to the shoreline should be increased (or improved) wherever possible...

As proposed to be amended, the certified La Jolla Community Plan and Local Coastal Program Land Use Plan would contain language regarding the restricted public access to Children's Pool during pupping season, including the following:

*NATURAL RESOURCES AND OPEN SPACE SYSTEM
Shoreline Areas and Coastal Bluffs*

Public access to [La Jolla's shoreline] is limited, particularly along portions of Bird Rock, La Jolla Hermosa and in La Jolla Farms, due to steep slopes, cliff erosion and sensitive rock formations and restricted parking. Beach access is also limited on a seasonal basis at Children's Pool Beach, an area of special biological significance, during the harbor seal pupping season to protect the harbor seal rookery during this most vulnerable period.

As proposed to be amended, the City of San Diego Municipal Code would add the following to Section 63.0102, Use of Public Parks and Beaches Regulated:

(e)(2) It is unlawful for any person to be upon or cause any person to be upon the beach of the La Jolla Children's Pool, starting from the lower stairs to the beach beginning with the second landing, from December 15 to May 15.

In order to protect the harbor seals during pupping season, the City of San Diego Parks and Recreation Department proposes to restrict public access at Children's Pool each year in perpetuity from December 15 to May 15. The proposed "Area Closed" signs would be placed on the western emergency-access-only gate adjacent to the seawall and on a barrier chain at the top of the lower staircase on the second landing to prevent public

access to the sandy beach area (**Exhibit 4**). The existing public access viewing point on the seawall would remain open to public access year-round; only public access to the sandy beach during the five months of pupping season each year would be prohibited.

As cited above, the Coastal Act has numerous policies supporting, encouraging, and requiring the protection of public access. Preserving public access to the shoreline and public recreational facilities is one of the primary goals of the Coastal Act. However, as described above, there are occasionally circumstances where the Coastal Act mandate to protect marine resources requires limiting public access. In such cases, the Commission requires that alternatives be considered, and that any restrictions be the minimum necessary to achieve the goal.

As discussed previously, the City has considered and implemented measures that are less restrictive on public access. The rope barrier should have been sufficient to means of protecting the seals while maintaining limited but sufficient public access to the water. Unfortunately, the current shared use guidelines and rope barrier at Children's Pool Beach have failed to prevent continual harassment of the seals during their pupping season as well as non-pupping season. Even under supervision of a lifeguard or park ranger, a small but insistent number of people have refused to adhere to the shared use informational signs with guidelines that call for maintaining an appropriate distance for safe and respectful viewing of the seals, and that the seals require further protection from human harassment during the vulnerable months of their pupping season as provided for in section 30230 of the Coastal Act. The City has indicated that since the seals started hauling out on Children's Pool Beach, there have been ongoing conflicts between people who want to defend the seals and people who want to approach the seals and/or use the beach and ocean at this location without maintaining a reasonable distance from the wildlife. There have been multiple occurrences of people in support of wholly unrestricted public access holding demonstrations on the beach protesting the use of the rope as an enforceable barrier and encouraging others to disregard the intention of the rope guidelines. As these conflicts arise, the park ranger and lifeguards are regularly called to intervene and/or mediate. While lifeguards are asked to diffuse conflicts over the seals at Children's Pool Beach, it takes them away from providing essential public services as lifeguards to protect swimmers from danger and drowning. Additionally, in April 2010, the San Diego Police Department provided information regarding the number of calls for service at Children's Pool Beach. The report showed that from February 1, 2009 through January 31, 2010, there were 184 designated runs, 37 calls for disturbing the peace, and 4 calls for battery incidents. Out of service time for that same period was approximately 185 hours as compared to 2005 (70 hours); 2006 (95 hours); 2007 (40 hours); and 2008 (79 hours). This is a significant increase in calls for service at Children's Pool Beach from 2005 to 2009 which takes police time away from more important public safety issues.

The proposed seasonal beach closure and adopted City ordinance would provide a much clearer, more enforceable line between public access restrictions and seal protection at Children's Pool. Currently there is a lifeguard on duty from 9:00 am to 8:00 pm during the summer and a park ranger specifically assigned to Children's Pool who is at the site Saturday through Wednesday for six hours year-round. As described above, the park

ranger and other enforcement personnel are regularly required to intervene in situations where the public does not adhere to the guidelines provided by the Shared Use Policy measures implemented to date, particularly the rope barrier. The issue of seal harassment is exacerbated by the fact that the rope barrier and informational signage are guidelines that rely on the respect and compliance of the public, and lack a strict threshold between what is viewing the seals from a distance that does not disturb them and what is harassment and thus an illegal taking under the MMPA. In contrast, the proposed project will provide this threshold by prohibiting all public access beyond the “Area Closed” signs at the lower staircase and the emergency access gate (**Exhibit 4**), effectively eliminating any gray area in interpretation of where the public is allowed at Children’s Pool Beach. This will result in less enforcement time for the assigned park ranger and lifeguards and less police involvement, as well as more distinction for the public, as the beach closure and associated signage will make it very clear where and when public access is restricted. If violations do occur during the five months of public access restrictions, the City has indicated that the lifeguards and park rangers will cite violators at their discretion and that police will assist and enforce as needed.

As proposed, the sandy beach area of Children’s Pool would be closed only from December 15 to May 15 of each year during harbor seal pupping season, the period during which protection from human harassment is most critical. These five months during the winter and early spring are also outside the peak beach-going summer months between Memorial Day and Labor Day. Even during the restricted period, the breakwater, which provides a unique public area to walk and observe the seals and their pups at a safe distance, will be open to public access without restrictions year-round. The breakwater will continue to provide public recreation opportunities such as fishing, seal viewing, walking, and scientific observation on a year-round basis.

In the other seven non-pupping season months of the year, there would be no public access restrictions and no regulations against public use of the sandy beach or the water. Visitors will continue to be encouraged to maintain a safe and respectful distance from the seals, as mandated by the MMPA, and advised against contact with the water, as the San Diego County Health Department has an ongoing advisory warning due to the water’s high bacteria levels in this location. It was determined that due to limited tidal exchange in the pool and use of the area by so many seals, the water has become contaminated with high levels of bacteria that exceed health standards. Since September 1997, a water quality advisory has been posted at Children’s Pool Beach advising against water contact as it poses a serious health risk. Thus, even in the absence of the proposed temporary closure, Children’s Pool will remain a less-than-ideal location for safe water access.

While the presence of the seals has affected sunning and swimming at this location, Children’s Pool Beach is not the only beach located in La Jolla. There are several beaches located adjacent to or in close proximity to the subject site including La Jolla Shores, Marine Street Beach, La Jolla Cove, Whispering Sands Beach, Shell Beach, South Casa Beach, Ravina, Boomer Beach, and Windansea. Many of these beaches are within walking distance of or a short drive from Children’s Pool Beach and offer public amenities such as permanent restrooms, showers, additional parking, and lifeguard

facilities. Furthermore, the water quality at these adjacent beaches is significantly better than Children's Pool Beach and the San Diego County Health Department does not have ongoing advisory warnings for water contact at these alternative beaches. La Jolla Shores, La Jolla Cove, South Casa Beach, Ravina, and Windansea were all surveyed for Heal the Bay's 2014 Beach Report Card and were awarded an A or A+ for water quality. Thus, the proposed seasonal restriction on this one cove will not have a significant impact on the public's ability to access or recreate at La Jolla's beaches.

There have been assertions by members of the public that the proposed project would severely affect the ability of disabled people to access the shoreline. However, there are many San Diego beaches that not only have Health Department-approved water quality but also are easily accessible to beach-goers with disabilities. While Children's Pool Beach does have an "access ramp," it is a gated, unimproved emergency vehicle access ramp that was not constructed for ADA compliance and is only allowed for use by emergency personnel. The La Jolla certified LUP indicates two other concrete ramps designated for shoreline access aside from the ramp at Children's Pool: just north of Scripps Pier with beach access at the end of Discovery Way, and at Ellen Scripps Park with access to Boomer Beach. These beach access ramps are located approximately less than two miles and less than a half-mile north of Children's Pool Beach, respectively. La Jolla Shores, approximately two miles north of Children's Pool Beach, provides free power beach wheelchairs for disabled visitors. These beach chairs can also be found, free of charge, at Ocean Beach, Mission Beach, Coronado Beach, and Imperial Beach. The public will be able to utilize these many clean, accessible beaches during the five months that access would be restricted at Children's Pool.

As noted above, ever since the seals began hauling out on the beach at Children's Pool, they have become a major tourist attraction and a public access and recreation amenity in and of themselves. The ability to closely yet respectfully observe seals in a natural environment from the shoreline and breakwater at Children's Pool is unique to this location, and the seasonal beach closure would protect this passive public access and recreation amenity. Viewing the seals is often the primary purpose of a visit to Children's Pool Beach, and visitors will continue to be able to view the seals from several areas without going onto the sand. These areas include the gazebo along Coast Boulevard, the walkway along Coast Boulevard, the access stairway at the east end of the beach, the access stairway landing, and the breakwater. From the breakwater, visitors can view the seals up close, and due to the breakwater's height above the sand, the seals do not flush as easily when viewed from this location. Viewing the seals has drawn huge numbers of people to this coastal area, both locally and from around the world. According to the San Diego Convention and Visitors Bureau, approximately 2.6 million people visited La Jolla in 2009. This figure includes day visitors, visitors staying overnight in La Jolla, and visitors staying in other parts of San Diego, but visiting La Jolla at some point during their trip. Thus, the seals encourage public access by attracting the public to the shore and providing a lower cost visitor amenity, consistent with Coastal Act Section 30213.

Special Condition #3 requires the City to submit, for review and approval of the Executive Director, a comprehensive Sign Program with clear signage to alert the public of the seasonal beach closure at Children's Pool Beach. The existing signs are to remain

at the entrance to the beach on the access stairway so that visitors understand the shared use guidelines that apply to the majority of the year that prohibit seal harassment, as well as the advisory warning against water contact. The proposed additional signage, to be stored off-site during non-pupping season, will inform visitors that public access is restricted from December 15 to May 15 (**Exhibit 3**).

As noted in Sections 30212 and 30214 of the Coastal Act cited above, in implementing the public access policies of the Act, the Commission must take into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case. This is one circumstance where it is appropriate to implement public access restrictions in order to provide marine resource protection during harbor seal pupping season. The facts, as described above and in the Marine Resources section, support the need for seasonal beach closure as the public has repeatedly ignored the beach's shared use guidelines and intentionally harassed the seals and their pups. The public will still be able to access the beach and ocean at Children's Pool Beach for seven months of the year, and the breakwater year-round.

In conclusion, while the proposed project will impact public access from December 15 to May 15 of each year, this is not only necessary but also the least possible to effectively protect the seals from harassment during their vulnerable months of pupping season. Public access protection is one of the Commission's highest priorities, and this proposed project will have an impact on public access, but this is the least environmentally damaging alternative and it would result in a limited restriction for a limited time of the year for a limited permit term of five years to ensure the seals and their pupping habitat are effectively protected. There is clear evidence that the seals will continue to be subject to harassment and endangerment if the beach is not closed off during pupping season. The seasonal beach closure will improve the protection and enhancement of the harbor seal population, while maintaining public access to all but a small area of beach. Therefore, the proposal as conditioned is consistent with Sections 30212 and 30214 of the Coastal Act.

As provided for in Sections 30210, 30212, and 30214 of the Coastal Act cited above, public access shall be provided for all people consistent with public safety needs and the need to protect natural resource areas from overuse. Children's Pool Beach provides a natural haul out site for harbor seals and as mandated by the Coastal Act, the provision of public access must be balanced with the protection of fragile coastal resources at the subject site. The proposed seasonal beach closure, as conditioned, is consistent with Sections 30210, 30212, and 30214 of the Coastal Act because it maintains public access to the beach for seven months of the year while providing protection of the haul out site, or natural resource area, from overuse by people for the other five months of the year.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with all of the applicable Coastal Act policies regarding Public Access and Recreation.

E. VISUAL RESOURCES

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of the setting.

The area above Children's Pool Beach is identified as a viewshed area in the La Jolla Community Plan and Local Coastal Program Land Use Plan; however, the proposed project would not result in any adverse impacts to visual resources. The proposed "Area Closed" signs would be placed on the western emergency access gate adjacent to the seawall and on a barrier chain at the top of the lower staircase on the second landing to prevent public access to the sandy beach area (**Exhibits 3 and 4**). As proposed, the sign on the gate would be 24 inches wide by 18 inches tall, and the sign on the barrier chain would be 36 inches wide by 30 inches tall. Given these dimensions and locations of the proposed signs and barrier chain, there would be no obstruction of any public views from Coast Boulevard or Jenner Street as identified in the La Jolla Community Plan and Local Coastal Program Land Use Plan.

The applicant proposes to install the "Area Closed" signs on the emergency gate and on a barrier chain at the top of the lower staircase to alert the public of the prohibited area during pupping season. Currently there is existing signage regarding the prohibition of dogs on the beach, water contamination warnings, and shared use advisories on the emergency gate and the walls of the staircase; however, it is essential that the barrier chain and "Area Closed" signs be placed where proposed so the public access restrictions are made clear to visitors. In order to avoid any adverse impacts to visual resources, the Commission imposes **Special Condition #3** requiring the City to submit, for review and approval of the Executive Director, a Final Sign Program. As part of the Sign Program, the City shall limit the height of signs posted to 36 inches wide by 30 inches tall. Additionally, the number of signs posted on the beach shall be restricted to a maximum of two (2) signs.

As discussed above, the Commission hereby finds that the proposed project, as conditioned, is consistent with all applicable policies of the Coastal Act regarding Visual Resources.

F. REIMBURSEMENT IN CASE OF CHALLENGE

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the applicant. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition #4** requiring reimbursement for any costs and attorneys fees that the Commission incurs in connection with the defense of any action brought by a party other than the applicant challenging the approval or issuance of this permit.

G. LOCAL COASTAL PLANNING

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The proposed project is located within the City of San Diego, which has a certified Local Coastal Program; however, based on a jurisdictional boundary determination conducted on August 19, 2011 by the Commission's Mapping Department, the sandy beach area Children's Pool Beach is located in an area where the Coastal Commission has retained permit jurisdiction, and the City's jurisdiction begins at the bottom of the lower stairs (**Exhibit 7**). The proposed project spans both jurisdictions. Section 30601.3 of the Coastal Act provides that when a project requires a coastal development permit (CDP) from both a local government with a certified LCP and the Coastal Commission, a single, consolidated CDP for the entire project may be processed. At the request of the applicant, who in this case is the local government, Commission staff has agreed to process the subject permit as a consolidated CDP. The Commission's permit jurisdiction is based on the existence of tidelands, submerged lands, and public trust lands. According to the Commission's Coastal Zone Boundary Determination No. 14-2011, the subject site, including the sandy beach, is located on tidelands submerged land and land that is potentially subject to the public trust. Thus, the standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified City of San Diego Land Use Plan (specifically the La Jolla Community Plan and Local Coastal Program Land Use Plan) serve as guidance. As described above, as conditioned, the proposed project is consistent with the certified LCP as proposed to be amended and all applicable Chapter Three policies of the Coastal Act and will not prejudice the ability of the City of San Diego to continue to implement its LCP for the La Jolla area.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a

proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Pursuant to the City's own obligations under CEQA as the lead agency, the City approved and adopted Negative Declaration 225045. As the proposed project would provide increased protection of marine resources, the Commission finds that it is unlikely that any significant adverse effects on the environment would occur. Mitigation measures, including conditions addressing assumption of risk, a final sign program, and a monitoring plan to effectively record and monitor the effectiveness of the seasonal beach closure in preventing seal harassment, will minimize or prevent all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

(G:\Reports\2014\6-14-0691 Children's Pool stf rpt.docx)

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

La Jolla Community Plan and Local Coastal Program Land Use Plan; 1931 Tidelands Trust; Senate Bill 428 effective as of January 1, 2010; CDP #6-93-026; CDP #6-00-126; CDP #6-05-098; CDP #545642; CDP Appeal No. A-6-LJS-08-065; CDP #701673; CDP Appeal No. A-6-LJS-10-009; CDP #6-11-078; CDP #6-13-014-G; CDP #3-13-1175-W; CDP #4-01-139; CDP #4-08-007; CDP #5-87-847-A1; City of San Diego Resolution R-305837 passed by the City Council on May 17, 2010; City of San Diego Resolution R-308759 passed by the City Council on March 12, 2014; Spring 2012 Harbor Seal Counts conducted by Park Ranger Richard Belesky; Historic Maps circa 1887 and 1894; Marine Mammal Protection Act of 1972; Heal the Bay's 2014 Beach Report Card; First Annual Monitoring Report (May 2013 to May 2014) pursuant to Special Condition No. 4 of CDP #6-11-078; LCP Amendment No. LCP-6-LJS-14-0607-1

Subject Site

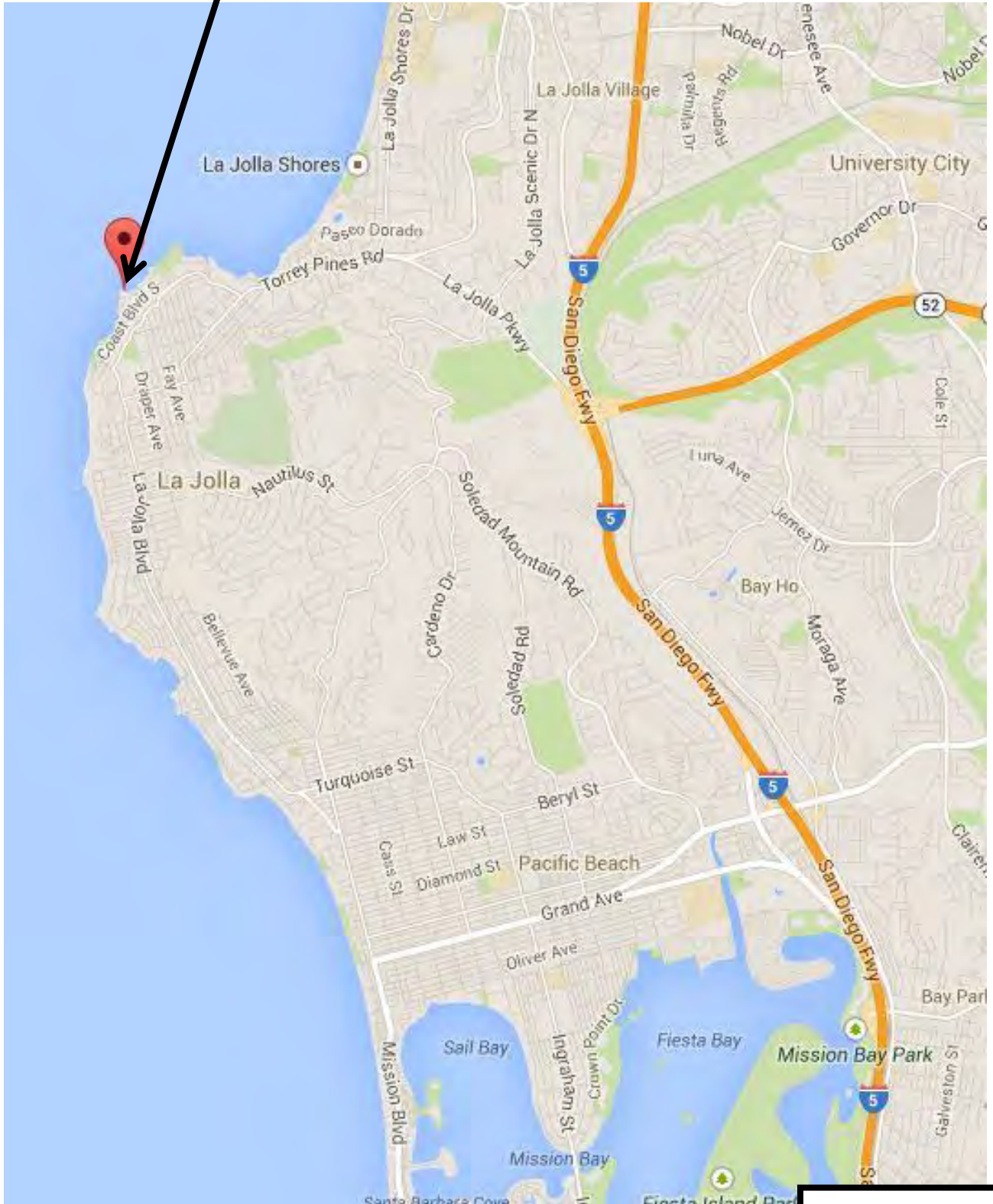


EXHIBIT NO. 1

APPLICATION NO.

6-14-0691

Vicinity Map

California Coastal Commission

Subject Site



EXHIBIT NO. 2

APPLICATION NO.

6-14-0691

Aerial View

California Coastal Commission

Draft Signage



THE CITY OF SAN DIEGO

BEACH CLOSED

NO BEACH ACCESS ALLOWED
DURING HARBOR SEAL PUPPING SEASON
DECEMBER 15 TO MAY 15

(THIS SECTION WILL PROVIDE FOR THE CA COASTAL COMMISSION AND THE CITY COUNCIL
RESOLUTION NUMBER AND DATE FOR THE CLOSURE.)

EXHIBIT NO. 3

APPLICATION NO.

6-14-0691

Proposed Signage

California Coastal Commission

Site Plan: Proposed Sign Location

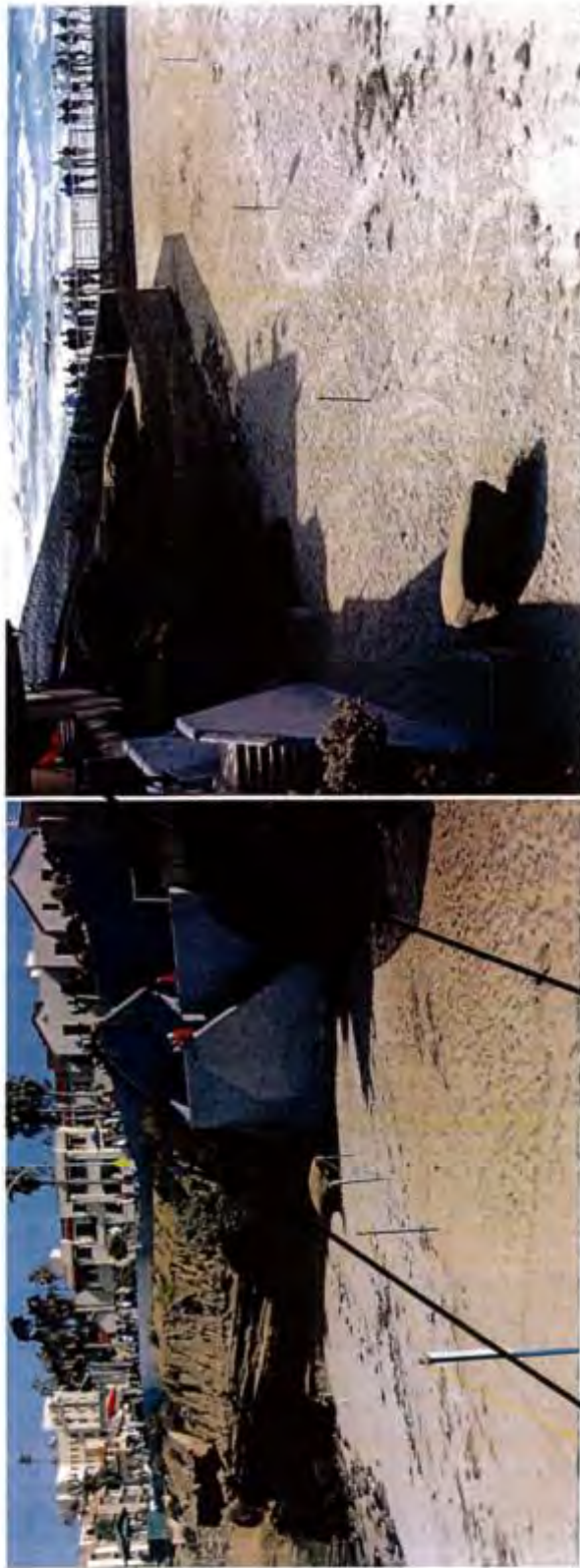


EXHIBIT NO. 4

APPLICATION NO.

6-14-0691

Proposed Sign

Locations

California Coastal Commission

Site Plan: Proposed Sign Location

New sign with information regarding beach closure. Gate already closed to preclude access from this point.





EXHIBIT NO. 5

APPLICATION NO.

6-14-0691

Existing Signage

And Rope Barrier

California Coastal Commission



WELCOME TO THE CHILDREN'S POOL
Be respectful of the seals in this area

SHARE THE BEACH WITH THE SEALS but keep a safe distance.
The beach and waters are open for public enjoyment. This is also a home and resting place for Harbor Seals. Seals at the water's edge may want to come ashore. Give them a chance by moving back from the water's edge.

STAY BACK
Wild animals can be unpredictable and may bite. Get too close and you may frighten the seals.

MOVE SLOWLY
Sudden movements may cause seals to "flush" into the water. This could cause pups to be abandoned.

Harassing, disturbing, or flushing seals violates Federal and Local Law and may lead to a citation.

WARNING ADVISORY
Contact with water may cause illness as bacteria levels exceed California State health standards. Call the San Diego County Department of Environmental Health @ (619) 338-2073 for more information.

WARNING!
BEACH AREA
MAY BE CLOSED
DUE TO HAZARDOUS
CONDITIONS

¡AVISO!
PLAYA AREA
PUEDE CERRARSE
DUE A CONDICIONES
PELIGROSAS



THE CITY OF SAN DIEGO

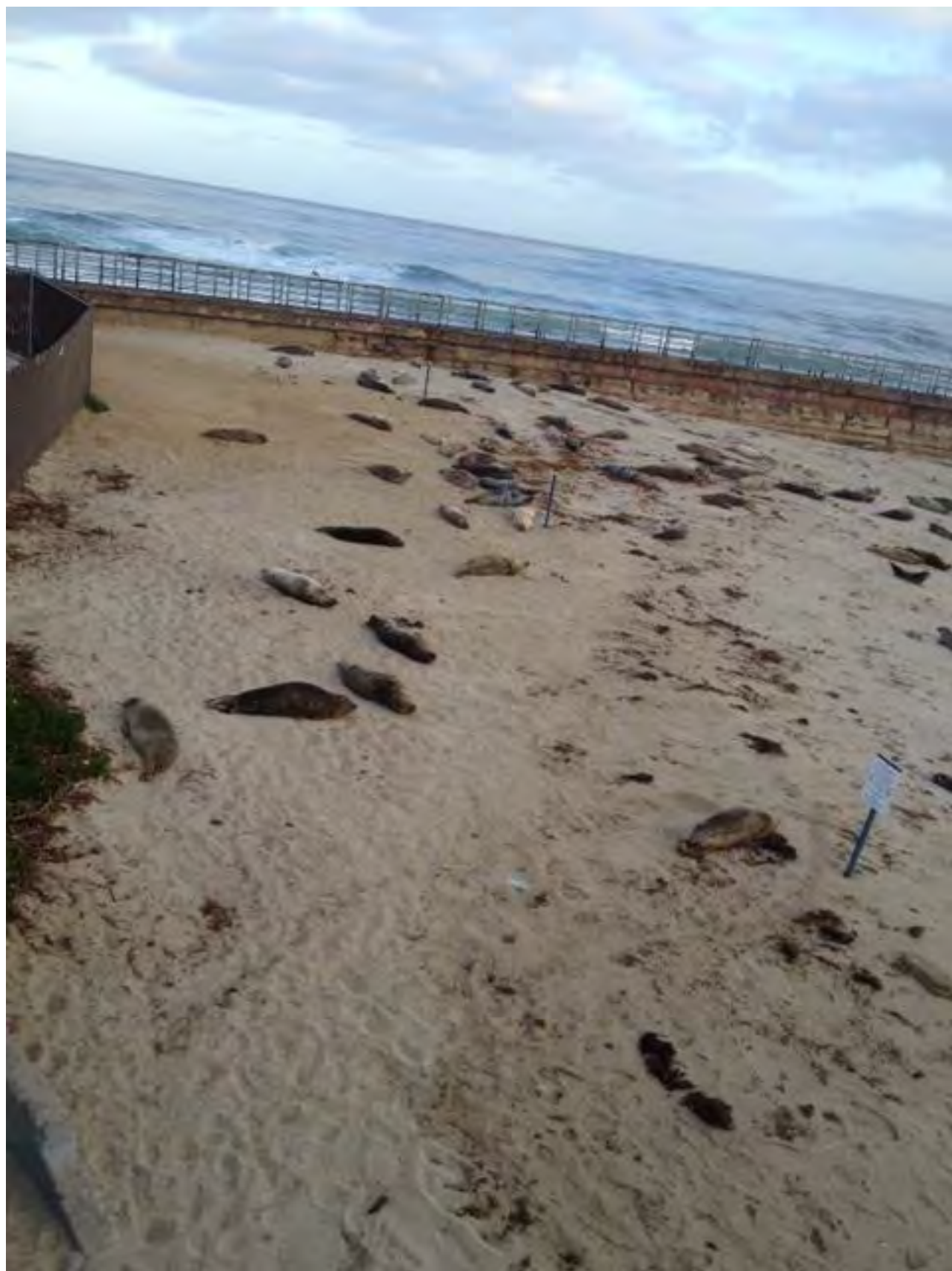
WELCOME TO THE CHILDREN'S POOL
Be respectful of the seals in this area
SHARE THE BEACH WITH THE SEALS but keep a safe distance.

The beach and waters are open for public enjoyment.
Please view seals from behind the rope guidelines.
90 feet is the minimum recommended viewing distance.

 **STAY BACK - MOVE SLOWLY**
Wild animals are unpredictable and may bite.
Get too close and you may frighten the seals.
This could cause pups to be abandoned.

Harassing, disturbing, or causing seals to flush is a violation of Federal and Local Law and may lead to a citation.

WARNING/ADVISORY
Contact with water may cause illness as bacteria levels exceed California State health standards. Call the San Diego County Department of Environmental Health @ 619-688-2073 for more information.





*Community Plan and
Local Coastal Program
Land Use Plan*

November 2013 Edits
CP/LCP Amendment for Children's Pool

City of San Diego Planning Department
202 C Street, MS 4A
San Diego, CA 92101



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This information, or this document (or portions thereof), will be made available in alternative formats upon request.

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DOCUMENT NO. 3087
FILED
FEB 24
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

EXHIBIT NO. 6

APPLICATION NO.

6-14-0691

La Jolla LUP

Amendments

California Coastal Commission

This plan presents the coastal issues that have been identified for the community; it proposes policies and recommendations in the various elements of the community plan to address those issues. These issues are summarized below:

- **Public Access to the Beaches and Coastline**

The Natural Resources and Open Space System Element recommends a comprehensive sign program to identify existing locations along the coast where public access to the shoreline exists; Figure 6, 9 and Appendix G identifies the existing coastline access points from La Jolla Farms to Tourmaline Surfing Park; and the Transportation System Element incorporates recommendations for improving bicycle access to Ellen B. Scripps Park and La Jolla Shores Beach and other public shoreline areas of La Jolla.

The plan also states that the City will review new developments for the potential of prescriptive rights of access in accordance with the California Coastal Act and state law.

- **Environmentally Sensitive Habitat Areas and Marine Resources**

The Natural Resources and Open Space System and Residential Elements recommend that development be designed to prevent significant impacts upon sensitive habitats and identified endangered or threatened plant and animal species. In addition, seasonal access restrictions and a buffer are designated for the Children's Pool Beach in order to protect breeding pinnipeds pursuant to Section 30230 of the California Coastal Act. No public access is permitted below the top of the lower staircase leading down to the sand from the sidewalk during seal pupping season.

- **Recreation and Visitor Serving Retail Areas**

The Commercial Land Use Element recommends retention of existing hotel, retail and visitor-oriented commercial areas in proximity to the beach and coastline parks in order to maintain a high degree of pedestrian activity and access to coastal resources.

- **Preservation or Conservation of Historic Resources**

The Heritage Resources Element recommends preserving the historical integrity of these community landmarks and archeological sites per the Secretary of Interior's Standards as well as maintaining the existing Cultural Complex within downtown La Jolla in order to retain the distinctive architectural, educational and historic heritage of the community.

- **Provision of Parks and Recreation Areas**

The Community Facilities Element recommends the preservation of existing resource and population-based parks and the identification of additional park and recreation opportunities throughout the community.

- **Provision of Affordable Housing**

PHYSICAL ACCESS POINTS: (*dedicated)

1. Torrey Pines City Beach -U.C.S.D. access road off La Jolla Farms Rd. and trail south of glider port
2. Scripps Institution of Oceanography (public parking & stairs)
3. Kellogg Park-La Jolla Shores Beach*
4. Boat launching ramp at Avenida de la Playa
5. Walk at south end of the Marine Room restaurant
6. Princess Street (emergency access)
7. Scenic overlook from Coast Walk off of Torrey Pines Road (public parking, lateral access)
8. Cave Store access to Goldfish Point
9. La Jolla Cove -Ellen B. Scripps Park *
10. Coast Boulevard Park: Boomer Beach
11. Coast Boulevard Park: Shell Beach
12. Coast Boulevard Park: Children's Pool (For more information regarding the seasonal access restrictions refer to Appendix G-Subarea F)
13. Coast Boulevard Park: South Casa Beach
- 13a. Coast Boulevard Park: Wipe-out Beach
14. Nicholson's Point Park
15. Dedicated walkway at 100 Coast Boulevard South*
16. Stairway at the end of Marine Street (Jones Beach)
17. Paved walk at end of Vista Del Mar; heavily used for beach access*
18. Street at the end of Sea Lane
19. Walk at the end of Vista de la Playa
20. Fern Glen at Neptune Place
21. Windansea Shoreline Park at the west end of Fern Glen, Belvedere, Westbourne, Nautilus & Bonair Streets*
22. La Jolla Strand Shoreline Park at the West End of Gravilla, Kolmar, Rosemont Streets, and Palomar Avenue*
23. Hermosa Terrace Shoreline Park at west end of Palomar Avenue*
24. Paved easement between 6406 and 6424 Camino de la Costa
25. Cortez Place between 6160 and 6204 Camino de la Costa
26. Mira Monte Place between 6040 and 6102 Camino de la Costa -unimproved street
27. Paved stairs and walk at the end of the 5900 block of Camino de la Costa
28. Stairway from Bird Rock Avenue to tide pools
29. Pathway and stairs extending to the shore from Linda Way
30. Tourmaline Park*

wildlife habitats. In addition, the open space designations and zoning protect the hillsides and canyons for their park, recreation, scenic and open space values. The location of the public and private dedicated and designated open space and park areas in La Jolla are shown on Figure 7 and include, but are not limited to, all lands designated as sensitive slopes, viewshed or geologic hazard on City of San Diego Map C-720 dated 12/24/85 (last revision).

Visual Resources

La Jolla is a community of significant visual resources. The ability to observe the scenic vistas of the ocean, bluff and beach areas, hillsides and canyons, from public vantage points as identified in Figure 9 has, in some cases, been adversely affected by the clutter of signs, fences, structures or overhead utility lines that visually intrude on these resources.

Mount Soledad provides magnificent vistas of the coast of San Diego and is a regional landmark and an important visual resource for the community to preserve. Its slopes form a unique visual backdrop of significant scenic value which provides a natural relief from the commercial development that characterizes La Jolla's village area. Moreover, public views to La Jolla's community landmarks such as the San Diego Museum of Contemporary Art, and to historic structures, including the La Jolla Recreation Center and the La Jolla Woman's Club, are to be preserved. Significant public views of the coast are provided from Ellen B. Scripps Park and Kellogg Park. Other identified public vantage points are shown in Figure 9.

Shoreline Areas and Coastal Bluffs

The entire coastline of La Jolla stretching from La Jolla Farms to Tourmaline Surfing Park provides dramatic scenic beauty to the City of San Diego is considered an important sensitive coastal resource and should be protected.

The maximum use and enjoyment of La Jolla's shoreline is dependent upon providing safe and adequate public access to such major and special use recreational areas as La Jolla Shores Beach, Ellen B. Scripps Park, Coast Boulevard Park, Marine Street Park, Coast Walk, Windansea Beach, Calumet Park, Tourmaline Surfing Park and the Bird Rock tidepool areas.

Public access to this resource is limited, particularly along portions of Bird Rock, La Jolla Hermosa and in La Jolla Farms, due to steep slopes, cliff erosion and sensitive rock formations and restricted parking. Beach access is also limited on a seasonal basis at Children's Pool Beach, an area of special biological significance, during the harbor seal pupping season to protect the harbor seal rookery during this most vulnerable period.

This plan identifies two types of physical access: lateral (movement along the shoreline) and vertical (access to the shoreline from a public road). Public access at designated beach and shoreline points has been improved with the addition of stairways or ramps at certain points along the coastline including Tourmaline Surfing Park, Linda Way, Bird Rock Avenue, Windansea Park, La Jolla Strand Park, Jones Beach, Coast Boulevard Park, Shell Beach, Scripps Park, Children's Pool and La Jolla Shores Beach.

SUBAREA E: COAST BOULEVARD

Shoreline Access:

- a. La Jolla Cove. Small (.4-acre) pocket beach at the north end of Ellen B. Scripps Park. Concrete stairways provide access down bluff. Heavily used. The Cove and adjacent bluffs are an important visual and historical resource. Site of the La Jolla Roughwater Swim.
- b. Ellen Scripps Park. Dedicated 5.6-acre bluff top park. The park is a major recreational focal point for visitors to La Jolla. A scenic walkway along the bluff edge provides outstanding coastal views. A ramp down the bluff provides access to Boomer Beach. Heavily utilized. No off-street parking.
- c. Shell Beach. Small pocket beach south of Ellen B. Scripps Park. Stairway has been damaged.
- d. Children's Pool. Small (.7-acre) artificial pocket beach held in place by seawall. Lifeguard facilities. Stairway access down bluff. Heavily utilized. In order to protect breeding Harbor Seals, no public access is permitted below the top of the lower staircase leading down to the sand from the sidewalk during seal pupping season. *See discussion below.
- e. South Casa Beach. Small pocket beach accessible by concrete stairway. Part of Coastal Boulevard Park.
- f. Coast Boulevard Park. Dedicated 4.55-acre Shoreline Park between the stairway at Ocean Street and the stairway south of La Jolla Boulevard. Several unimproved trails provide access down gentle bluffs and vegetation dunes. Moderate-to-heavy use. No off-street parking.
- g. Vehicular access. Graded area near intersection of South Coast Boulevard and Coast Boulevard provide beach access for emergency vehicles.
- h. Concrete stairway next to pump station. Provides pedestrian access to adjacent pocket beach and north end of Nicholson's Point Park.

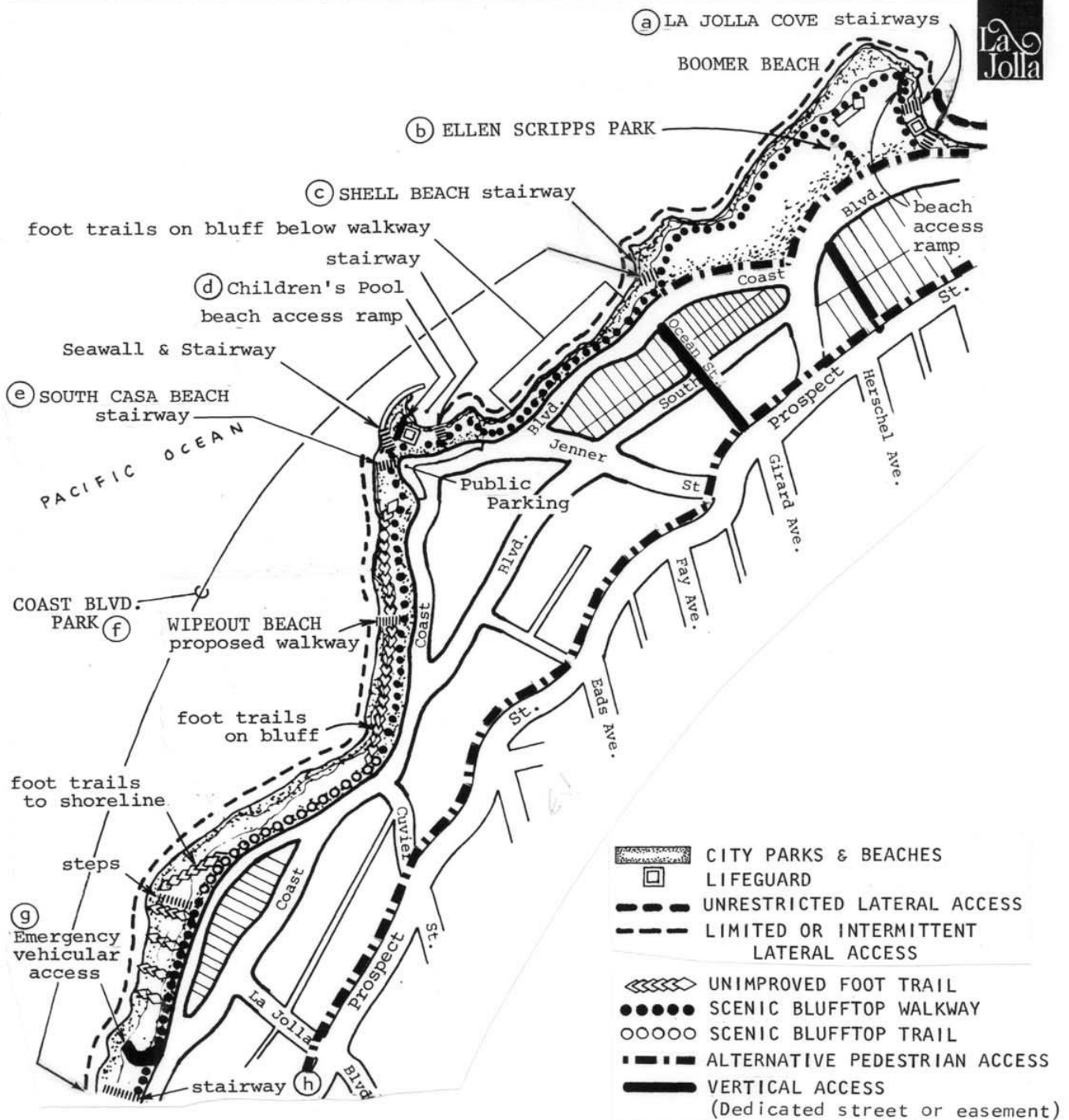
* On June 8, 2010, the City of San Diego City Council, via Resolution R-303837, directed the City Attorney "to draft an ordinance amending the Municipal Code...to prohibit public access to the Children's Pool beach during harbor seal pupping season, from December 15 to May 15" and directed the Mayor or his designee "to amend the Local Coastal Program, only if required, to prohibit the public from entering the beach during harbor seal pupping season from December 15th through May 15th." In order to effect this directive, staff proposed the closure of Children's Pool beach during pupping season in accordance with California Coastal Act 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 healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes."

Therefore, in order for the LCP to be consistent with the Coastal Act, compliance with Section 30230 is required. The seasonal prohibition of public access onto the lower staircase leading down to the sand from the sidewalk and onto the Children's Pool beach during the seal pupping season, generally from December 15th to May 15th, is based on such a prohibition being the most protective of significant marine resources.

In conjunction with the LCP amendment, the City Council also adopted an ordinance by adding a Section 63.0102(e)(2) as follows: *It is unlawful for any person to be upon or to cause any person to be upon the beach of the La Jolla Children's Pool, starting from the lower stairs to the beach beginning with the second landing, from December 15 to May 15.*



0 400 FEET

Subarea E: Coast Boulevard - Physical Access



La Jolla Community Plan
City of San Diego • Planning Department

Figure E



Coastal Commission Permit Jurisdiction
For illustrative purposes only.



EXHIBIT NO. 7
APPLICATION NO.
6-14-0691

Jurisdiction Map

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT
710 "E" STREET, SUITE 200
EUREKA, CA 95501
(707) 445-7873

**MEMORANDUM**

FROM: John D. Dixon, Ph.D.
Ecologist

TO: Brittney Laver

SUBJECT: San Diego Children's Pool

DATE: June 27, 2014

Documents reviewed:

City of San Diego. 2013-2014. Children's Pool Monitoring Plan Data Collection Forms for the period April 9, 2013 through May 14, 2014, showing number of seals on the beach and number of people on each side of the barrier rope. Attachment 1 to Belesky (2012).

City of San Diego. 2013-2014. Children's Pool Monitoring Plan Harassment Incident Forms for the period June 13, 2013 through May 14, 2014, documenting incidents of people crossing the rope barrier and flushing of seals by beach users and swimmers. Attachment 2 to Belesky (2012).

Dixon, J.D. (CCC) 2012. Memorandum to K. Brown (CCC) dated June 21, 2012 regarding "San Diego Children's Pool."

Belesky, R. (City of San Diego Park Ranger) 2014. Letter report to the Executive Director of the California Coastal Commission dated May 15, 2014 regarding "Childrens Pool Year-round Rope Annual Monitoring Report."

In my 2012 memorandum to Kanani Brown, I briefly reviewed the population status of harbor seals and the history of their use of the sandy beach at the Children's Pool. I concluded that:

"Although there are unlikely to be population consequences regardless of what actions are taken at the Children's Pool, it is nonetheless important that steps be taken to prevent the harassment of individual seals and to avoid forced flushing, especially during the period when dependent pups are present. Due to the fact that the numbers and distribution of seals on the beach varies both seasonally and from day-to-day, an adaptive management plan that could respond to changing circumstances would be most useful. Since a year-round rope barrier at the Children's Pool will have no negative biological impacts and will help protect the harbor seals using the beach, I concur with staff's recommendation to approve the proposed project, as conditioned."

EXHIBIT NO. 8

APPLICATION NO.

6-14-0691**Staff Ecologist Memo**

Page 1 of 2

California Coastal Commission

We have now received the first annual report (Belesky 2014) of the effectiveness of the rope barrier. In general, the rope has been very effective, greatly reducing seal disturbance. Although the vast majority of visitors respect the rope barrier, there are still incidents of seal harassment. When a ranger was present, 28 incidents that resulted in the flushing of harbor seals were documented. Nine were due to swimmers entering or leaving the water, 11 due to people crossing the rope barrier, and the remainder due to noise or activity in the surrounding area. The report notes that, "Many other seal harassment incidents have been witnessed, photographed, and video recorded by visitors and reported to the Ranger but date and time of those incidents could not be verified and therefore were not documented on the Harassment Incident Form."

Due to this continued harassment of seals by a minority of beach visitors¹, the City has proposed to close the beach at the Children's Pool from December 15 through May 15 each year, which generally brackets the pupping season. Dependent pups are usually present from about March through about June. The closure can only have beneficial effects on the local seal population and I concur with staff's recommendation to approve the proposed project. Monitoring should continue in order to determine whether this seasonal closure has more beneficial effects than the rope barrier.

¹ An egregious example was captured by the web cam at the Children's Pool in 2013 and reported in local news: <http://www.kpbs.org/news/2013/feb/18/webcam-catches-women-harassing-seals-at-childrens/> (accessed 06-26-14).



THE CITY OF SAN DIEGO

Date: May 15, 2014

To: Executive Director, California Coastal Commission

From: Richard Belesky, Assigned Park Ranger, Children's Pool

Subject: Children's Pool Year-round Rope Annual Monitoring Report

First Annual Written Monitoring Report

For the Children's Pool Beach Year-Round Rope

Coastal Development Permit Application No.:6-11-078

Coastal Development Permit Application No.:6-11-078 granted the City of San Diego permission to erect and maintain a year-round guideline rope on the Children's Pool beach to provide a buffer between humans and seals. The permit was accepted by the City on May 14, 2013. Special Condition 4B of the granted permit requires the City of San Diego to submit a written report annually summarizing the condition and performance of the approved structure, make recommendations for modifications, and establish baseline data that will be used to determine the level of use of the beach by seals as a haul out location throughout the year and to also assess the level of effectiveness of the rope at minimizing visitor disturbance of hauled out seals. The following is submitted in fulfillment of that requirement.

Requirement #1: All records of measurements, analyses, and conclusions created in conformance with the approved Monitoring Plan: The data compiled during the past year is entered on the Data Collection Form and is included in digital format as an Excel file on CD as Attachment 1. This is the first year's worth of beach usage by seals data and will be used a baseline for comparison with subsequent years data. Review of the past year's data does show year-round usage of the beach by seals as a haul-out location but with significantly less usage during the day from mid-June through October 1, 2013. There were 109 consecutive days from June 14, 2013 to October 1, 2013 where less than 100 seals were counted on the beach during daylight hours. From June 16, 2013 to December 14, 2013 data observations recorded 0 seals on the beach or the rocks 217 times. Since December 14, 2013 there have been seals present at every count, with 2 being the least amount and 275 being the maximum counted. The data also shows that on a daily basis the number of seals hauling out tends to increase from morning to afternoon.



Developed Regional Parks Division • Park and Recreation

2125 Park Boulevard • San Diego, CA 92101-4792
Tel (619) 235-1100 Fax (619) 235-1160

EXHIBIT NO. 9

APPLICATION NO.

6-14-0691

First Annual Monitoring

Report 6-11-078

California Coastal Commission

Harassment Incident Forms are included in digital format as PDF files on CD as Attachment 2. These documents record seal harassment incidents directly observed by the assigned Park Ranger while on duty at the Children's Pool. The Ranger observed 28 incidents of human activity that resulted in seals flushing in response. Of these incidents, 9 were due to snorkelers, scuba divers, and/or spear fishermen entering or exiting the water, 11 were due to people crossing the rope to get closer to the seals and the remaining incidents were from various causes such as low flying military helicopters, people fishing from the end of the breakwater, a loud noise from the stairway, and a lifeguard rescue boat that entered the pool area while training. Many other seal harassment incidents have been witnessed, photographed, and video recorded by visitors and reported to the Ranger but date and time of those incidents could not be verified and therefore were not documented on the Harassment Incident Form.

Requirement #2: An evaluation of the condition and performance of the approved structure, including an assessment of whether any weathering or damage has occurred that could adversely impact future performance of the structure: Several repairs to the rope and poles have been performed over the past year. The most common repair has been the need for grounds maintenance personnel to reseal rope pole 1, the pole closest to the rock, deeper into the sand. Children pulling or hanging on the rope cause the base of the pole to loosen and pull up out of the sand and the rope to get excessively slack. Reseating has had to be done about once a month.

The rope was found cut between poles 3 and 4 the morning of December 16. There was enough excess rope coiled at the seawall end to reconnect the rope at pole 3. However, the rope was cut again two nights later. A new rope was installed December 19. There has been no further rope cutting incidents to date.

Very high tides and high surf washed out pole 1 the morning of December 31, 2013 and again March 2, 2014. Grounds maintenance personnel replaced the pole after each washout as soon as practical after the tide receded and hauled out seals moved away.

The rope has performed as expected, greatly reducing seal disturbance by beach visitors. The amount of reduction cannot be statistically measured due to lack of baseline data. Personal observations by the assigned Park Ranger have shown that when seals are hauled out on the Children's Pool beach the vast majority of visitors will automatically view them from behind the rope. There have been instances of the rope being overly effective (see photos). Instances, predominantly in the summer, when there were no seals on the beach as well as no visitors yet Shell beach just to the north and South Casa beach just to the south were crowded with beachgoers. Visitors have reported to the Ranger that they saw the rope on the beach and just assumed that the beach was closed.

The rope is ineffective when certain tidal conditions occur. The rope and poles are installed at the mean high tide line. When high spring tides occur in conjunction with new and full moons seals haul out on the "people" side of the rope. Since there is nothing separating visitors and seals human/seal interaction is much more common. It is interesting to note that the majority of these highest high tides occur at night or early in the morning and not during peaks visitor hours.

Requirement #3: Recommendations for repair, maintenance, modifications, or other work to the device: In order to reduce the number of times pole 1 has to be reseated because of rope pulling and washouts it is recommended that poles 1 and 2 be replaced with longer poles that can be buried deeper into the sand while still maintaining the four foot maximum height above the surface.

Requirement #4: Photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the condition, performance, and/or effectiveness of the structure:

Seven photographs demonstrating the performance and effectiveness of the rope are included on the following pages. Additional photographs are included on the attached CD.

Submitted by:



Richard Belesky
Park Ranger
Shoreline Parks/Developed Regional Parks Division
City of San Diego Park and Recreation Department
2125 Park Boulevard, MS 30M
San Diego, CA 92101

DISCLOSURE OF EX PARTE COMMUNICATIONS

Date and time of receipt of communication:

June 18, 2014 at 3:50 p.m.

Location of communication:

Redwood City

Type of communication:

In person

Person(s) in attendance at time of communication:

Adrian Kwiatkowski, Seal Conservancy of San Diego
Dr. Jane Reldan, Seal Conservancy of San Diego

Person(s) receiving communication:

Carole Grooth

Name or description of project:

Seasonal closure of Casa Beach during Harbor Seal pupping season

Detailed substantive description of the content of communication:

The representatives of the Seal Conservancy of San Diego expressed their support for the seasonal closure of Casa Beach during Harbor Seal pupping season from December 15 through May 15. The representatives indicated that there are approximately 200-250 seals that come to Casa Beach during pupping season and that there have been significant human and seal interactions as a result of minimal restrictions at this area. They also indicated that there are three adjacent beaches available and accessible, which are not used by seals during pupping season.

The representatives indicated that the proposal was approved by both the Planning Commission and City Council. They maintained that alternative plans do not adequately address the issue or could have greater impact to beach access.

They showed a powerpoint presentation that was presented to the San Diego City Council and will be provided to Coastal Commission staff.

Date: June 7, 2014

Signature of Commissioner: Carole Grooth

EXHIBIT NO. 10

APPLICATION NO.

6-14-0691

Ex Parte Disclosures

Page 1 of 5

California Coastal Commission

DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project:

LCP Amendment by the City of San Diego approving a seasonal closure of Children's Pool beach in La Jolla due to the pupping season for Harbor Seals.

Date and time of receipt of communication:

March 20, 2014 4:00pm

Location of communication:

San Diego

Type of communication:

In-person meeting

Person(s) in attendance at time of communication:

Mike Costello, Cheri Aspenleiter, Bob Seegmiller, Marie Hunrichs, Ken Hunrichs, John Leek

Person(s) receiving communication:

Greg Murphy, on behalf of Greg Cox

Detailed substantive description of the content of communication:

(Attach a copy of the complete text of any written material received.)

Greg Murphy on my staff met with representatives of the Friends of the Children's Pool and other organizations who oppose the City of San Diego's action to close the Children's Pool from public access during pupping season, from December to May. The discussion below is taken from their perspective.

The group believes the closure will be an unlawful restriction on protected coastal access. Our State Constitution protects fishing rights along our coast and coastal access protections are the foundation of the California Coastal Act. The City of San Diego's closure plan is a regulatory overreach that cannot be supported by the Coastal Act nor by the actual conditions at the Children's Pool.

This particular beach has been protected since 1931 by a State Tidelands Trust commonly known as the Children's Pool Trust. This State statute protects coastal access for recreational activities and convenient fishing access. Nowhere does the language of the Trust permit the conversion to an animal reserve to the exclusion of all other Trusted uses. Even if the City is successful in gaining approval for amending the LCP to close a public beach contrary to the Coastal Act, the Trust stands to protect the defined uses as a park, playground and bathing pool for children. The amended Trust allows for an additional use as a marine mammal park but that one use cannot supersede all other

defined uses. It must be shared beach at all times per the Trust.

The Friends of the Children's Pool is an organization that has for ten years opposed unnecessary access restriction imposed on people using this public beach. They advocate for shared use of the beach as it is the most logical and balanced use of this protective coastal resource.

The City proposes to amend a longstanding policy of enhancing coastal access in our Local Coastal Program and hopes to prohibit beach access by soliciting validation from the Coastal Commission. This proposal lowers the standards for beach closure, is precedent setting and endangers access to all other beaches where wildlife chooses to share with people. Their fear is that animal rights activists are erroneously trying to protect a seal population when there is no documented danger to the seals or threat of species endangerment. In fact, since the Children's Pool is one of the most regulated beach areas in the entire state due to a combination of the Coastal Act and the Children's Pool Trust, if public access is prohibited for parts of the year here, then the precedent is set for closing beaches in other parts of the state where no such Trust exists. They fear Children's Pool will be the first of many nearby beaches where demands will be made to limit public access because of occupation by an ever expanding population of Sea Lions and Harbor Seals. They prefer a year-round shared use beach management plan developed by the Lifeguards.

Representatives discussed possible ulterior motives for the City's decision to limit public access to the Children's Pool. For one, the city may consider the seals a "tourist attraction" and therefore want to enact policy that encourages their continued existence at Children's Pool. The FoCP thinks this can be achieved through shared-use. Two, the FoCP considers all the focus and attention on harbor seals as a penance for humanity's past sins against marine mammals. The problem with that argument is that seals are not the species in danger, and that shouldn't have an impact on public policy with regards to public access. Third, the Restore Access to Many People (RAMP) organization, as represented by Cheri Aspenleiter, believes the City has an obligation to provide ADA access. Cheri believes the City is out of ADA compliance and therefore has chosen to mitigate their legal risk by closing the ramp and now prohibiting public access to the beach altogether between December and May.

In short, the FoCP wants the Children's Pool Trust and the Coastal Act to be upheld to maintain year-round public access to Children's Pool. The Trust was amended in 2009 to add "marine mammal park" as a use, but not the sole use. "Marine Mammal Park" is not defined by the Trust nor the State. No marine biologist has opined that the Children's Pool seals are in danger. ~~Any~~ One well publicized video that shows the seals being harassed by two young girls ~~was~~ may have been staged or provoked by animal rights activists who want to set a beach closure precedent. The claims made that seals were punched and kicked are false but were continuously repeated without any evidence. Nowhere in that video do those actions appear because that kind of behavior did not happen. The timing of that video is suspicious because of the recent surveillance camera installation and resulted in an emergency beach closure and round the clock

police protection for seals. The video swayed a sympathetic former mayor already in favor of beach closure to overreact and take that most drastic action.

The seal population has ballooned due to Seaworld's seal release program nearby and a series of seal protection measures have limited ~~limitations to~~ human use of Children's Pool Beach causing the seals to congregate there in unnatural numbers. Children's Pool is not a natural habitat; it was specifically designed for human use and is protected by statute.

The group shared links to youtube videos that are part of the public domain and letters and presentations that are part of the public record already through the course of the City's actions. Mike Costello, resident of La Jolla, also shared a 15-page slideshow, which is attached.

John Leek, Secretary for the San Diego Council of Divers added:

"San Diego has consistently failed to consider any solutions but the cheap and simple closure. It is just fiscally preferable. While leaving signs in place telling the public the beach is open but not providing needed public education, San Diego optimized its chances to let transgressions be filmed and to bully the Coastal Commission into a bailout. One effective unpublished remedy was applied last year by a protocol requiring Ranger, Police and Lifeguards to cite persons who were on the beach and could be believed to be of intent to disturb seals. All this on top of the federal oversight already in place. At the same time, San Diego purposefully delayed releasing real data the Coastal Commission required of it for a year round rope permit.

After 20 years of shared use, the seals still show by their actions that San Diego's exploitation of their presence for a "lucrative tourist attraction" (Description from permit recommendation for permanent rope barrier) makes for easier living than in the wild, in spite of people being pesky every so often. To get its way, San Diego has enjoyed support of powerful special interest groups such as Sierra Club, Humane Society, PETA, Wan Conservancy, Coastkeepers, Surfriders, and others chronically discontented with emphasis on public access the Commission has not been willing to shed. They favor the holding of State tidelands in trust for "certain qualified and enlightened" people of the State of California. The greater the seeming emergency here, on the most protected trusted tidelands in California, (first domino) the greater the chance of forcing the Commission to allow a dangerous precedent such that any community can declare a beach to be of special importance (they all are) and remove it from LCP protection and so any CCC jurisdiction.

For these reasons the Council of Divers asks the Commission simply tell San Diego to go back and solve its alleged problems within the framework of the Coastal Act, the Public Trust Doctrine and all relevant State laws and federal laws. San Diego has not demonstrated good faith to try to honor the Coastal Act or Public Trust Doctrine before trying to punch a hole in them. It has instead set aside means it has to maintain its animal display and preserve vertical access.

Those points presented, I hasten to add there are more layers on this onion and I hope we can be afforded the opportunity to present documentation you will need, and help clarify more of the issues. I must also add that divers do NOT want the seals to be discomforted such as to leave. They would only spread to other public beaches."

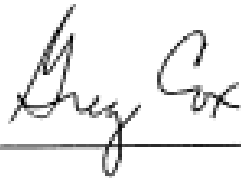
Cheri Jacobs Aspenleiter, on behalf of Restore Access to Many People (RAMP), added:

"The Children's Pool is the one and only safe Pacific Ocean access pool and without access we have no other safe access to the Pacific Ocean. Also Ellen Browning Scripps specifically said she was building it for "those handicapped in life's game" (1932) So that the very purpose the pool was built was for the disabled and the ramp there was in use for wheelchairs historically and in code in 1948. Also I feel an EIR is needed to ascertain the destruction of the ecosystem due to the over population of pinnepeds, the negative outcome of closing the only safe harbor south of La Jolla Cove, and the ongoing health risks due to seal fecal contamination, potenitally airborne diseases to seal viewers."

Date:

3/27/14

Signature of Commisssioner: _____

A handwritten signature in black ink, appearing to read "Greg Cox", written over a horizontal line.

cc: DL

RECEIVED

July 7, 2014

JUL 11 2014

Subject: City of San Diego Children's Pool CDP and LCPA

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Ms. Lee,

I am writing to express my concern on possible passage of the subject agenda item. The item involves imposing a ban on use of the Children's Pool from December 15 to May 15 each year. My concern is not on the seasonal ban itself, but that several individuals and organizations may use the ban as a stepping stone to a permanent ban on public use of the Children's Pool. I passed the Children's Pool yesterday, on my way to swim at La Jolla Cove. Even though it is now July, there was still a rope barrier on the beach, which, at least psychologically, limits access. There was also someone standing at the top of the stairs who seemed to be there to discourage people from walking down to the beach. The water temperature yesterday was 74°F and the air temperature was close to 80°F. Despite the hot weather, and it being Fourth of July Weekend, there was no one on the beach or in the water. There were no seals on the beach, but there were a couple of seals on a rock in the water a few feet off the beach. Many people were gathered on the breakwater to look at the seals.

The Children's Pool seems to be rapidly becoming a place for people to merely watch seals, rather than to use the beach and water. This is a very serious matter. It involves the potential loss of a beach that has been used by children and adults for close to 100 years. I have been swimming and SCUBA diving in La Jolla, at both the Cove and the Children's Pool, off and on, for over 40 years. Until about 15 years ago, people used the Children's Pool and the seals used the "Seal Rocks", a short distance from the Children's Pool. Now it seems that it is socially unacceptable to even suggest that people use the Children's Pool, any time of the year. At least one group has changed the name of the Children's Pool to "Casa Beach" in their literature, in an attempt to remove the human reference from the beach name.

Swimming in the Children's Pool is much safer and fun for children than swimming at La Jolla Cove. This is because there is generally much less surge, there is a much more gradual drop-off, and because "floats" are allowed in the Children's Pool, whereas they are not allowed at the Cove.

Whether the subject agenda item passes or not, I strongly urge the California Coastal Commission to take aggressive steps to ensure that the Children's Pool remains open to the public, for at least the seven months of the year outside of the proposed ban period.

These steps could include:

- Requiring the City of San Diego to post signs stating the dates that the Children's Pool is open for public use and stating that it is open for public use 24/7 during that period,
- Requiring the City of San Diego to remove all barriers (rope and other) from the beach during periods that public use is allowed,
- Requiring the City of San Diego to report on levels of beach use during the periods of allowed public use and
- working with the City of San Diego to make the public aware that the beach is open during the open period.

I believe these steps will help ensure that the "Shared Use" of the Children's Pool is achieved.

Thank you for your consideration.

David J. Burgess

David J. Burgess, Cell phone: 619-804-3972

EXHIBIT NO. 11

APPLICATION NO.

6-14-0691

Comment Letters

Page 1 of 2

California Coastal Commission

SCOTT H. PETERS
State Director, California

2410 RANDELMAN HOUSE DRIVE, BUILDING
WASHINGTON, DC 20515
(202) 226-0552

COMMITTEE ON
ARMED SERVICES

COMMITTEE ON
SCIENCE, SPACE, AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, DC 20515-0552

June 2, 2014

California Coastal Commission
Attn: Steve Kinsey, Chair
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Dear Chairman Kinsey and Commissioners,

I understand that the subject of beach closure at Children's Pool in La Jolla will come to you for consideration in August of 2014. As a resident of La Jolla, former City Councilmember, and current representative for this area in the United States Congress, I have heard the arguments both for and against turning this historic landmark into a wildlife reserve. In order to best serve the community, I request the Coastal Commission give full and equal consideration to the concerns of my constituents who live in La Jolla, the input from the City of San Diego and its staff, and the recommendations of the agencies that have oversight on this issue within the federal government.

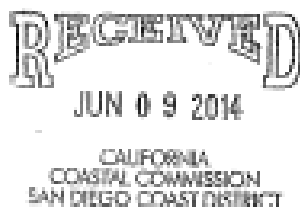
As a former member of the Coastal Commission, I know that balancing competing coastal interests is difficult and trust that your final decision will be designed to protect our treasured coastline, address the concerns of all parties involved, provide public access, and take into account the appropriate rules and regulations. Thank you for your service to our community.

Sincerely,



Scott Peters

SP/sc



PLEASE PROTECT THE SEALS!



Dear Commissioners:

I support closing Casa Beach in La Jolla during the critical months of Seal Pupping Season from December 15 through May 15.

This is a balanced compromise that protects the Seals during the 5 critical months of pupping season and also allows people access to the beach for the other 7 months.

This is a win-win proposal for both nature and people. Please support it!

Thank you,

Aileen Fricks 6-27-14
(please sign and date here)

Aileen Fricks
7960 Via Capri
La Jolla, CA 92037-4042

EXHIBIT NO. 11

APPLICATION NO.

6-14-0691

Letters of Support

Page 1 of 43

California Coastal Commission



Dear Commissioners:

I support closing Casa Beach in La Jolla during the critical months of Seal Pupping Season from December 15 through May 15.

This is a balanced compromise that protects the Seals during the 5 critical months of pupping season and allows people access to the beach for the other 7 months.

This is a win-win proposal for both nature and people. Please support it!

Thank you,

June 12, 2014

Jane Roldan, MD

7946 Ivanhoe Ave #312

La Jolla, CA 92037

RECEIVED

JUN 13 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Ms. Laver and members of the California Coastal Commission:

I am writing in regards to the San Diego City Council's proposal to prohibit public access to Casa Beach from mid-December to mid-May, in order to protect harbor seals from harm and/or harassment during their pupping season. Seals have been the targets of cruelty for many years, and protective barriers have not remedied concerns.

I fully support the Council's decision and respectfully ask that the Commission approve it.

Yours truly,

Wendy Mendoza

12522 Roscoe Blvd Apt 3

Sun Valley CA 91352

RECEIVED

JUL 07 2014

**CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT**

Petition to Close Casa Beach During Harbor Seal Popping Season

I support closing the beach during the harbor seal pupping season, December 15 to May 15, as approved by the City Council.

SCANNED

*Page 1 of over 100 pages of signatures

1	5/11/14	20715 Bridle Trail	Came Nick	Walnut CA	EMAIL ADDRESS Ctalas@Areviva1.org@gmail.com	SIGNATURE
2	5-11-14	126 E 1st La Habra Ca 92001			EMAIL ADDRESS bigboy@yahoo.com	SIGNATURE
3	5/11/14	6576 Seaman St.		SD CA 92120		
4	05/11/14	Karen Morales			EMAIL ADDRESS moreasmorales@yahoo.com	SIGNATURE
5	05/11/14	4094 Chalmers Ave		San Diego CA 92105		
6	05/11/14	Christian Padron		San Diego CA		
7	5/11/14	525 San Ysidro Blvd #9		San Ysidro CA 92154		
8	5/11/14	Tania Valdivia			EMAIL ADDRESS tvaldivia@gmail.com	SIGNATURE
9	5/11/14	America Valdivia		Oceanside CA 92057		
10	5/11/14	1420 Arteses Rd. #37		Valdivia - america@yahoo.com		
11	5/11/14	Angelina Mendez		Fallbrook CA 92028		
12	11/20/14	Athens Rd. #37		Fallbrook CA 92028		
13	11/20/14	Angelina Mendez		Fallbrook CA 92028		

301 S. Angelena Ave.
AZUSA, CA 91702

RE: FILE 6-14-0691

June 28, 2014

RECEIVED

Brittney Laver, Coastal Analyst and
Members of the California Coastal Commission

JUL 01 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

The San Diego City Council has proposed to prohibit public access to CASA BEACH from mid-December to mid-May in order to protect harbor seals during their pupping season. Unfortunately there are people who would harass and even harm these gentle creatures, and protective barriers have not proven effective. The safest way to protect the seals is doing what the City Council has suggested.

I respectfully request that the Commission approve the City Council's decision to prohibit public access to CASA BEACH during seal pupping season.

Thank you.

Sincerely,

(MRS.) Martha Ansoorge

RE: File 6-14-0691

Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

RECEIVED

JUL 15 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Commissioners:

I support winter closure annually at Casa Beach from December 15 to May 15 during the harbor seal pupping season.

This is the most vulnerable period for the seals when they give birth and nurse their pups on this small beach. Each pup requires 6 to 8 weeks of nursing and bonding with their mother. If a pup is separated from its mother due to human disturbance, it may be abandoned and perish. If a pup is driven off the beach by people, it cannot rest and develop a blubber layer to withstand the cold water and fend for itself.

Accessibility to Casa Beach is critical to the seals during pupping season. The nearest mainland rookery is 160 miles to the north in Ventura County.

Visitors come from all over the world to see the mothers and pups in this natural setting. If you are at the beach for even an hour, you will meet people from at least ten different countries. It is one of the main reasons people come to San Diego. It is an amazing sight!

As you know, the San Diego City Council voted 6-3 on February 24, 2014 in favor of winter beach closure (12/15 to 5/15) to protect the La Jolla seals. This time period is when the ocean is cold, rough, and dangerous for swimming.

If you do not approve this motion, seal harassment will continue unabated and innocent seals will suffer during their most vulnerable time.

I urge you to support the City and approve the 5-month winter beach closure! It is the right thing to do.

Carol Archibald

Carol Archibald, PhD, MPH
3146 Ibsen Street
San Diego, CA 92106
(619) 225-9076

6/18/2014

RE: File 6-14-0691

Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

RECEIVED

JUN 20 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Commissioners:

I support closing Casa Beach in La Jolla during the critical months of Harbor Seal Pupping Season from December 15 through May 15. In the past seals have been harassed which can stress the seals and lead to premature births, as well as pup abandonment.

This is a balanced compromise that protects the seals during the 5 critical months of pupping season and also allows people access to the beach for the other 7 months of the year. In addition, during the winter months few people use Casa Beach. Plus there are other beaches on either side of Casa Beach that provide easy beach access.

Numerous communities in California close their beaches during pupping season such as the City of Carpinteria and Marin County. Casa Beach is the only mainland California Seal pup birthing area south of Ventura County. It is a special place to see animals in their natural habitat.

This is a win-win proposal for both nature and people. Please support it!

Sincerely,

Cynthia L. Benner
3737 Kingsley St.
San Diego CA 92106-1109

RE: File 6-14-0691
Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

RECEIVED

JUL 21 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Commissioners:

I support closing Casa Beach in La Jolla during the critical months of Harbor Seal Pupping Season from December 15 through May 15.

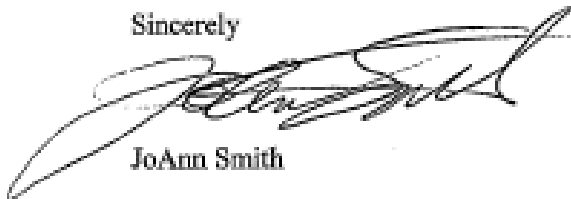
This is a balanced compromise that protects the Seals during the 5 critical months of pupping season and also allows people access to the beach for the other 7 months of the year.

I have personally seen many acts by people harassing the seals during the whole year but it is especially bad at pupping season. These moms and pups need their rest and time to nurse and bond. The colony is such a blessing for the hundreds of thousands of visitors from around the world that get to experience such a joyful event of nature from the walkways. It's time to protect these moms and pups.

I have also included a petition with 58 other signatures of people who also support closure of the beach during pupping season.

This is a win-win proposal for both nature and people. Please support it!

Sincerely

A handwritten signature in black ink, appearing to read 'JoAnn Smith', written over a horizontal line.

JoAnn Smith

RECEIVED

JUL 21 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

June 28, 2014
Re: File: 6-14-0691

Attn: Brittney Laver

I was furious to read that your agency must approve the protection of Harbor seals at San Diego's Casa Beach. This has already been approved already by the San Diego City Council. Your agency is in charge of protecting our coast and its creatures. This protection should extend year-round. Also those who abuse the seals should be prosecuted to the fullest extent of the law. Pass the protection measure for the seals at Casa Beach.

Thank you.

Shirley Sanchez
19811 Covina Hills Rd.
Covina, CA 91724

RE: File 6-14-0691

Attn: Brittney Laver, Coastal Analyst

California Coastal Commission

7575 Metropolitan Drive, Suite 103

San Diego, CA 92108-4402

RECEIVED

JUL 01 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Ms. Laver and members of the California Coastal Commission:

I am writing in regards to the San Diego City Council's proposal to prohibit public access to Casa Beach from mid-December to mid-May, in order to protect harbor seals from harm and/or harassment during their pupping season. Seals have been the targets of cruelty for many years, and protective barriers have not remedied concerns. I recently watched a horrific video of two women who were kicking and forcing pregnant seals back into the ocean. There truly is nothing more immoral and depraved than those who do not protect those who can't protect themselves, so I ask you respectfully and kindly to do what is right and protect these beautiful creatures. They bring beauty to this world and need protection. There are plenty of beaches and other areas residents or visitors can go to for swimming or sunning. Visitors from around the globe come to see these magnificent creatures, so please continue to support this and continue to fight for compassion in this world. Compassion starts in our community and I applaud the Council's support thus far.

I fully support the Council's decision and respectfully ask that the Commission approve it.

My daughter and her friend have also written a letter. When I told them about this, they asked what we could do as they have goodness in their hearts to protect animals from harm and to help keep them safe.

Yours truly,

Corrie Blough



10778 Heather Ridge Drive, San Diego, CA 92130

cblough@nuvasive.com

July 17, 2014

RE: File 6-14-0691
Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

RECEIVED

JUL 22 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Commissioners,

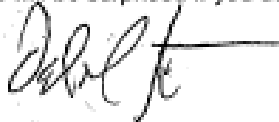
I am a retired high school Civics teacher. I am also deeply concerned with the state of the world's oceans and the creatures that live within them. Specifically, I am active in the conservation and protection of marine mammals worldwide, in particular harbor seals. As an educator of young citizens, as a defender of animals who cannot speak for themselves, and as a believer in our system of laws, I am proud that the United States has a Marine Mammal Protection Act which stands as a model for other countries.

How that law is enforced is the crux of the matter, of course, and unless it is actually carried out in practical application in specific circumstances, it is worthless. The situation at Children's Pool/Casa Beach is a perfect example. Either the harbor seals using that beach as a pupping area are protected from disturbance by unsympathetic people or they are not. It's that simple.

The Coastal Commission has the great responsibility of balancing the legitimate recreational and commercial interests at any given site with the obligation to fulfill the mandate of the MMPA. Where the two interests - the local and the national - are in direct conflict, the federal law should take precedence. This principle is true in regard to fisheries, marine sanctuaries, and national security. So, too, with marine mammal protection, whether on public land or private.

The City Council of San Diego has determined that in this case the two interests are in fact aligned, that this beach should be closed to the public - not just delineated with a guidance rope - during the pupping season. For the Coastal Commission to overrule that decision, to favor those who would commit continued acts of "taking" as directly forbidden by the MMPA without a permit, would be a shame to our nation, our state, and to the Commission itself.

I will be surprised if you do not decide for the closure.



Daniel Leite
77 Willow Avenue
Walnut Creek,
CA 94595

RE: File 6-14-0691

Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

RECEIVED

JUL 22 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

July 14, 2014

Dear Commissioners:

I am writing to you as an informed citizen. I have been committed to seal conservation since the 1990's. For many years I volunteered as a docent/educator at the Marine Mammal Center in Sausalito, CA. I volunteered for Seal Watch in Sonoma County when the program first began. I have also volunteered for a citizen science program through the NPS which maintains records during pupping season as well as records of harassment during this period in the SF Bay Area and Pt. Reyes. I am familiar with the natural history of harbor seals and the stipulations of the Marine Mammal Protection Act. I am also familiar with the issues involved in protecting harbor seal populations and meeting the public needs for recreation.

For example, when I first began counting seals at Pt. Bonita in the Golden Gate National Recreation Area there were only a few pups born at that site and the colony was small. It is a treacherous and difficult climb to the surf but people went down to the rocks to fish and groups of school children were guided down to survey the shoreline. Boats pulled in too close to rocky haul out spots along the shore. Harassment was the norm there.

After it was determined through counts like my own that this section of coast might indeed be a significant pupping area, a decision was made to close it to public use. Since then and with my own eyes I have seen the colony more than quadruple and many pups are born there each pupping season. It is a draw for the GGNRA and informational signs provide explanations of what tourists from all over the world are seeing. It is a boost for tourism and a boost for the seals. They are finally protected and being allowed to live normal lives.

When I was young growing up in Southern CA I didn't know that harbor seals existed. I am 68 years old. Despite the fact that I spent a summer at Malibu Beach as a child and frequented beaches during my entire childhood and adolescence I never saw one. I was very familiar with sea lions which you might see swimming beside a pier but never an animal hauled out on the beach resting or pupping.

San Diego County is lucky to have the seal colony at Casa Beach in La Jolla. It is lucky to have a place where children and visitors can see wild ocean animals deliver and care for young. It should be considered a great blessing for tourism outlets and locals alike. I urge you to finalize the seasonal closure of Casa Beach during pupping season. And as a seasonal closure it will allow ordinary uses of the beach during seven months of the year and provide adequate protection for the seals that live there.

Sincerely,

Elizabeth Leite

Elizabeth Leite
77 Willow Avenue
Walnut Creek CA 94595

Ms. Irene Lopez
4986 Fidd St.
San Diego
CA 92110

RECEIVED

JUL 22 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Dr. Hester, Please be humane
and side with our City Council
by keeping the Casa Beach
closed for Seal Pupping Season!
People are so cruel the things
they do to these innocent little
Seals is appalling! after all
it's their beach & home! everyone
loves to see and hear them -
and it's great for people who
come to La Jolla on holiday
and have never seen a seal
in its natural habitat! I would
be so very grateful and would appreciate
a kind reply. Sincerely Irene.

RECEIVED

JUN 30 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: File 6-14-0691
Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Dear Commissioners:

I support closing Casa Beach in La Jolla during the critical months of harbor seal pupping season from December 15 through May 15.

I have seen first-hand what can happen when the seals are not protected. Last year in Pacific Grove, CA we lost over 40 pups when people frightened harbor seals into the water and they did not return to their nursing pups. The city came through with adequate protection this year and only one pup was lost to human harassment.

We must protect these gentle and defenseless animals, and the Marine Mammal Protection Act demands that we do so. This is a win-win proposal for both nature and people. Please support it!

Sincerely,

Marjorie Brigadier
Marjorie Brigadier
931 Maple Street
Pacific Grove, CA 93950

Re: File 6-14-0691

Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Dr. Ste. 103
San Diego, CA 92108

Dear Commissioners,

When you review the facts of this case, I hope you will decide in favor of closing the Casa Beach in La Jolla during the critical months of harbor seal pupping season (Dec. 15 - May 15). This balanced compromise protects the seals during their crucial pupping season and also allows people access to the beach the other 7 months of the year. This beach is one of the last remaining areas that the seals can use for pupping. Humans have many options for the

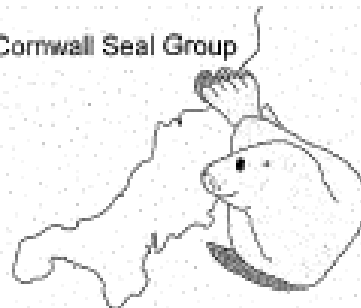
RECEIVED

Debbie Chaddock

JUN 19 2014

Debbie Chaddock
4478 Campus Ave
San Diego, CA 92116

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



Identifying and monitoring local seals
Giving seals a voice

RECEIVED

JUL 14 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

06/07/14

Casa Beach La Jolla: closure for seals

RE: File 6-14-0691

Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Dear Commissioners:

Cornwall Seal Group are a non-governmental organisation in the United Kingdom conducting seal research and using what is learned to give seals a voice in our human world. As such we have been following developments at Casa Beach La Jolla with interest and some concern.

Some of the press coverage last year was shocking in the extreme and should not be repeated. As you will know this news travels globally and rightly or wrongly affects the reputation of San Diego.

The research that Cornwall Seal Group has done (on grey seals) has demonstrated just how picky seals are about the sites they use, appearing to ignore what appears to be perfectly suitable habitat adjacent to their chosen haul outs and pupping grounds. There is so much more we need to learn. We understand that grey seals are much bigger movers than harbour seals, but both species rely on a network of interconnected habitat. Removing one node in that network can have potentially huge unintentional consequences that are currently understudied.

As a result Cornwall Seal Group, though far away from you, would strongly support a decision to close Casa Beach in La Jolla during the critical months of harbour seal pupping season from December 15 through to May 15.

This would balance the needs of seals and humans and avoid the negative global press coverage that occurred for several months last year. The seals would be protected during the five critical months of pupping season, whilst people would have access to the beach for the other seven months of the year.

Your sincerely,

Sue Sayer : Chair

Kate Hockley : Treasurer

Dan Jarvis : Secretary

Sue Sayer, Copperleaf Cottage, Phillack Hill, Phillack, Hayle, Cornwall, TR27 5AD
01736 754562 : sue@cornwallsealgroup.co.uk : www.cornwallsealgroup.co.uk

RECEIVED

JUL 01 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Friday, June 28, 2014

Dear Ms. Laver and members of the California Coastal Commission:

I urge you to support the San Diego City Council's decision to prohibit public access to Casa Beach during the harbor seals' pupping season. I have personally seen unauthorized people approach the seals in an attempt to get as close as possible, thus scaring them so badly the seals were forced to scatter. I have also read reports of seals that have been targeted for cruelty. Barriers have done nothing to protect seals from this behavior so I believe we need the strong protections that the Council is aiming for by prohibiting public access to Casa Beach. The public has miles of accessible beach to enjoy year long, so please protect this one small area for harbor seals from mid-December to mid-May.

I fully support the Council's decision and respectfully ask that the Commission approve it.

Sincerely,



Victoria Cypherd
207 N. Acacia Avenue
Solana Beach, CA 92075

RECEIVED

106 Alamo Square Drive
Alamo, CA 94507
July 2, 2014

JUL 07 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: File 6-14-0691

Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 94108-4402

Please close La Jolla's Casa Beach from December 15 to May 15 to protect Pacific Harbor Seals during pupping season. These beautiful marine mammals are California's treasures in a world where our wildlife is disappearing. If we are going to continue to enjoy them, they need our protection.

I have done rehab work at The Marine Mammal Center and surveyed Gaza Creek Beach on the San Mateo County Coast for NOAA for many years. I've seen the stress that our seals have been under from rough seas, human interference, fish shortages, algae blooms and so many other things. But I've also seen some amazing programs and procedures put in place to try to protect our wildlife.

I hope that the 5-month beach closure at Casa Beach will be one more things that we do right.

Thank you,



Connie Diernisse

RECEIVED

JUN 13 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

To: Brittney Laver, Coastal Analyst
File 6-14-0691
California Coastal Commission
7575 Metropolitan Drive, STE. 103
San Diego, CA 92108-4421

Re: Children's Pool/Casa Beach Pupping Season Closure

I am aware of the San Diego City Council's decision in favor of the closure of Children's Pool/Casa Beach each year during the harbor seal pupping season from December 15 to May 15.

I fully support their action, and respectfully urge the Commission to approve it.

Thank you,

Kim Douglas
(full name)

1550 Alki Ave SW #402

Seattle, Washington

98116
(address)

I work as a volunteer with Seal Sitters in Seattle and know how important it is to the seal population to protect seal pups. Please do whatever you can to contribute to this endeavor.

Michelle ~
2 Kent Way
Mill Valley, CA
94941

Friday, June 27, 2014

Dear Ms. Laver ~

I read that the California Coastal Commission will soon consider an issue pertaining to seals in San Diego.

I understand that the San Diego City Council passed an ordinance that would prohibit public access to Casa Beach when harbor seals are giving birth to their pups & raising them, usually from mid-December to mid-May. And now, the issue is being considered by the California Coastal Commission.

I strongly urge the Commission to support this local measure to protect the harbor seals. It's wonderful to know that a local government is trying to provide a safe haven for these animals during pupping season. While the public is required to stay off the beach at this time, folks can still have a wonderful experience by viewing the seals from a safe distance. Thanks so much
Michelle Egan

HOUSE CALLS

BRUCE MAX FELDMANN, D.V.M.

1518 California

Berkeley, California 94703

510 919-5175

1 July 2014

RECEIVED

JUL 07 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Brittney Laver, Coastal Analyst
California Coastal Commission

Dear Ms. Laver:

I have been a veterinarian for 52 years (UCD '62). I have been in both academia and private practice. I have served three times overseas as a veterinarian.

I am writing to respectfully urge the Coastal Commission to vote to prohibit public access to Casa Beach (San Diego) from mid-December to mid-May (harbor seal pupping season).

Please protect our harbor seals from harassment and abuse. They are sentient beings. Their presence helps make California a great state in which to live or visit.

I respectfully ask that the Coastal Commission show compassion toward these defenseless creatures.



Bruce Max Feldmann, D.V.M.

James M. Fitzgerald
6942 Via Estrada
La Jolla, CA 92037
858-453-6255
jimfitz1@pacbell.net

RECEIVED

JUN 20 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

June 15, 2014

California Coastal Commission
Attn: Brittney Laver, Coastal Analyst
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Honorable Members of the Coastal Commission:

RE: File 6-14-0891: Closing of Children's Pool Beach in La Jolla during Seal Pupping Season

My name is James Fitzgerald. I am a 25-year resident of La Jolla and, until March of 2014, I was an elected-Trustee of the La Jolla Community Planning Association. I am writing the Coastal Commission today as a private citizen and I am urging you in the strongest terms to support the project before you today to close Children's Pool Beach to the public during seal pupping season (Dec 15th-May 15th).

It is unfortunate that the Commission has to again deal with this issue.

The seals at the Children's Pool are a unique and valuable resource that continue to bring enjoyment and education year-after-year to literally millions of people. These seals are protected by the Marine Mammal Protection Act (MMPA) and cannot be disturbed or harassed in any way—which has been recognized and reaffirmed by a series of jurisdictions, including NOAA, the California Coastal Commission, the Courts, the San Diego Planning Commission, and the San Diego City Council.

Within the extremely-confined space at the Childrer's Pool, I was sincerely hopeful that the visual cue of the extended rope guideline that this Commission and the San Diego City Council approved previously would be sufficient to discourage and to prevent inappropriate behavior towards the seals and their pups while maintaining public access to the beach.

Regrettably, as evidenced by the most-recent eyewitness testimony and videos presented to the San Diego City Council (which also will be submitted to the Coastal Commission for their August, 2014 hearing on this matter), the results have been extremely disappointing. The seals and seal pups continue to be disturbed and harassed during the pupping season—sometimes out of ignorance and, unfortunately, sometimes out of outright malice.

That is why I am writing to the Commission today.

Experience has made it clear that the seals and their pups need additional protection—and now. You, the members of the Coastal Commission, are their last, best, and only line of defense. So please do your duty today and approve closing Children's Pool Beach during the critical pupping season.

Thank you for your consideration.

Respectfully yours,



James M. Fitzgerald
6942 Via Estrada
La Jolla, CA 92037

6.14.14

RECEIVED

JUN 20 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



Lydia Garvey
429 S 24th St
Clinton OK 73601-3713

Dear Commissioners

I strongly urge you to close Casa Beach
into Jolla during Harbor Seal pupping season
Dec. 15th - May 15th

This is vital for ecosystem balance.
Your attention to this most urgent matter
would be much appreciated by all
present & future generations of all
species.

Thank you,

Lydia Garvey

Public Health Nurse

06-30-2014
Nicola Grobe and
Paul Norup
1043 R Street
Crescent City, CA 95531-2710
707 954 2517

TO
Brittney Laver
Coastal Analyst
California Coastal
Commission
7575 Metropolitan Drive
Suite 103
San Diego, CA 92108-4402

Dear Brittney Laver,
People are harassing the
seals who are resting at
Casa Beach.

The harassment can result
in high stress states and
reproductive impairment
in the seals' systems.

please approve the closing
of Casa Beach.

Thank you, Sincerely,

LGM + Paul Norup

Re: File 6-14-0691

Attn: Brittney Laves, Coastal Analyst
Dear Ms. Laves,

440 Adobe Place
Palo Alto, CA 94306

RECEIVED

(650-867-6986)

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Although you see a Palo Alto address, my husband is working in La Jolla and living down here for several months, and I have been commuting to spend time with him. During our stay here I have become a fan of your lovely coastline and amenities it has to offer. My husband is an avid kayaker and we both have enjoyed exploring the water here.

As I'm sure you are aware, the marine wildlife is a great part of what makes our California coasts so wonderful - the birds, the fish and the marine mammals. Since these creatures cannot speak for themselves, we must protect them. The seasonal closure of Casa Beach during harbour seal pupping season allows this species the grace period, if you will, to reproduce and continue to bring joy to locals and tourists alike. Please support this protection for our seals. Pacific Grove, CA, where we love to kayak and rent vacation property, has had great success this year in closing off harbour seal pupping areas. I would urge La Jolla to follow this good example and protect its marine mammals.

Thank you, Michèle Holler Michèle Holler



**THE HUMANE SOCIETY
OF THE UNITED STATES**

RECEIVED

JUL 15 2014

**CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT**

TRACY BENTLEY, Esq.
Chair of the Board

Jeffrey Longenecker, M.D., DVM, MSW
Vice Chair

Kathleen M. Ueberall, Esq.
Board President

Wayne Squatella
President & CEO

Michael Madigan
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Laura Maloney
Chief Operating Officer

K. Thomas Wake
Director of CFO

Anthony G. Rosen, Ph.D.
Chief Scientific Officer
& Chief Scientist Officer

Roger A. Kandler
General Counsel
for Philadelphia, PA

Joey D. Felt
Secretary

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TRC, Director, TRC
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Joey D. Felt

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James G. Goss, Esq.
Paul J. Felt, Esq., CPA

John G. Goss
John G. Goss, Esq.
Cathy Goss

Michael L. Macdonald, Esq.
Michael L. Macdonald, Esq.
Paul J. Felt, Esq., CPA

Joey D. Felt
Joey D. Felt
Paul J. Felt, Esq., CPA

Paul J. Felt, Esq., CPA
Paul J. Felt, Esq., CPA
Joey D. Felt

Joey D. Felt
Joey D. Felt
Paul J. Felt, Esq., CPA

Paul J. Felt, Esq., CPA
Paul J. Felt, Esq., CPA
Joey D. Felt

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Paul J. Felt, Esq., CPA

Paul J. Felt, Esq., CPA
Paul J. Felt, Esq., CPA
Joey D. Felt

Joey D. Felt
Joey D. Felt
Paul J. Felt, Esq., CPA

Brittney Laver, Coastal Program Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

July 10, 2014

RE: File 6-14-0691 LaJolla Children's Pool Seasonal Restriction

Commission Members,

On behalf of the members and constituents of The Humane Society of the United States (The HSUS) and, in particular, our members in the greater San Diego area I am writing to support a permanent seasonal closure of Casa Beach in La Jolla during the five months of harbor seal pupping season between December 15 and May 15. As we understand it, this requires revisions to the certified La Jolla Community Plan and adoption of a new ordinance to limit beach access at Children's Pool Beach, in La Jolla.

This beach has been a key pupping area for harbor seals for close to two decades and their year-round use of this area as is widely appreciated by the public which flocks there year after year to view seals resting along the shore. The seals and their young on Casa Beach provide a unique opportunity for the public to learn about these fascinating animals and to develop a respect for California's coastal wildlife. The HSUS is a strong supporter of allowing the public to view wildlife in their natural habitats in a responsible manner.

In the wake of the passage of SB 428 that allowed establishment of a marine park "for the education and enjoyment of children," the City Council passed a 2012 resolution that established a seasonal rope barrier to discourage visitors from approaching and disturbing seals. While this has been useful, the erection of a rope guideline has not stopped well-documented instances of individuals harassing mothers and pups. This poses a risk to the animals (e.g., injury, abandonment of pups, effects on thermoregulation of inadequate and undisturbed haulout time) and to visitors who approach too closely and may provoke a defensive response. Further, these interactions subject onlookers to the sight of others poking, prodding and harassing animals in a manner that undermines the effort to inculcate responsible attitudes toward wildlife. I have visited the beach and have myself observed harassment by well-meaning visitors who prod seals who are close to the rope barrier with their feet or bend closely to snap photos, within range of the head (and teeth) of adult seals. There

Celebrating Animals | Confronting Cruelty

2100 L Street, NW Washington, DC 20037 | 202.253.1000 | 202.778.6132 | info@hsus.org

are also numerous videos on YouTube documenting harassment, including visitors walking dogs on the beach around the seals, playing games with balls and Frisbees and making loud noises to provoke a flight response. The harassment, some of it with apparent intent to harm, created a furor among the public in 2013 with the airing of video footage from the “seal cam” that depicted women coming at night and intentionally striking animals.

Even in the absence of overt actions intended to provoke a response by the seals, continual noise and foot traffic in and around the seals can have a detrimental effect. A recent study in Denmark found that seals were often disturbed by pedestrian traffic and recommended that reserve boundaries should prevent approaches of closer than 425 meters from the haul out area. While disturbance caused flight in any season, harbor seals were most likely to flee from disturbance when they did not have pups with them who could not as easily flee the disturbance as the adults.¹ This tendency to remain with vulnerable pups may make it appear that they are not disturbed even though the authors found that they are in fact adversely impacted even when they do not flee. This study reinforces the need for protection of crucial resting times in La Jolla, particularly when pups are present.

Marine Mammal Protection Act expressly prohibits harassment which is defined as an action that “has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering...” [16 U.S.C. 1362 §3 (18)(A)(2)]. There is no question in my mind, or that of most observers, that disturbing their rest is harassment.

While it may be that a vocal minority wishes to have unfettered access to the beach, there are many nearby beaches and ocean access areas that can serve the same recreational purposes; however, the same cannot be said for the seals. This rookery serves a key biological need, allowing them to rest and warm themselves after time spent foraging in the nearby waters of San Diego. The Children’s Pool Beach is the furthest south of any harbor seal natal rookery, with no other mainland coastal areas serving as harbor seal rookeries south of Carpinteria. It is vital to protect this area for the seals. Of the 17 mainland seal rookeries in California, Casa Beach is one of only two in the state that lack access restrictions during pupping season.

The opportunity to watch mothers and their newborns nursing, resting and playing is well served by allowing the public to use the adjacent breakwater and sidewalks above the beach. These areas are sufficient for providing the unique opportunity to observe this vulnerable and special time in the life of the dependent pups. The city has exhausted all reasonable measures to protect seals short of a seasonal closure: signs have been erected, rangers and volunteers have attempted to educate the public on proper conduct, a rope guideline was erected as an attempt to maintain separation—and even this has proven ineffective in preventing incursions and harassment. An enforceable seasonal closure of the beach is the only viable means remaining for preventing harassment of the seals and encounters that can endanger both the animals and the public.

¹ Andersen, S.M. 2011. Harbour seals and human interactions in Danish waters, PhD thesis, Institute of Biology, University of Southern Denmark and Department of Bioscience, Aarhus University, Denmark. 130 pp. Available at: http://www2.dmu.dk/pub/sls_phd_web.pdf

We urge you to support keeping the beach closed to the public for at least the five months period when mothers give birth to and nurse pups. Please vote to support and allow a seasonal closure of the Children's Pool Beach in LaJolla.

Sincerely,



Sharon B. Young
Marine Issues Field Director
The Humane Society of the United States
syoung@humane-society.org

cc. Kevin Faulconer, mayor-elect
Kenani Brown, CCC

11717 North Drive
Tampa, FL 33617
June 15, 2014

RECEIVED

JUN 23 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: File 6-14-0691
Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Dear Commissioners:

Although I am a Florida resident I felt obliged to write in support of the closure of Casa Beach in La Jolla during the critical months of Harbor Seal Pupping Season from December 15 through May 15. Apparently many other beach communities in California have already adopted this seal survival tactic, and it seems quite reasonable to extend the protection to Casa Beach.

This sounds like a balanced compromise that protects the Seals during the 5 critical months of pupping season and also allows people access to the beach for the other 7 months of the year.

In Florida almost all of our beaches are used by sea turtles to lay their eggs. The nests must remain undisturbed until the baby turtles have hatched, and made their way to the sea. This requires keeping the shore area dark so the hatchlings are not confused; they look for the moon's reflection on the water as a direction finder. Everyone I have met here, especially near the beaches, takes this responsibility very seriously, and douses the lights. I would think that most coastal Californians feel that same protective sense about the Harbor Seal pups near their communities.

This is a win-win proposal for both nature and people. Please support it, and give the seal pups their best chance to a healthy life. I look forward to seeing the pups when I do my Hwy 1 tour in 2years (working my way west each fall).

Sincerely,



Nancy Lowell

RECEIVED

JUN 19 2014

Attn: Brittany Lalver, Coastal Analyst
Calif. Coastal Commission

June 15, 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: File 6-14-0691

Dear Ms. Laver:

I support closing the Casa Pool Beach in La Jolla, Calif. (actually all year) but especially during the critical Pupping Season of the Harbor Seals who have established a rookery there. This season is from December through May.

I have been told from Life Guards that this is the most dangerous place to swim as there are 3 substantial rip currents that run out from the area. I grew up in La Jolla. I never liked going to the Casa Pool as a child and never as an adult. It was small and always loaded with seaweed. Besides there were so many other better beaches nearby to go to. I now swim 4 days a week at the Cove and understand shared use, which is fine for the Sea Lions but not for the more vulnerable, shy Harbor Seals who must haul out on flat surfaces.

I whole - heartedly support the Harbor Seal Rookery. It has been a joy to witness these awkward yet graceful beings in close proximity and to see the excitement of the children who come in droves to see our natural wildlife. As humans we have taken so much from the natural world for our use and abuse, that I applaud La Jolla and the Coastal Commission for setting aside this special place for our Harbor Seals who need this safe haven as so many beaches/places are now lost to them.

Thank you for your consideration on this matter.

Sincerely, Linda Lyerly
825 Munevar Rd.
Cardiff by the Sea, CA 92007



RECEIVED

JUL 07 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: File 6-14-0691
Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Dear Commissioners:

I support closing Casa Beach in La Jolla during the critical months of Harbor Seal Pupping Season from December 15 through May 15.

I regularly visit San Diego and each time I do, I always go to see how the seals are doing. I am also regularly astonished by the behavior of supposedly thinking human beings. I have seen people, mostly adults, who encourage their children to harass the seals by kicking, touching, pushing the seals to see them react, especially when the rope was up.

I have also observed that it is mostly defiant adults who swim there and allow their children to play or swim in what is, of record, polluted water. This to me was unbelievable. What true adult would let his child play in highly polluted water: water which is okay for the seals but very unhealthful for humans.

I like the fact that this action is a balanced compromise that protects the seals during the five critical months of pupping season and allows people access to the beach for the other seven months of the year (a badly chosen area for swimming at any time of the year in my opinion).

This action defined above is a win-win proposal for both nature and people. Please support it!

Sincerely,

Neva L. McMullin
Neva L. McMullin

Neva L. McMullin
845 Northwoods Drive West
Woodland Park, CO 80863

15 June 2014

File 6-14-0691

Ms Brittany Laver

Coastal Analyst

California Coastal Commission

7575 Metropolitan Drive

Suite 103

San Diego

CA 92108-4402

Clare McQueen

2997 rue Edmond

Kirkland

Quebec

CANADA

H9H 5K5

RECEIVED

JUN 20 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO OFFICE

Dear Ms Laver + Commissioners

I write today to offer my support to the closing of Casa Beach in La Jolla during the Harbor Seal Pupping Season that runs from Dec 15 to May 15.

The first 5 months of a pups life are critical to their survival. The beach is their home and this needs protecting. The people of La Jolla have access during the summer months and this is a balanced compromise.

This proposal is a 50/50 situation for Human + Nature. Please Support it.

Thank You. Clare McQueen

Gregcoastal

From: Tom Richardson <tomrichardson24@hotmail.com>
Sent: Monday, July 14, 2014 7:34 PM
To: Gregcoastal
Subject: FW: August Agenda Item: La Jolla Children's Pool

Hi Greg,

Babs was just my realtor and cc'd me this email to you by mistake. Although I have not been involved in this debate prior to now, I do feel the need to voice my opinion which I and many of my friends share. If you have the time, please read my response to Babs below. Hopefully we can keep this special attraction, special.

Kind regards,
Tom Richardson

From: tomrichardson24@hotmail.com
To: buyfrombabs@gmail.com
Subject: RE: August Agenda Item: La Jolla Children's Pool
Date: Mon, 14 Jul 2014 19:28:32 -0700

Hi Babs,

It looks like you cc'd me by mistake. However, after reading this letter I feel the need to point out that much of what is being argued as justification for keeping children's pool open to the public is kind of contradictory. Upon first glance, the effect the seals are having on the marine life seems like the only sound argument for not encouraging the growth of the "urban" seal population and thus not closing the pool to the public. However, this is in complete contradiction to earlier claims that human interaction with the seals has caused no ill effects to the seals, or there growth in numbers which has slowed due to their "carrying capacity." With regards to the seals being a tourist attraction, I feel it is unfair to dispute this claim on the basis that no one has shelled enough money to fund a study "proving" that the seals are of economic value to the city. I can tell you first hand that I have taken a number of visiting friends to la jolla to see the seals which inevitably leads to a walk down prospect to visit the many shops and restaurants. However, the last time I took visiting friends to Children's Pool, we were all very disappointed to get there and realize for the most part we had come to watch people hanging out on a beach. What was once a wonderful experience that I enjoyed sharing with others had lost its magic. Anyways, I know this letter wasn't intended for me, though I hope you pass this letter on to others in your group as I know it is easy to get trapped in a bubble with like minded people. Additionally, I'm curious how many of 2,300 members of power scuba share this perspective. In closing, I'm glad I had an opportunity to learn what arguments are being made for not allowing the seals to have the beach to themselves for a portion of the year are, and to be honest, I respectfully disagree.

Regards,
Tom

From: buyfrombabs@gmail.com
Date: Mon, 14 Jul 2014 18:15:34 -0700
Subject: August Agenda Item: La Jolla Children's Pool
To: gregcoastal@sdcounty.ca.gov
CC: maxinebaker@earthlink.net; tomrichardson24@hotmail.com; powerscuba1@gmail.com

RECEIVED
JUL 21 2014
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Hi Greg,

RE: File 6-14-0691

Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

JUL 01 2014
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Ms. Laver and Members of the California Coastal Commission:

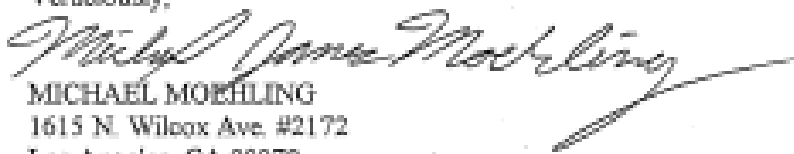
Many people move to Southern California for the beach life. On most beaches it is rare to see a seal, but when they do show up they are a show stopper. The overwhelming majority of people love to see them. Most adults run for their cameras and most children light up like Christmas trees with excitement. Seals feel like a wonderful part of Southern California.

Unfortunately, all this excitement makes it almost impossible for the seals to get plenty of sleep (people always get superclose for selfie-pictures with a seal trying to sleep and of course it wakes them up and they in turn have health issues (just as a human would if someone woke them up every few minutes)). The seals really need to have large floating (anchored) areas for the seals to sleep in peace maybe thirty yards off the coast, than they can come to shore for the photoshoot with the tourists and locals when they are awake and in a good mood. They should have these anchored rafts (maybe wooden) all over California's coastline.

I have been to the Galapagos Islands where every tourist walks away with a grin from ear to ear because when you walk the islands, the seals are so happy and don't mind if you get close because there is plenty of room for them to sleep without harm. Could you imagine if California could duplicate this happiness on a much bigger scale? The floating peers for seals is a win win for everyone.

Before enough politicians get the courage to find a way to build and financially afford these relatively cheap sleeping areas for the seals (there is a restaurant in San Francisco that overlooks such floating devices (seals love them but they are too tiny)), at least prohibit public access to Casa Beach from mid-December to mid-May, in order to protect harbor seals from harm and/or harassment during their pupping season. A few bad humans have made terrible examples of mostly good humans who really care about seals.

Veraciously,


MICHAEL MOEHLING
1615 N. Wilcox Ave. #2172
Los Angeles, CA 90078

PS- Maybe you politicians can be the brave ones to start building these safety-floating-sleeping-areas for seals and be true heroes for goodness!!!!

June 15, '14

Dear Brittney Laver,

Please close Casa Beach, Dec-May,
during harbor seal pupping
season. Thank you.

Sincerely,

Caryl Pearson
Caryl Pearson
General Delivery
Santa Cruz, CA
95060

831 915 0427
wolfcayotedeere@
yahoo.com

P.S. I did a harbor seal behavior
study at Casa Beach from Jan-Dec '10.
There were many disturbances to
the seals during that time, despite
the dedicated efforts of the pro-
seal activists.

RECEIVED

JUN 20 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED

JUL 08 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Lords Commissioners:

Please, be aware of leave animals alone. Like all humans, the animals are sentient beings.

I ask that they do the right thing in that, it is believed a policy to avoid disrespect the rights of the animals, because they need the freedom to live in habitats.

I support closing House Beach in La Jolla during the critical months of Harbor Seal Pupping Season from December 15 through May 15.

This is a balanced compromise that protects the Seals during the critical months of pupping season and also allows people access to the beach for the other 10 months of the year.

Acts against nature only mean horrific suffering for the animals.

I feel enough outrage to use animals for profit economically.

Knowing that, currently, it is fighting hard for the welfare and rights of animals, don't do the opposite.

Peace and well-being for the animal beings!

I appreciate your attention.

Sincerely,



JORGE ALEX VALDERRAMA POMÉ
Jirón Ilave N° 346
Puno
Republic of PERU

CNemoGlobal, NGO Environmental Watchdog



@cnemoglobal



@cpkcc07

RECEIVED

JUL 01 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7576 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

June 30, 2014

Re: File 6-14-0691

Dear Ms. Laver,

CNemoGlobal is an NGO environmental watchdog. As its founder and as a resident of San Diego, I write to support the City of San Diego's application to close Casa Beach, aka La Jolla Childrens Pool ("LJCP"), during the 5-month pupping season of the Harbor Seals that haul out there each December through May. The City's intent is based on resource protection, as it has been amply demonstrated from video documentation that such protection is warranted during seal pupping season.

It is our understanding that under the California Coastal Act, § 30230, the CCC may grant special protection to "areas and species of special biological or economic significance." That designation could address the seal rookery and allow broader public access outside of each pupping season:

§3.2.9.1 Resource Protection Standards in the Coastal Zone

The protection standards for marine resources are defined in Sections 30230 and 30231 as follows:

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

In 1931, local philanthropist Ellen Browning Scripps donated the LJCP to the City of San Diego as a place where children could play and swim. However, in 1931 there were no Environmental Impact Assessments; 80 years ago neither Miss Scripps nor the Governor foresaw the environmental changes and hazards to marine life which we recognize on a global level today, promulgating updated legislative acts, i.e., the *Marine Mammal Protection Act of 1972*.

Miss Scripps donated the bulk of her fortune to many scientific and civic institutions, some of which include the Scripps Institution of Oceanography (aka Birch Aquarium), Torrey Pines State Natural Reserve, the San Diego Zoo, the La Jolla Children's Pool, Scripps Research Clinic, etc. We believe that special protection of the seals during pupping season is in line with Miss Scripps' concern for Nature and education, and will help prevent future harassment of the seals at La Jolla Childrens Pool. We advocate in favor of the City's application.

Thank you for your consideration.

C. Price
Founder, CNemoGlobal, NGO Environmental Watchdog

cc: San Diego City Council

6/28/14

RECEIVED

JUL 01 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE: File 8-14-0891

Dan Richman
4229 21st St
San Francisco, CA 94114

ATTN: Brittney Laver
California Coastal Commission

Hello:

Please create real protection for the pupping seals on Casa Beach in San Diego. Please keep people and dogs out. The critical time-period for these animals is short. It would not represent a great sacrifice on the part of the human race, but it would mean a great deal to the survival of this species and the health of our beleaguered ocean.

Yours respectfully,

A handwritten signature in black ink, appearing to read 'Dan Richman', with a long horizontal flourish extending to the right.

Dan Richman
Conservation Committee
Golden Gate Audubon Society
San Francisco, CA

633 LIPPINCOTT AV
RIVERTON, N.J. 08077
JUNE 16, 2014

BRITTNEY LAVER, COASTAL ANALYST
CALIFORNIA COASTAL COMMISSION
7575 METROPOLITAN DR. SUITE 103
SAN DIEGO, CALIFORNIA 92108

DEAR MS. LAVER,

PLEASE CLOSE CASA BEACH IN LA JOLLA
DURING THE MONTHS OF HARBOR SEAL
PUPPING (DEC 15TH thru MAY 15TH).

PEOPLE MUST LEARN TO LIVE IN HARMONY
WITH NATURE, WHICH WILL BENEFIT BOTH
PEOPLE AND ANIMALS.

THANK YOU,

Mary Rivas

MARY RIVAS

RECEIVED

JUN 20 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED

JUL 15 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

File # CPB 6-14-0691 (In Favor)

July 14, 2014

Dear California Coastal Commissioners:

The decision whether or not to support the City of San Diego's recent decision to close Casa Beach (aka Children's Pool Beach) will be heard during the August 13-15 meeting in San Diego. To reach this point, many meetings have been held at the local level. This meeting should be the final determinant.

I urge you to stand behind the City Council's determination.

"Shared use" has been loosely interpreted as one of unrestricted use by those wishing the harbor seal colony to be ousted. This has included the time during the pupping season when the new pups and their mothers are closely bonding. The mothers nurse frequently and must teach the young essential survival skills before the short nursing time is over and the pups are weaned and on their own.

There is much precedent for making this decision. Of the beaches designated as rookeries in California, most close the beach at this time. The city municipal code, State Fish and Wildlife law and the federal MMPA all favor better protections for these animals. Even the Public Trust Doctrine which usually gives merit for beach access, includes provisions for restrictions on sensitive habitat.

Please help us end this endless round of study, examination, debate and prejudicial stalemates and allow these marine mammals the space they need to carry out for their life cycles. The many bonuses for the public include wildlife observation, protection of the environment, enhanced publicity for San Diego and a rare example of generosity of sharing as it should be done.

Sincerely,



Ellen Shively
6011 Cumberland St.
San Diego, Ca 92139-3116
619-479-3412

Date June 17, 2014

RE: FILE 6-14-0691

Attn: Brittney Laver, Coastal Analyst
California Coastal Commission

7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

RECEIVED

JUN 27 2014

Dear Commissioners:


CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

I support closing Casa Beach in La Jolla during the critical months of Harbor Seal Pupping Season from December 15 through May 15.

I truly hope you have the compassion to protect the seals during the pupping season. We must strive for a balanced intellectual and spiritual world in which both nature and people are respected.

I truly hope you respect this proposal and support it for everyone's benefit.

With sincerest regards,


Poonam Kaur Sihota

RECEIVED

JUN 17 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

To: Brittney Laver, Coastal Analyst

File 6-14-0691

California Coastal Commission

7575 Metropolitan Drive, STE. 103

San Diego, CA 92108-4421

6/13/14

Re: Children's Pool/Casa Beach Pupping Season Closure

I am aware of the San Diego City Council's decision in favor of the closure of Children's Pool/Casa Beach each year during the harbor seal pupping season from December 15 to May 15.

I fully support their action, and respectfully urge the Commission to approve it.

I also think that to make sure this policy is enforced, there should be a monitor of some kind during all daylight hours- whether it is a park officer, or a dedicated group of volunteers. Without reinforcement, it is unlikely that people will respect the Marine Mammal Protection Act to stay 100 feet away from marine mammals.

Thank you so much for your attention to this important matter!

Dana Varon



Sealsitter Volunteer,

Seattle, Washington

Sealsitters.org

June 18, 2014

RE: File 6-14-0691

Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

RECEIVED

JUN 26 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Commissioners:

I am a frequent visitor to San Diego. We visited Casa Beach a few years ago and were horrified to find picnickers and children chasing and tormenting the seals. It was all I could do to restrain myself from throwing the people off the beach myself.

California has many wonderful beautiful beaches for people, but where is there any protection in the La Jolla area for wildlife? The very reason I took my daughter to La Jolla for a day of shopping and dining was first to walk the top of the cliff and view the seals.

Know this: I have not, and will never, return to spend one cent in La Jolla while this beach is not closed to humans. There is no reason for it. The only people who are in favour are old and ignorant. So what if they took swimming lessons there in the 1940s when they were five years old. Times have changed, attitudes have changed. People are educated: they do not want to patronize Sea World, Zoos and Circuses. They want to provide for wildlife. You should look at the seal protected area as a tourist attraction and dollars in the local economy's pocket.

Shame on all of you. You must know how bad this looks to the rest of the world.

I support closing Casa Beach in La Jolla to humans ALL YEAR ROUND!!!



Jeannine William
6269 Norwest Bay Road
Sechelt, BC, Canada
V0N 3A7
604 865 1414

RECEIVED

JUN 16 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

To: Brittney Laver, Coastal Analyst
File 6-14-0691
California Coastal Commission
7575 Metropolitan Drive, STE. 103
San Diego, CA 92108-4421

Re: Children's Pool/Casa Beach Pupping Season Closure

I am aware of the San Diego City Council's decision in favor of the closure of Children's Pool/Casa Beach each year during the harbor seal pupping season from December 15 to May 15.

I fully support their action, and respectfully urge the Commission to approve it.

Please grant this small sanctuary for marine mammals in La Jolla, while providing an unparalleled educational experience with an unobstructed view from the beach above. Even better, I support access down to the small beach be entirely restricted during the fragile pupping season to ensure that the seal colony is not harassed or put in danger. All marine mammals are protected from harassment by the Marine Mammal Protection Act.

Thank you,
Christina S. Witwer
4018 California Ave SW, Apt 2
Seattle WA 98116

RE: File 6-14-0691

Attn: Brittney Laver, Coastal Analyst
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

June 16, 2014

RECEIVED

JUN 19 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Attorney Laver,

Although I've been a member of the Sierra Club for almost 35 years
I am **TOTALLY OPPOSED** to closing the Children's Pool.

As you undoubtedly know, Mrs Ellen Scripps had the surrounding breakwater built specifically to create a safe place for small children to enjoy the sand and water without fear of being overwhelmed by large waves.

My parents brought me as a child to the Children's Pool. The Children's Pool, NOT the seals' pool.

Very disingenuously, the Sierra Club and other seal supporters want to call it Casa Beach, probably hoping that most people are new comers and dont understand the original intention.

For heaven's sake, let us honor Mrs. Scripps and her desire to construct a safe place for little children to play.

The seals used to inhabit nearby rocks and areas unsuitable for most swimmers. There was never any problem. Then one day a seal must have plopped itself up on the beach. . . .

Get those seals out of the Children's Pool. They are a menace, fouling the water and providing potential tasty snacks for a wandering shark. And sharks have "compatriots". What will happen when one of them snaps off someone's leg or worse?

Seals are fine in their place. There place is NOT in the Children's Pool.

Thank you for your attention. Please do not let animal political correctness rule the day.

Very respectfully,

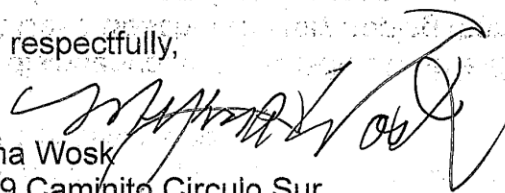

Myrna Wosk
2059 Caminito Circulo Sur
La Jolla, CA 92037

EXHIBIT NO. 12

APPLICATION NO.

6-14-0691

Letters of Opposition

Page 1 of 53

California Coastal Commission

-----Original Message-----

From: James Wasser [<mailto:jwasser@gmail.com>]

Sent: Tuesday, May 06, 2014 11:46 AM

Subject: La Jolla Childrens pool closed by San Diego City Council-vote against

A copy of this message has been provided to California Coastal Commission Staff by email in accordance with the requirements of Public Resources Code, Sections 30319-30324. This message is being sent to email addresses on the California Coastal Commission public website.

California Coastal Commission: I would like to request that you vote against closing the Children's Pool La Jolla beach and water access from May to December each year. The San Diego City Council voted to close the La Jolla Children's Pool and beach from May to December each year.

The vote violates the California constitution guaranteeing access to the ocean for fishing and other purposes. It violates the 1931 trust where Ellen Browning Scripps donated the beach access to the public forever.

Closing the beach creates a precedent to close the La Jolla beaches to the South and North of Children's Pool where seals and or sea lions congregate. That includes La Jolla Cove, one of the the most visited beach destinations in Southern California.

The vote was done without the proper environmental studies.

A very sensible alternative has been proposed that would partition the beach into a seal side and people side. That proposal was rejected.

Please vote to keep the La Jolla Children's pool open to people year round.

Thank you.

✦ LA JOLLA PARKS AND BEACHES, INC. ✦

www.lajollaparksandbeaches.org

02 June 2014

RECEIVED

JUN 03 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
San Diego Area
c/o Ms. Brittney Laver
7575 Metropolitan Drive, Suite 103
San Diego CA 92108 4421

Subj.: City of San Diego, LCP-6-LJS-14-0607-1
Children's Pool Seasonal Closure

Dear Commissioners:

La Jolla Parks and Beaches is a citizen advisory group, designated to provide public input and make recommendations to the City of San Diego's Park and Recreation Department. We are made up of users of La Jolla area parks and representative members of the La Jolla community.

La Jolla Parks and Beaches continues to support the present condition of shared use of Children's Pool by humans and marine animals.

Our organization therefore opposes the subject action that would result in seasonal closure of the beach to the public.

This position was voted on at our April 2010 meeting unanimously.

Yours sincerely,



Dan Allen, President, LJP&B

La Jolla Parks and Beaches, Inc., P. O. Box 185, La Jolla, California 92038

lajollaparksandbeaches@gmail.com

Regular Meetings: 4th Monday of the Month
La Jolla Recreation Center - 615 Prospect Street, La Jolla

David W. Valentine, Ph.D.
7305 Monte Vista Avenue
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8 July 2014

Council Members
City of San Diego
202 C Street
San Diego, CA 92101

Subject: Closure of the Children's Pool

Council Members:

The San Diego office of the Coast Commission will soon make a recommendation to the full Commission on how to act upon a request from the City to permanently close the Children's Pool. There are two central reasons for this closure, both of which are akin to an 'urban legend'.

First, the site is essential to the health and welfare of the southern California harbor seal population.

Mr. Chris Yates, Assistant Regional Administrator for Protected Resources, National Marine Fisheries Service specifically addressed this issue in a letter to all Council members on 2 January 2014. The salient feature of this letter is

"{we} do not believe that complete closure of Children's Pool Beach is necessary to protect the harbor seals from violations of the MMPA"

Second, the presence of harbor seals at the Children's Pool adds significantly to the financial health of La Jolla.

Scott Peters, when he was a San Diego City Council Member, addressed this issue when he took a poll of business owners in downtown La Jolla. *Fully 90% said the presence of tourist viewing the harbor seals had no impact on their business*

Most beach goers have no problem sharing the pool with seals. So, year round closure is not warranted nor is even partial closure during pupping season.

Yours truly,



David W. Valentine

Testimony from San Diego City Council President pro tem Sherry Lightner:

transcript Council website 2/24/14

I got involved in community activism over 20 years ago because of my passion for supporting neighborhoods and **assuring physical public access**. The balance between people and marine mammals has been going on in our community for 2 decades. ▼ The **la jolla** planning group and la jolla parks and beaches have **never** been **supportive of** a seasonal beach **closure** and believe there are better ways to **balance** the needs of humans and marine mammals **through shared use**. We are already addressing the situation at the Children's Pool with the year-round rope and a ranger program. In 1931, 83 years ago, this one-of-a-kind man-made pool was funded, built and entrusted to the city of San Diego by Ellen-Browning Scripps with the condition that the city maintain it. I ▼ **can't imagine that** anyone believed seals would eventually occupy the area and **people would not be allowed to use it**. I can't imagine that in 1976 when the ▼ **Coastal Act** was put into place to protect public access to our beaches that it **would** be interpreted to **eliminate our long-time access to the beach**. With this beach closure, I ▼ **cannot imagine how many seals would be there in 5 years much less 83 years** from now. This is especially true given that we've seen an ▼ **exploding population of seals, sea lions and birds** along the California coastline in recent years. ▼ **Seals are not an endangered or even threatened species**. In fact their ▼ **population growth may affect other marine resources** in our area. The negative declaration does not adequately address the ▼ **impact of this beach closure on other marine resources** in the immediate vicinity. And I cannot justify certifying it. It ▼ **does not provide adequate information** to meet the criteria of California **Coastal Act section 30230** which says "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 the coastal waters and **will maintain healthy populations of all species of marine organisms adequate for long-term commercial, ▼ recreational, scientific and educational purposes**. There has been no evaluation of the impact on other marine resources and marine environments related to the marine protected areas and special reserve. That's why this [ordinance] is inadequate and can't be certified. I'm concerned we are drawing a line on the sand we do not need. I ▼ **shudder to think of the precedent** the suggested action steps and the effect it will have on public physical access guaranteed by the coastal act. In its recent letter to the city, ▼ **NOAA is clear. They prefer education and do not want to see the beach closed to people**. The elimination of a long-standing public physical access is unwarranted and is regulatory over kill. To more effectively address the issues we face along our entire San Diego coastline, I have ▼ **requested budget funding and development of a citywide comprehensive coastal management plan** to address our shore lines, our areas of special biological significance, our marine protected areas and ecological preserve. This coastal management plan can help the city more effectively address the explosion in our marine mammal populations which is causing a flood of health and public safety issues ranging from foul odors to shark sightings and human conflict and blocked access to our public beaches. Meanwhile, we should be already half-way through the **Coastal Commission's required 3-year study** at the year-round children's pool. ▼ **Let's look at the results and look at the objective facts to determine how we are going to proceed with the balanced needs of the people and marine mammal and coastal sea life.**

What we don't want are unnecessarily and rules and restrictions and narrowly targeting piece meal community plan amendments such as before you today. With that, I move to reject staff recommendations and continue with the city's collection of data for the existing 3-year coastal development permit for the year-round rope barrier. I note, if we need additional staff, let's hear about it at budget. Please provide for the enforcement.

Dear California Coastal Commissioners

July 2014

Please note that this correspondence is being sent via your Administrative Secretary to all California Coastal Commissioners at the same time as per your rules of exparte and communication.

I am writing to you from my viewpoint as a disabled ocean swimmer for therapy and I am also a teacher and researcher for COAST Coastal Ocean Access & Sustainability Team . Our Mission is to educate you and all other government and oceanographic institutes and organizations of the importance of keeping the Children's Pool open. If you vote close the Children's Pool you will be in collusion with causing the devastation of the local underwater environment because of the OVER POPULATION OF PENNIPEDS, SEALS AND SEA LIONS . Dropped off by the very Sea World who continues to profit off the rehab and release of these creatures starving by their placement initially by Sea World! Here is yet another year of starvation. The seals and sea lions have far exceeded the carrying capacity of the undersea ecosystem. Their populations can be humanely controlled to stop them from starving and decimating the under sea environment. Remember sharks have been hunted to the tune of 80 -100 million for over a decade. The law of supply and demand is strong in the Sea. Closing the Children's Pool which is already filthy with potential deadly Airborne bacteria (see the report by the Centers for Disease submitted as exhibit 165 in the O'Sullivan case and Judge Pate's 2004 Human Health Ruling) further violates and adds to the decades of Disability Code Violations and exacerbates the deadly bacteria that can be airborne, exacerbates the starvation of the seals, exacerbates the decimation of the local undersea environment.

He is yet another article of starvation occurring : <http://online.wsj.com/articles/sick-sea-lions-flood-shelters-in-california-1402093448>

The Coastal Act includes specific policies (see Division 20 of the Public Resources Code) that address issues such as shoreline public access and recreation, lower cost visitor accommodations, terrestrial and marine habitat protection, visual resources , landform alteration, commercial fisheries , industrial uses and water quality"

The Dedicated Vertical Easement ramp on the La Jolla Coastal Plan is the only one on the Plan! Your mission is to protect access for all people, including the Disabled. The USDOJ is now underway in a Federal Investigation into decades of Americans With Disabilities Act Code Violations at the Children's Pool that was especially engineered for "those handicapped in Life's Game" By Ellen Scripps and Hiram Savage who spent ten years to construct our only ocean pool and the safest and only ramp to the only ocean pool on the LCP for La Jolla CA U.S.A. One in five people in our country are disabled ladies and gentlemen and we are counting on you to enforce this one dedicated easement ramp to our therapy bathing pool on our LCP . I understand your mission is to protect and enforce this LCP

Please check out this Facebook page about amputees and put yourself in their shoes, or in many cases in their prosthetics. Children's Pool was built for them. Please Enforce their only ACCESS ramp on the La Jolla Coastal Plan not remove it.

https://www.facebook.com/AmputeeUSA/photos_stream

There are 185 thousand amputations in the United States each year. That breaks down to 4.9 people out of every 1000 who need access to this Children's Ocean Safe pool access for water therapy and fun with their families. Where else can they access the real ocean if you close their pool?

The views of seals birthing in their own fecal waste & decimating the Garibaldi, the mussels and other creatures is certainly not educational for the public. Being In the water as the pool was created and to look under the water is educational and is exactly what the Children's Pool is for & is your mission to protect this incredible gift of the only ocean pool we have in La Jolla . Please support Disabled American Veterans, please support disability laws that protect them and have been violated here.

19 25
Attached please find the comments from the ADA petition for this pool. Please do not further violate the ADA, please realize the incredible opportunity and facility the Children's Pool could be once again for the disabled, as per design. This is not one of the hated sea walls, that prevent sand from eroding. This pool collects sand, and this pool is concrete and is proof that concrete erodes. The access steps into the pool have eroded completely away.

It is fine if you have legs, imagine not having them and wanting to go for a swim in the Pacific Ocean with your family of toddlers. There is no other safe ocean pool at all, the Children's Pool is it. Please have the ethic and responsibility to the disabled, and to the ecology to order an EIR and to restore the ramp and keep this safe harbor open all year long. Clean it up and restore it for the millions of disabled people who would love to use it.

Cheryl K. Aspenleiter
RAMP Committee To Restore Access To Many People
Supporting a Balance Ocean Ecology.
858 568 1257

Dear California Coastal Commissioners,

The Children's Pool was especially constructed to protect humans from the surf of the Pacific Ocean in La Jolla. Ellen Browning Scripps paid to have it built by Hiram Savage hydro-engineer. It took 10 years to complete. It is a Historical Treasure being allowed to crumble to ruin. Not only is it the only one of its kind in our country and perhaps the world, its function is the value to the disabled and small children for whom the surf is dangerous. This is a sand bottom concrete manmade Pool that had a ramp in service for over half a century to wheelchairs, walkers, the elderly, toddlers. This ramp was the primary access ramp down into the pool water. We have 16000 new limbless American Veterans, and the most here in the military town of San Diego that could heal in the waters of the Children's pool. An ADA ramp fits well there and needs to be included in the current Children's Pool beach facility remodel. This would put San Diego on the ADA Map of the World and give our Challenged Athletes a perfect venue for their events, perhaps hosting the Disabled Olympics. A paraplegic ocean swimmer can transition from his wheelchair into the ocean unassisted because there is no surf, it is a pool by design for safety. It is also the only safe harbor in La Jolla the beaches on both sides have dangerous rip currents; this pool is safe. We need this ADA access now, to serve the many disabled including children and Wounded Warriors and the Elderly. It is the only one we have and it must stay open all year long with an ADA Ramp. The photo is one of a Vision Painting and is a concept painting to show the intended purpose of the pool by design and that an ADA ramp does fit there; many designs could work. It is also important to restore the undersea environment to a healthy ecological balance so tide pool creatures may return and be seen in safety by people who otherwise would not have the opportunity without this ocean pool. Please watch YouTube Video Children's Pool-SAFETY (4)<https://www.youtube.com/watch?v=hV-d8f7W-eY> email contact to volunteer with RAMP: restorechildrenspool@gmail.com

Please keep this access open all year and restore the disability ramp.

This request is from all the signers of the petition for same, via change.org and can be verified at that site. Attached are all the signatures as of June 24, 2014, as well as the comments posted when each person signed. Please honor the disabled. Thank you.

Supporters to Restore the Disability RAMP at the Children's Pool La Jolla, California, United States of America (6/24/14)

Reasons for signing

1. Ernie Casco LA JOLLA, CA: I Live in La Jolla
2. Robert Thompkins SAN DIEGO, CA: I'm in a wheelchair
3. Jennifer Rushall EL CAJON, CA: I remember a time when I use to be able to use the beach because the ramp was there. It was in disrepair but it was THERE! I currently use a wheelchair part time and fore arm crutches the rest of the time. I miss being able to access this part of the beach.
4. Dolly Casco LA JOLLA, CA: All of us have the Right to have access to this beautiful beach
5. Pattie Buchanan S.D., CA : Restoring access to the disabled
6. Mary Prat LA JOLLA, CA: I support restoring access to the disabled to the ocean at the Children's Pool in La Jolla, California. Disabled persons and children used to share the Children Pool and today, disabled persons and children are forbidden from using the Children's Pool a California public beach. Enough!
7. Betts Cruz KAUNAKAKAI, HI: My Mom at 93 lives at Casa De Manana, my sis had Lou Gehrig's.
8. John Grande ESCONDIDO, CA: Because I care about the welfare of handicapped people.
9. Paula Donovan SAN DIEGO, CA: My Son is in a wheelchair
10. Kalli Hinnert SAN DIEGO, CA: Support for access to all.
11. Andrew Hinnert SAN DIEGO, CA: I am in a wheelchair
12. Bernadette Gore SAN DIEGO, CA: I work with a lot of spinal cord injury survivors and they need access to enjoy everything as much as able bodied individuals do.
13. Ryan Sweeney SAN DIEGO, CA: The city has stood strong behind it's decision NOT to uphold it's obligations to maintain this beach in a safe manner for the community and within the boundaries of the Trust they agreed to uphold and the State Constitution. Shared use has been working for many years and actual well thought out shared use plans have not been truly explored. The city refuses to do what's right and instead continues to try and flip the script by using reasons for the closure that were created by and perpetuated from their very own negligence. Sorry city of San Diego... it should not be OK for you to restrict beach access because simply because you don't want to.
14. Ken Gardiner CARDIFF BY THE SEA, CA

Because as a wheelchair bound active person there are few options for access to public areas like this. I pay a heavier tax burden than most in the area and have substantially fewer services provided. Not to mention the incredible cost paid by our returning veterans not just in races but in lost body parts and crippling injuries. From a standpoint of fairness in distribution of public services, the disabled are incredibly underrepresented and ignored.

- 15. Kay Stafford LA JOLLA, CA

It was built for children and disabled. The seals are not being harmed. They choose proximity to people. They have other more appropriate sites for those who don't wish proximity to people. It is a precedent that will change California beach enjoyment forever.

- 16. Marvin Manes ARIEL, WA

A friend of mine is disabled, lives in San Diego and would like to be able to use the pool again

- 17. Paul Schreiber WASHOUGAL, WA.: It is very important to me to take care of our disabled children and veterans.
- 18. Ray Berry SAN DIEGO, CA: therapeutic
- 19. Robert Thompkins SAN DIEGO, CA: I'm in a wheelchair
- 20. Jennifer Rushall EL CAJON, CA: I remember a time when I use to be able to use the beach because the ramp was there. It was in disrepair but it was THERE! I currently use a wheelchair part time and fore arm crutches the rest of the time. I miss being able to access this part of the beach.
- 21. Dolly Casco LA JOLLA, CA: All of us have the Right to have access to this beautiful beach
- 22. Paula Donovan SAN DIEGO, CA: My Son is in a wheelchair
- 23. Kalli Hippert SAN DIEGO, CA: Support for access to all.
- 24. Andrew Hippert SAN DIEGO, CA: I am in a wheelchair.
- 25. Ken Gardiner CARDIFF BY THE SEA, CA

Because as a wheelchair bound active person there are few options for access to public areas like this. I pay a heavier tax burden than most in the area and have substantially fewer services provided. Not to mention the incredible cost paid by our returning veterans not just in races but in lost body parts and crippling injuries. From a standpoint of fairness in distribution of public services, the disabled are incredibly underrepresented and ignored.

- 26. Clement Hoffman LA JOLLA, CA: Unique resource for persons with physical disabilities
- 27. CHRIS KOKEAS SAN DIEGO, CA
- FEW PLACES ACCESS THE OCEAN AS THE CHILDREN'S POOL.
- 28. ALEDA MARSHALL FT. MYERS, FL: It is very difficult for the disabled to maneuver successfully without ramps.
- 29. Theresa Lutzker RIDDLE, OR:

My profession as a nurse, I pledge to do whatever I can to make a person's life safe, healthy, and enriched. I've witnessed many disabled people go without the needed water therapy because of not being able to access safely from their wheel chair. This ramp will not only provide increased safety but also give them freedom of autonomy to access water by themselves; something for which many (who are not disabled) take for granted. Please restore the ramp!

- 30. Melinda Merryweather LA JOLLA, CA: We must help others when ever we can.

- 31. Sally Reddick SAINT CHARLES, MO: For several reasons. First and foremost, a persons will or trust should never be allowed to be broken by the anyone! Secondly, when I visit, this is an area I'd like to be able to swim without worry of the surf.
- 32. Will Schussel SAN DIEGO, CA

Sea animals have the rest of the coast and ocean to use - let them move to new quarters and let the humans back where it is safe.

- 33. Ian Bengson SAN DIEGO, CA: I hate seeing a historical treasure crumble.

- 34. Doris White LA JOLLA, CA: This area was meant for access by everyone particularly children and elderly.
- 35. Mike Sanchez SAN DIEGO, CA: My son uses a wheelchair
- 36. Peggy Davis LA JOLLA, CA: I also have a disability due to an accident. La Jolla needs to consider the needs of disabled residents and visitors in many locations of La Jolla.
- 37. Maxine Baker SAN DIEGO, CA:

This beach was meant for children to learn to swim in a safe environment. It has now become the ONLY safe and accessible entry point for disabled individuals to swim in the ocean in the San Diego area.

- 38. Phyllis Minick LA JOLLA, CA:

I am an 85-year-old with a steel replacement femur in my right leg. Only with ramp access can I reach the healing waters of the Children's Pool.

- 39. Darlene Spriggs LA MESA, CA:

As a child my family would go through out the summer and when I had children they spent many wonderful days in the pools water

- 40. David Traylor LA JOLLA, CA: I grew up in La Jolla Beach is for children (people)

- Latest
- 41. Mike Sanchez SAN DIEGO, CA: My son uses a wheelchair

- 42. Peggy Davis LA JOLLA, CA:

I also have a disability due to an accident. La Jolla needs to consider the needs of disabled residents and visitors in many locations of La Jolla. I remember a time when I use to be able to use the beach because the ramp was there. It was in disrepair but it was THERE! I currently use a wheelchair part time and fore arm crutches the rest of the time. I miss being able to access this part of the beach.

.This petition is ongoing dear leaders. What will it take to prove to you that this particular breakwater is NOT a terrible seawall? It is a National Treasure because of the Function to provide a safe Pacific Ocean swimming experience as per the design and the Trust that is still very Much in effect. Please support the La Jolla LCP and

enforce the only ramp to the only safe ocean pool and harbor we have on it. Please do not be against our disabled, we have suffered enough. Please support us and the ecology at our Ocean Therapy Bathing Pool and Children' s Playground.

This petition is signed for Kevin Faulkner, the Mayor of San Diego, NOAA' s Civil Rights Department , and to all the California Coastal Commissions as per their exparte rules of Communication.

And to the RAMP Committee dedicated to Restoring Access To Many People and supporting a balanced ocean environment.

restorechildrenspool@gmail.com

Cheryl Jacobs Aspenleiter Chairlady

1231 1/2 Hornblend Street, San Diego, CA 92109

858 568 1257

**RAMP COMMITTEE TO RESTORE ACCESS TO MANY PEOPLE
AT THE CHILDREN'S POOL LA JOLLA CA U.S.A.
DATE: 6/29/14**

**ADDITIONAL PETITION COMMENTS TO THE CALIFORNIA COASTAL COMMISSION
IN REQUEST TO PLEASE KEEP THE CHILDREN'S POOL OPEN FOR AS IT IS THE ONLY DEDICATED
VERTICAL EASEMENT RAMP ON THE LA JOLLA LCP TO SERVE WHEELCHAIR SWIMMERS. THE
UNDERSIGNED REQUEST THAT THE CCC HONOR AMERICANS WITH DISABILITIES CIVIL RIGHTS TO
SWIM IN AN OCEAN POOL BUILT WITH THE DISABLED IN MIND THAT BOASTS A RAMP THAT SERVED
WHEELCHAIRS FOR DECADES AND WAS IN CODE THE DISABILITY LAWS BEGINNING IN 1948. THERE IS
NO OTHER OCEAN POOL AVAILABLE TO THE DISABLED THEREFORE COMMON DECENCY AND OUR
DISABILITY LAWS PRECLUDE CLOSING THIS POOL EVER. FURTHERMORE WE REQUEST THAT THE
RAMP BE BROUGHT TO CODE IN THE CURRENT BEACH FACILITY REMODEL. SENT TO ALL
COMMISSIONERS VIA MISS MILLER IN THE ADMINISTRATION OFFICE.**

- Anne Schofield LA JOLLA, CA:

I am a senior with total bilateral hip replacement due to a birth defect. Swimming is my best exercise, and is not weight bearing because of the water. I cannot afford a pool membership. Also, let us respect Ellen Scripps legacy. Scripps Oceanographic Institute as-well-as many other benefactors do, and are thriving. There are thousands of miles of coastline on earth, and seals can survive anywhere. They do not pay state or federal taxes but humans do.

- Bonita Knapp LA JOLLA, CA: I am disabled and I loved the Children's Pool Beach since 1974

when it was clean and easy to get to for old and young-no pollution and magical place then.

- Judy Halter LA JOLLA, CA: I think it is critical that disabled citizens have the opportunity to swim in the ocean and enjoy a wonderful experience

From: Miller, Vanessa@Coastal
Sent: Monday, July 07, 2014 8:57 AM
To: Sarb, Sherilyn@Coastal
Cc: Parker, Holly@Coastal
Subject: FW: Children's Pool Closure
Attachments: PETITION COMMENTS UPDATED JULY 2.docx

RECEIVED
JUL 07 2014
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DIVISION

From: Cheri Aspenleiter [mailto:cheriaspen@gmail.com]
Sent: Saturday, July 05, 2014 12:54 PM
To: Lightner, Councilmember Sherri
Subject: Children's Pool Closure

Dear Sherri and Staff,

I am writing to request you to please write a letter to Greg Murphy with the CCC (San Diego) at your earliest convenience to request that the Children's Pool stay open and that the Americans with Disabilities Act be honored there with a restored ramp. The CCC's mission is access not to prevent wheelchair swimmers from accessing a pool built for them. They have no over-site and are ignorant of the truth.

I arrived at C.P. on the Fourth for a MeetUp with my snorkelers, the Snorkel Swimming Club of San Diego. There were about 6 seals in the middle of the beach at the water's edge. I set up my chair and umbrella far away from them. One has to set up close to the water as well to be able to find a square inch of sand not polluted with huge labrador dog size feces and splots of urine soaked sand and afterbirth particles. This is what the City of San Diego wants? The few seals eventually entered the water on their own accord. The sand gets too hot for them. And they are starving so must travel further and further away to find fish stocks, as they have totally depleted the fish stocks at the Children's Pool, South Casa and Shell Beach, Seal Rock areas. We average a count of 5 Garibaldi each snorkel from C.P to Shell Rock and back. It is fast becoming a dead zone. Fish stocks can not reproduce fast enough. I have only seen two juvenile Garibaldi all year. When before the Garibaldi and their beautiful blue spotted young were uncountable!

Many of my snorkel club members, some disabled will not go there because of the nazi-style beach control going on there. Seriously I do not exaggerate. This has been my impression for the past four years since I first went there upon moving to San Diego. Nazis. A camera following me and other women into the showers, honing in on bikini clad teen bodies, honing in on license plates, using the police as pawns and forcing people to stand, sit and play in feces, literally. Did not Judge Pate ruled that this fecal pollution could not be allowed to continue? It was human health ruling. The Centers for Disease Control reported in exhibit 165 of the case. How can the City of San Diego allow the pollution to continue and even promote it? The City is promoting pollution. And so is the CCC. The City of San Diego has been and is a puppet to special interest groups posing as environmental groups. When in fact they are all **totally ignorant** of the true situation at the Children's Pool, the devastation of the underwater ecology due to the over population of seals. They are now starving and stressed. The seals have to travel out further and further to find fish stocks, very possibly decimating the dolphin's fish stocks and on and on. Why San Diego can not learn from Cape Cod whose seal populations are into the thousands and fish stocks will never recover and from the fine example of Sydney Australia who boasts dozens of clean ocean pools some older than our one. They too love marine mammals but do not allow them in their ocean pools to pollute with potential dangerous bacteria. Australia also brings home the most Olympic Swimming Medals. It is time for someone to really take a stand. Will you please?

I noticed that you have not yet signed our ADA Petition for the Children's Pool. I invite you to please sign and send it to your contacts. The Seal Opportunists have one going and since they are more organized, not disabled, and have endless dollars for their takeover they have twice the signatures.

On the Fourth of July the Children's Pool was packed with families that finally came down after I and a friend passed over the rope on the children's playground. Otherwise the rope and the seal-ops effectively close the access entirely. Many days of each week as other dangerous beaches are over populated. What should have been a clean beach for our Nation's birthday was polluted and families played and sat in and on fresh feces and urine. Disgusting. How can it be allowed? Right at dusk before the wonderful fireworks display, a woman came running down the stairs and started yelling and screaming at the families that it was 'illegal' to be across the damn rope. Sorry but that is what it is. A rope is dangerous on a legal Children's Playground. I could see people becoming very alarmed and afraid, and I and another got up and asked her to leave and stop harassing people. I told her that she was wrong and that the seals are starving and the ocean decimated and wheelchairs blocked. She yelled for about 8 minutes and finally left. I think people became quickly aware that she was not in her right mind.

Furthermore I witnessed the following: A family with two small children were going to come down and enjoy the pool that was packed with families swimming in the safe water, and stopped to ask the lifeguard if floaties for the kids were allowed, instead of answering the mother's question he stated:

"The beach and water is polluted" They left to go to a dangerous beach, as all the others were yesterday. I witnessed a lifeguard steering toddlers away from the very pool built for them, and the safest place for them to be.

Judge Pate's Superior Court Ruling stopped this, or should have. A Marine Mammal park by legal definition is Sea World, and that is what we have here, created by Sea World, only starving, decimated and polluted. Never fed or cleaned up.

RAMP Committee and COAST Coastal Access & Sustainability Team contacted I Love A Clean San Diego to request adoption of the Children's Pool. We were actually going to try and clean up the beach, cleaning feces in dangerous bacteria the best we could. The Director called me to explain that they will not sponsor Children's Pool beach for clean up because "the seal people have been in my office threatening my staff and threatening law suits if we sponsor the clean up."

San Diego has quite literally allowed our city to be literal puppets in a deadly game of seal politics, that is breaking the CA Constitution, ADA, and devastating the ocean. This is insane. Will it take yet another law suit? Basically a duplicate of the O'Sullivan Case? To appeal the unlawful marine mammal park amendment? No poop in the pool was the ruling, a human health danger ruling that no legal authority should have the power to over rule!

Shell Beach was so dangerous on the Fourth that two lifeguards had to be on their surfboards floating just offshore keeping people from coming out any further. It is the worse rip tide in So. CA. The tide was high and bathers had to hug the cliffs. I am certain that drownings were imminent with out the guards preventing further entry into the rip current. Shell Beach is also a shorebreak and sneaker waves that drown people are common there. I almost drowned there trying to exit there when Filner closed the pool for the staged seal abuse video. Ten years ago when the City closed the pool for some amount of years for pollution instead of preventing it a diver did drown, pupping/lobster/storm season. Drowning, starvation, depletion, pollution, stench, ADA violations what will it take Sherri?

Children's Pool was built for safety and is the only safe harbor on our coast in La Jolla. It is the only dedicated vertical easement ramp on the LCP. Please fight to enforce the LCP and not allow it to be changed.

We have 185,000 amputations in the United States and the most here in San Diego a military town graduating soldiers many of whom come back maimed for life. They too deserve to enjoy the ocean experience. And we are so lucky to have such a ocean pool for them. Why have they been forgotten for so long? Seal Opportunist groups, who care nothing for the seals or they would care for their home. Our undersea ocean environment is not even being studied at the Children's Pool area! Why not? How in the world did Sea World get away with not doing an EIR prior to dumping so many seals in an area previously void of such populations? And now that the area is devastated, do you not realize that to close our ocean pool will exacerbate this environmental disaster? All you have to do is jump in the ocean with a mask and look. At nothing.

Our ecosystem can again be abundant with proper marine mammal control measures such as birth control to create a balance and give our urban ocean a chance to recover.

Sea Stars are gone, many creatures that were once abundant in this area are severely depleted including but not limited to Garibaldi, Opal Eye Perch, CA Black Mussel, Sea Cucumbers, Sea Hares, Lobster, Crabs, abalone, urchins and anemones. A full EIR is certainly warranted prior to closing our only ocean pool in Trust to the Children and the Disabled of the World. Please demand an EIR.

I am fighting for my life to stay out of a wheelchair Sherry, this pool is life for me and should be for thousands more. Please help. It is shameful for San Diego to be in violation of the American With Disabilities Act and to deny Challenged Athletes the dignity of their own ramp.

I'd say that who- ever does not stand up and take some action with powers to do so are in collusion with these violations. It is time for someone to speak for the disabled, and I am trying but I need your help please.

Thank you for all your time to read this. I trust you will have the courage to sign our petition and to please make a great effort to restore the Children's Pool and Access to put San Diego on the ADA map of the World with such a unique facility. Please. Attached please find the comments so far from our petition on change.org.

Cheri Jacobs Aspenleiter
Disabled Ocean Swimmer
858- 568- 1257

RAMP Committee to Restore Access To Many People
COAST, Coastal Ocean Access & Sustainability Team
Children's Ocean Therapy Pool

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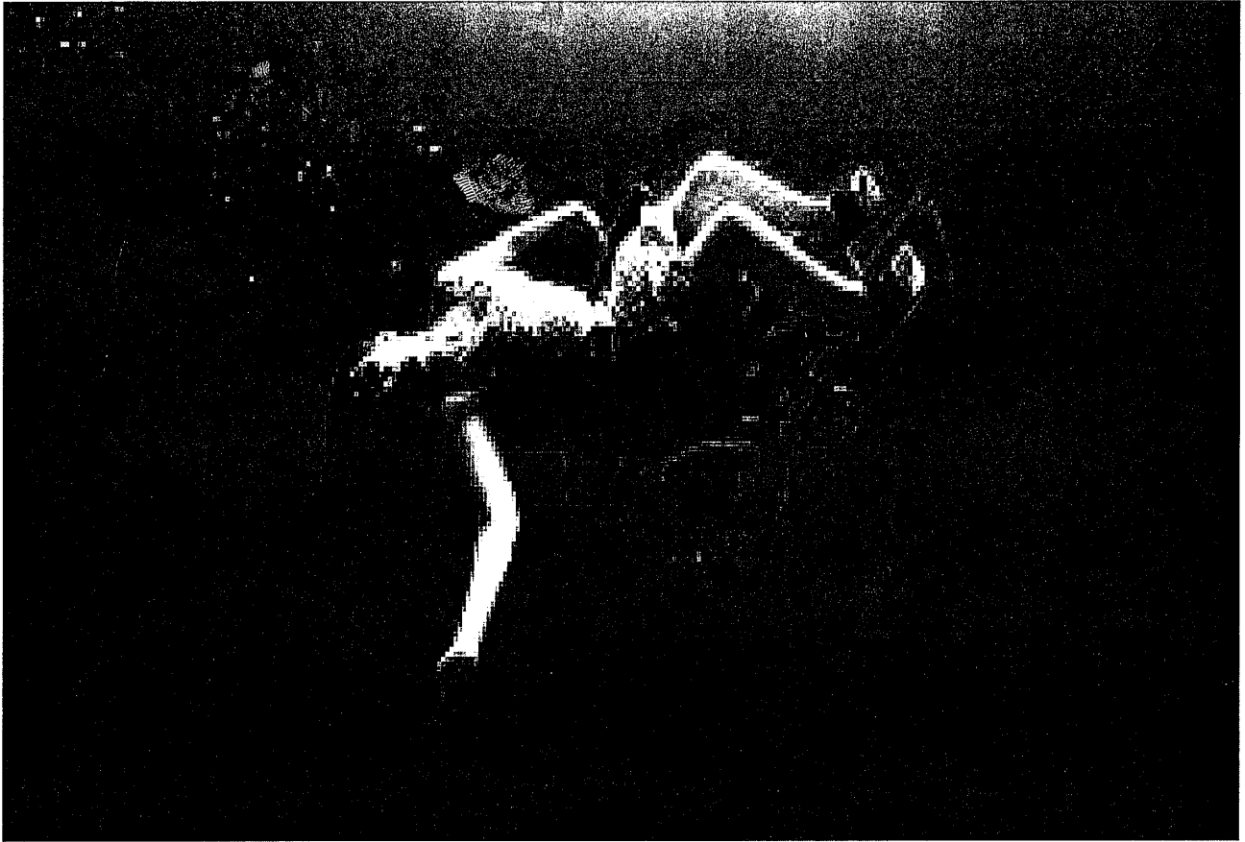
1. Where on the La Jolla Local Community Plan can a paraplegic access the Pacific Ocean without surf?
2. Are you aware that the Children's Pool was engineered and constructed especially for the disabled?
3. Are you aware that the Children's Pool ramp is the only dedicated vertical easement ramp on the LCP into the only ocean pool? There is no other on the West Coast.
4. Are you aware that San Diego has the most Wounded Warriors than any other city in our country? And that water therapy is the best modality for therapy for them?
If you had a good friend who was disabled, you'd be like a mother.
5. Are you aware that the United States Department of Justice is investigating decades of violations to the federal disability codes presently?
6. Why has the CA Coastal Commission not honored Americans with Disabilities for the last many decades at this ocean pool and grandfather of disability ramps? To close this pool for anytime of the year will be to further the violatons.
7. Are you aware that the ramp was to the current disability codes in 1948?
8. Are you aware that the seals are starving ?
9. Are you aware that the undersea environment is fast becoming a total dead zone at the Children's Pool and surrounding beaches of South Casa, including Seal Rock and Shell Beach? Are you aware that the CA Mussel population is decimated? And that they are an important indicator species? Are you aware that the seals have far exceeded the carrying capacity of the undersea ecosystem? Are you aware that an EIR is long overdue with relation to the over population of seals and the impacts on the undersea ecosystems. Are you aware that fecal contamination has killed off the tide pool creatures that were once abundant?
10. Are you aware that the seals are birthing in their own feces and urine and this causes illness for them and death?
11. Are you aware that in 2004 Superior Court Judge Pate issued a Human Health Ruling for the Children's Pool that the seals should not be hauling out there because of the serious pollution as reported by the Centers for Disease Control and the sand was ordered to be dredged out? Are you aware that the fecal pollution is actually promoted here still to this day?

12. Are you aware that the Children's Pool is legally a playground and a human bathing pool? Are you aware that human bathing pools are not to be polluted with animal feces? Are you aware that the bacteria can be airborne that included T.B. and E.coli?
13. Are you aware that Sea World released the seals beginning in 1992 without doing an EIR to ascertain IF our local urban undersea ecosystem could sustain so many new marine mammals. And many years later we have lost many species and the fish stocks are depleted and the seals are having to go further and further out to find fish stocks potentially depriving the dolphin's fish stocks. Again an E.I.R. is long overdue, and the only responsible way to proceed to protect the seal's home, our Pacific Ocean.

R.A.M.P. Committee to Restore Access To Many People

C.O.A.S.T. Coastal Ocean Access & Sustainability Team

Supporting year around access and the updating of the ramp into the pool for wheelchair swimmers. Ellen Browning Scripps stated that she was building this pool for "



PLEASE HELP MAKE THE POSSIBILITIES A
REALITY FOR OUR ONLY OCEAN POOL.
PLEASE HONOR THE SPORT OF SWIMMING
IN THE OCEAN: THE BEST THERAPY IN THE
WORLD!

Susan Austin's Scuba Chair

From: Coastal Ocean Access & Sustainability Team(C.O.A.S.T.) 6/16/14

Restorechildrenspool@gmail.com

858- 368 1257 1231 1/2 Hornblend St. Pacific Beach, CA 92109

Environmental Issues at the Children's Pool, South Casa, Shell Beach and Surrounding Coastal Ocean Snorkeling Areas.

To: All California Coastal Commissioners via staff RE: Children's Pool Closure

Fish Stocks are visibly & severely declining along the La Jolla Coastal Plan lateral access areas due largely to the over population of seals and sea lions. "Garibaldi have several natural predators including larger fish, some sharks, seals and sea lions and, on Santa Catalina Island, Bald Eagles." These fish are protected in California. The over population of seals and sea lions in La Jolla have devoured Garibaldi populations to decline especially at the Children's Pool, Shell Beach and South Casa Coastal Areas. Once easily visible from the sidewalk above our bright Garibaldi have disappeared from sight. CA Black Mussels, an important food base have been devoured by the seals and are mostly gone, their brittle shells crumbling. Soon there will be no trace that mussels lived at the Children's Pool and surrounding beaches. Mussels feed Tide Pool Creatures, so they too are gone, and the Tide Pools polluted from years of seal feces. The bacteria is harmful to the seals when they birth in their own feces.



Garibaldi protected California State Marine Fish. Once plentiful and very visible from the walkway are now Devoured. I watched with mask & snorkel as 4 seals chased one medium sized fish. He escaped into a hole. Seals must consume 8000 calories, about 45 lbs. of fish each day. Hundreds of pinnipeds = thousands of lbs. Of fish hunted each day= decimation of fish stocks and species loss of fish stocks including Garibaldi, Tide Pool Creatures, that should be abundant and can be again.

THE LAW OF SUPPLY & DEMAND IS STRONG IN THE SEA. SHARKS HAVE BEEN SLAUGHTERED TO THE TUNE OF 80-100 MILLION A YEAR FOR OVER A DECADE. WHAT DO SHARKS EAT? SEALS AND SEA



Mussels are a very important indicator species and have been seriously depleted at South Casa Beach Children's Pool, to Seal Rock, Shell Beach and beyond in the lateral access along the coast where people can are able to snorkel to. I snorkel here frequently all year long & I can not find any live attached mussels. The shells are brittle and crumble, and they too are almost gone. Seriously. Mussels feed Tide Pool creatures. Gone too are many Tide Pool Creatures.

LIONS. BIRTH CONTROL MAY BE AN OPTION TO RESTORE THE BALANCE OF THE ECOSYSTEM. AN ENVIRONMENTAL IMPACT REPORT (E.I.R.) IS LONG OVERDUE FOR THIS LA JOLLA LCP AREA. TO CLOSE THE CHILDREN'S POOL WILL EXACERRATE THE UNDERSEA DEVISTATION EVEN FURTHER



The lateral easement on the La Jolla LC Plan is ripe for shark attacks. The Children's Pool and La Jolla Cove should be as protected as possible. Most shark attacks occur in less than five feet of water. A Restored Children's Pool would give protection to all swimmers, as per the design and purpose.



Can you tell which man is paralyzed? No? This is the point of The Children's Pool. Calm safe water in a POOL. Now what is to stop that shark in the above photo from mistaking these swimmers as food? This is an important reason to control the populations of pinnipeds away from a Children's Pool as per Superior Court Judge Pate's Human Health Ruling in 2004 that seals would be better off not to haul out in a human pool and ordered the pool to be restored, sand dredged out and sluiceway studies completed to have the water clean and circulating on a controlled basis as needed. The studies show how easy it would be to re-open those sluiceways, & advised. Currently: no longer abundant reef, void of mussels, and barnacles and sea stars, urchins. Devoured & polluted. We must achieve balance and replant mussels here. Time for some birth control for pinnipeds.



Our reefs were once abundant with many species of Tide Pool Creatures



The Reefs along La Jolla were abundant in sea life. Photos like this can no longer be taken @ Children's Pool Reef, S.Casa Reef, or Seal Rock Shell Beach Reef. With proper marine mammal management and restoration actions we can restore the balance to our undersea ecosystems along our urban shoreline within the lateral easement in the ocean water. The home of all marine life is at stake here and balance is vital to the preservation of species. The Children's Pool would make an excellent Sea Star sanctuary & spawn to help restore them to this area and give disabled people a chance to snorkel swim/float and see one in the real ocean such as can be done no where else. To Restore the Ocean Pool and Disability Access would ironically begin to help the undersea ecology restore as well. A Win-Win Situation.

If our government chooses to close our only ocean pool you will be causing the direct acerbation of the pollution and decimation of the undersea ecology. An Environmental Impact Report is long overdue. Please initiate one immediately and prior to any decisions to close this pool that will make it worse. Seals are starving and birthing in their own feces and urine saturated sand. How in good conscious can you allow what is going on to our ocean ecology and to our thousands of disabled people in our country? Many of whom have fought for your freedoms. We owe them big time. Please support the ocean balance and our disabled!



David S. H.

With Swim Fins to Boost Speed, a Quirky Take Off in a Boring Start from a La Jolla Breakwater
 areas of other water sports include depth fishing, but fun is for filigree's aquatic, yachts, (Hawaii, North, and, apparently, home) (Chargement) within the Pa
 La Jolla is famed as the seat of the Science Institute of Oceanography.

The Breakwater bleacher seats served as access into the pool. The seats and therefore this major access has been allowed to crumble to ruin. This is only concrete and rebar and sand, not a skyscraper. These bleacher seats would enhance the recreational enjoyment as per design as access.



ADA Ramp Design by Mark Buzon La Jolla Architect contours the wall fits well, slopes into the water.

**A Children's Playground and Bathing Pool can not also be a Marine Mammal Park, Inconsistent
uses.**



Seals block the way to get to the calm pool waters for therapy year around. A Developmental Use Permit was required for this rope installation. The Disability Codes for this permit were ignored as they have for decades here. As the seals pollute, deplete their home & go hungry they also block the access into the pool for the Disabled. This is the only ocean pool and the only dedicated easement to the safe harbor for limbless people to be safe. This is not a natural environment for seals. Their own fecal bacterium is harmful to them. No mammal gives birth in it's own feces like is being allowed and promoted at this human pool, that cannot wash clean ever. The sand behind the rope is a concentration of two decades of

seal feces, this is where people and children are forced to stand and play, in feces. If this pool is allowed to close this build up will exacerbate. The bacteria can contain e. Coli and even T.B. which has come back in our country as well. These bacteria can potentially be airborne to visitors and the neighborhood. The stench is already bad; if the pool closes it will be retching. Casa Manana is the exclusive retirement community directly across the street. These folks would benefit from a good ramp to the water very much and deserve to have clean ocean air blow through their windows not fecal stench.



This man used to teach scuba here at the Children's Pool and would like to dive here again. The historical access into this pool built especially for the disabled was blocked around the time Sea World dropped off the rehabbed seals in 1992. He was interviewed on Channel 10 news. The disabled need the protection of the breakwater wall. Harbor seals do not. The sand was to be dredged and conveyed to another beach that needs the sand. This sand at the C.P is filthy and the stench is getting worse.



Two disabled people enjoy the healing therapeutic water in the calm and safe Children's Pool. A ramp should be included to go along with the ADA showers going in at the Children's Pool Facility Remodel. This man is a paraplegic, and is able to be safe out of his wheelchair to swim in this pool designed especially for the disabled and children. It is the only safe ocean pool we have with a breakwater. San Diego is a military town graduating soldiers to come home maimed. Many were surfers and ocean swimmers, now without legs the Children's Pool can offer therapy in the real ocean with family again.



This is a Breakwater as opposed to the hated sea walls going in to protect homes from falling off cliffs. I learned in the CCC Mtg. that the Coastal Commission despises sea walls. This is not one of those: this actually accumulates sand not preventing it from forming as the sea walls that protect homes may. This is the only such pool in the United States and was built to protect weaker humans from the surf, so they too can access the real ocean. Why has our CCC, NOAA and the City ignored the Disability Codes at the Children's Pool for decades? The mission is to protect and improve such access for *all* people. This is a human pool not a natural beach. To close the pool will be to cause further environmental damage to the local undersea ecology. And to close this pool will be to further deny disabled people the access to the safest place to enter the real ocean for them. We have the largest population of military wounded of any city in the United States. The Children's Pool is perfect for the Challenged Athletes Events and Wounded Warriors. Please reopen our access so us disabled too, can swim in the sea in La Jolla, CA U.S.A. Notice those lines in the wall above. Those are meant to be and were the access bleacher stairs and seats for the Children's Pool. Concrete does erode as you can see. You have allowed these unique access steps and seats to erode away entirely. Allowing this Historical Wall to crumble to ruin is really a crime folks. Please take the time to acquaint yourself with its history. The value of this Protected Ocean Pool is the safety and the RAMP into the water, it's function. It served wheelchairs for over half a century & was

funded to be upgraded in 1988. Vince Marchetti San Diego's in-house engineer advised the city that the ramp needed to be brought up to code.



This is low tide when the pool was recently finished. Notice the bleacher seats that were also steps into the pool. These bleacher seats need to be replaced for swimmers and access. Notice that there are no seals visible. Seals do not appear in photos until after 1992 after Sea World dropped them off without doing an EIR to ascertain if the local underwater ecosystem could sustain so many new marine mammals previously never there in such numbers ever. That was an irresponsible act and based upon seal rehab profits and jobs for Sea World, a for profit powerful organization. Seals lived in the ocean and were in balance and harmony, not in clusters and haul outs that pollute themselves and the environment and bring sharks in close to shore. This is not good marine mammal management from NOAA and a total lack of responsibility for all agencies. An EIR to Study the Over Population of Pinnipeds and their impact on the undersea environment is warranted and long overdue.

You must realize that sharks have been slaughtered to the tune of 80-100 million in our World's oceans. They eat Seals and sea lions. The law of supply and demand is strong in the sea. Then we have Sea Worlds and like organizations making money from the rescues, releases and rehabs of an ocean creature that is considered of least concern on the Red List devouring the CA State Garibaldi a protected species faster than they can reproduce. Seals have far exceeded the carrying capacity of the local under water ecology in La Jolla. Each seal must consume 8000 calories or 45 lbs. of fish and biomass per day. With over 650 creatures, we are facing serious fish stock and species depletion along with the fecal pollution. Seals and seal lions are starving as a result of this. They too can be administered birth control, same as humans. It is humane and will help to balance out the populations to be in harmony with their environment and not decimate it and starve. Does this make sense to you? I sure hope so as this is all included in your mission statement objectives. I don't understand why you have allowed this to go on for so long though? If you love seals you must in turn love their home, the ocean. And the way they are being housed in their own filth is a filthy Sea World Pool, only starving and depleted. This is what Children's Pool has become. Please see this clearly.



You can see the ramp clearly. The ramp was the primary access into the Children's Pool. No seals present. South Casa could take the sand, conveyed from the Children's Pool to Restore it as Per Judge Pate's human health ruling to restore the pool. The seals are already hauling out at this adjacent beach to the South of Children's Pool known as South Casa Beach. **This is a healthier haul out site as it washes clean with the surf. This is true and wise shared use, and still views of seals.**

I hope you have a better idea about the Children's Pool now. Ellen Browning Scripps left it in a Trust or Will to be maintained as a pool, and the City accepted this responsibility. For the sake of our disabled please restore this historical disabled access into a pool built for this purpose. Thank you.

COAST, Coastal Ocean Access & Sustainability Team

Restorechildrenspool@gmail.com

Cheryl K. Aspenleiter

1231 1/2 Hornblend Street, San Diego, CA 92109





Ironically to Restore the Children's Pool will also help to begin to restore the undersea ecology. It would make a great sea star and abalone sanctuary and give the disabled a chance to see these amazing creatures like at no other place in San Diego. Safe snorkeling, perfect water therapy, restored ecology, this makes sense for all. This is what the community of La Jolla wants for the pool built and donated by their benefactor Ellen Browning Scripps.



The ramp was the primary access into the Children's Pool for decades serving wheelchairs. It was to code in 1948 which was a watershed year for disability codes. Please bring it to code again for us. Thank you.

Clement P. Hoffman, MD

5503 Calumet Ave

La Jolla, CA 92037

Deborah Lee, District Manager
California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive Ste 103

San Diego, CA 92108-4402

Reference: Children's Pool Beach Closure Project **CDP # 6-14-0691, LCP-6LJS-14-0607-1**

July 13, 2014

Dear Ms. Lee,

I have been a continuous resident of La Jolla since 1972. My family and I have enjoyed the unique protected ocean access to the Children's Pool for all of that time.

I strongly believe that the City of San Diego's long-standing efforts to close Children's Pool to public use in favor of harboring seal colony is very misguided. I urge the Coastal Commission to honor its historic mission to protect public access to California's coastline.

Allowing the City to close the Children's Pool to people in favor of a marine sanctuary would set a terrible precedent for future public closures up and down our coast.

Thanks for your attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Hoffman', with a long horizontal flourish extending to the right.

Clement P. Hoffman, MD

RECEIVED

JUL 17 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

July 18, 2014

California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Children's Pool Beach Closure Project CDP # 6-14-0691, LCP-6LJS-14-0607-1

RE: Foreseeable Danger [Attractive Nuisance] aspects of the Children's Pool Closure Plan related to public health, safety and welfare.



To: The California Coastal Commission

The proposed action by the City of San Diego to close Children's Pool will change the character of the public park and beach at this historic location. This unwarranted closure is designed to create artificial habitat and shelter for a thriving animal species by forcing human abandonment of the beach. The apparent objective is to draw even more Harbor Seals to this tiny beach already overpopulated with seals. Harbor Seals are spreading to surrounding beaches in record numbers and the water quality problems already occurring at Children's Pool are spreading to surrounding beaches. The City would be creating and maintaining a dangerous condition from a known hazard to public health, safety and welfare.

Attractive Nuisance Doctrine: a legal doctrine which makes a person negligent for leaving a piece of equipment or other condition on property which would be both attractive and dangerous. Some jurisdictions have abolished the attractive nuisance doctrine and replaced it with specific conditions that would make property owners liable by applying rules of Foreseeable Danger.

While only a few shark attacks have been fatal since the year 2000, the steady increase in shark bite attacks can be linked to the re-establishment of pinnipeds populations near the site of those attacks. The population of Harbor Seals has reached its optimal sustained population (OSP) and are near historic levels in all of their range including the San Diego coast. The risk to ocean users from sharks is directly increased by the presence of seals. The City of San Diego should not be causing conditions to attract a greater number of pinnipeds to the swimming areas of La Jolla. This condition would be verified if a proper environmental study were done on all impacts of this proposed project.

In the O'Sullivan v. City of San Diego lawsuit, well known human hazards directly caused by the City's actions and negligence, were cited by Judge Pate. The City had breached its obligation to maintain the park in a condition suitable for human use. Those hazards included the presence of wild animals on a man-made beach (an artificial embayment per the CCC Ecologist) created for human use. The increased seal population, encouraged by the forced abandonment of Children's Pool from the City of San Diego's closure plan, will bring more seals and seal waste as noted in the O'Sullivan case.



Also foreseeable is the risk that sharks will associate the growing seal colony at Children's Pool as a reliable source of pinniped prey species and congregate in greater numbers in search of food. Even though the overall shark populations worldwide are changing for various reasons, shark sightings are on the rise in the waters off Southern California and in La Jolla. Beaches in San Diego were closed and warning posted several times the past three years because of shark sightings near shore. Artificially

creating conditions that provide a defacto seal sanctuary or reserve at Children's Pool will increase the population of seals near established swimming areas and significantly increase the danger of shark attacks on humans. This action is contrary to responsible public safety policies by governmental officials with a duty to promote public safety and the protection of human life.

The City's Negative Declaration for this project uses a false premise for evaluating baseline data. The City's data ignores City actions before 2012 in its analysis. Seal protection measures, implemented by the City of San Diego, started decades ago with the result we see today; Harbor Seal Colonization of a popular, artificial urban beach in La Jolla. This began with the creation of a seal reserve on and around Seal Rock just offshore from Children's Pool in the 1980's. Because the fictitious baseline data for their analysis, the true impact of the City's continued meddling with nature in the marine environment in and around Children's Pool has skewed the results of the City's cursory environmental study in their self-serving Negative Declaration.

Common sense requires that, for any development project, the proposed project will not cause an increased hazard to public health, safety and welfare. This beach closure project is intended to create a beach void of people, for the exclusive use by Harbor Seals on a man-made beach intended for use by children. This can only lead to the undesirable result of a greater presence of a food source for several species of large sharks known to attack humans. This condition created by the City's policies will increase the risk to swimmer, divers and bathers for many miles along the La Jolla coast. Closing the safest public ocean beach in San Diego County is unwise. Don't let the City pass its liability for endangering public safety for a project that requires approval by the Coastal Commission. Require that a full environmental

study (EIR) be done first before it is too late. Before the foreseeable tragedy occurs off our coast.

The following table documents the known shark attack incidents along the Pacific Coast from 2000 to present. This list is from the West Coast shark expert, Ralph Collier who has warned about the dangers of the presence of pinnipeds near human swimming areas in La Jolla.

Annotated List of Shark Attacks along the Pacific Coast: 2000 - Present

Date	Victim	Activity	Location	Outcome
29 Sep 2000	P. E.	Surfing	Mavericks, Half Moon Bay, CA	Survived
4 Nov 2000	C. S.	Surfing	Bunkers, Humboldt Bay, CA	Survived
31 May 2002	L. F.	Surfing	Stinson Beach, CA	Survived
21 Sep 2002	R. R.	Surfing	Moonstone Beach, CA	Survived
23 Sep 2002	G. T.	Surfing	Cape Kiwanda, OR	Survived
28 Nov 2002	M. C.	Surfing	Salmon Creek, CA	Survived
19 Aug 2003	D. F.	Swimming	Avila, CA	Fatal
28 May 2004	B. C.	Surfing	Salmon Creek, CA	Survived
26 Jun 2004	K. F.	Surfing	San Onofre State Beach, Trail 1, CA	Survived
15 Aug 2004	R. F.	Diving	Ten Mile River Beach, Ft. Bragg, CA	Fatal
20 Aug 2004	S. L.	Surfing	204s, San Clemente, CA	Survived
20 Sep 2004	S. M.	Surfing	Gold Beach, OR	Survived
1 Oct 2004	C. W.	Surfing	Lifeguard Tower 16, Huntington Beach, CA	Survived
2 Oct 2004	B. I.	Surfing	Pismo Beach, CA	Survived
10 Oct 2004	P. DJ.	Surfing	Limantour Beach, Point Reyes, CA	Survived
11 Nov 2004	B. K.	Surfing	"Bunkers," North Jetty, Humboldt Bay, CA	Survived
24 Aug 2005	T. S.	Surfing	Scripps Pier, La Jolla Shores, CA	Survived
19 Oct 2005	M. H.	Surfing	Salmon Creek, CA	Survived
21 Oct 2005	C. R.	Surfing	Mouth of the Klamath River, CA	Survived
2 Nov 2005	J. D.	Surfing	Ocean Beach, San Francisco, CA	Survived
3 Nov 2005	T. W.	Surfing	Pillar Point, Mavericks, Half Moon Bay, CA	Survived
24 Dec 2005	B. A.	Surfing	First Point, Tillamook Head, OR	Survived
18 Jan 2006	M. L.	Surfing	Second Bowl, 'The Hook,' Santa Cruz, CA	Survived
17 Jun 2006	J. P.	Diving	Monterey Plaza Hotel Beach, CA	Survived
31 Jul 2006	R. M.	Surfing	Short Sands Beach, Oswald State Park, OR	Survived
29 Aug 2006	T. L.	Surfing	South Jetty, Siuslaw River, Florence, OR	Survived
31 Oct 2006	T. P.	Surfing	Siletz River, Lincoln City, OR	Survived
10 Dec 2006	R. F.	Surfing	Dillon Beach, CA	Survived
30 Jun 2007	K. Z.	Swimming	Will Rogers State Beach, CA	Survived
17 Jul 2007	S. L.	Swimming	Faria Beach, CA	Survived
21 Jul 2007	"Dan"	Kayaking	Bean Hollow Beach, Pigeon Point, CA	Survived

22 Jul 2007	V. C.	Paddleboard	Malibu, CA	Survived
28 Jul 2007	J. S.	Surfing	Imperial Beach, CA	Survived
28 Aug 2007	T. E.	Surfing	Marina State Beach, CA	Survived
27 Sep 2007	S. S.	Surfing	Moonstone Beach, Humboldt County, CA	Survived
30 Sep 2007	A. S.	Surfing	Santa Monica Beach, CA	Survived
7 Oct 2007	S. B.	Surfing	Venice Beach, CA	Survived
7 Mar 2008	T. L.	Surfing	Dog Beach, Huntington Beach, CA	Survived
25 Apr 2008	D. M.	Swimming	Fletcher Cove, Solana Beach, CA	Fatal
21 Jun 2008	B.P.	Kayaking	West Cove, Catalina Island, CA	Survived
8 Sep 2008	K. K.	Surfing	Surf Beach, Santa Barbara County, CA	Survived
20 Dec 2008	T. J.	Kayaking	Dillon Beach, CA	Survived
6 Apr 2009	R. A.	Diving	La Jolla, CA	Survived
11 Jul 2009	B. H.	Paddleboard	San Onofre State Beach, CA	Survived
25 Aug 2009	B. E.	Swimming	Terramar Beach, Carlsbad, CA	Survived
30 Aug 2009	C. H.	Surfing	Huntington Beach, CA	Survived
24 Oct 2009	S. B.	Surfing	San Onofre State Beach, Trail 5, CA	Survived
5 Nov 2009	E. G.	Surfing	Lagunas, Santa Cruz, CA	Survived
16 Nov 2009	J. W.	Fishing	Loch Lomond, San Rafael, CA	Survived
2 Jul 2010	D. C.	Surfing	Silver Shoals at Shell Beach (Pismo Beach), CA	Survived
2 Jul 2010	D. B.	Paddleboard	Dog Patch, San Onofre State Beach, CA	Survived
2 Aug 2010	D. S.	Kayaking	5 Nautical Miles off Gaviota State Beach, CA	Survived
14 Aug 2010	A. C.	Kayaking	Bean Hollow Beach, Pigeon Point, CA	Survived
27 Sep 2010	D. L.	Surfing	South Jetty, Umpqua River, Winchester Bay, OR	Survived
22 Oct 2010	L. R.	Boogie Brdg	Surf Beach , Vandenberg AFB, CA	Fatal
28 Oct 2010	S. M.	Surfing	North Jetty, Siuslaw River, Florence, OR	Survived
6 Jun 2011	J. S.	Diving	Reef near Children's Pool, La Jolla, CA	Survived
24 Jun 2011	D. G.	Surfing	San Onofre State Beach, 'Four Doors', CA	Survived
11 Sep 2011	B. R.	Surfing	Samoa Beach, Eureka, CA	Survived
10 Oct 2011	D. N.	Surfing	'The Cove', Seaside, OR	Survived
20 Oct 2011	B. G.	Surfing	South Beach State Park, Newport, OR	Survived
29 Oct 2011	E. T.	Surfing	Marina State Beach, Marina, CA	Survived
22 Nov 2011	H. P.	Kayaking	Pigeon Point, CA	Survived
6 Dec 2011	?	Surfing	Seaside Cove, Seaside, OR	Survived
13 Jan 2012	S. H.	Surfing	Nelscott Reef, Lincoln City, OR	Survived
6 May 2012	?	Paddleboard	near Avalon, Catalina Island, CA	Survived
12 May 2012	J. N.	Kayaking	North of Leffingwell Landing, Cambria, CA	Survived
7 Jul 2012	M. C.	Kayaking	Pleasure Point, Santa Cruz, CA	Survived
31 Jul 2012	J. T.	Surfing	Topanga State Beach, CA	Survived
7 Oct 2012	G. P.	Windsurfing	Davenport Landing, CA	Survived
23 Oct 2012	F. S.	Surfing	Surf Beach near Ocean Park Beach, CA	Fatal
30 Oct 2012	S. S.	Surfing	"Bunkers" North Jetty, Humboldt Bay, CA	Survived

25 Jun 2013	M. F.	Kayaking	Linda Mar Beach, CA	Survived
17 Aug 2013	W. Z.	Surfing	Pillar Point, Half Moon Bay, CA	Survived
31 Aug 2013	N. K.	Swimming	Butterfly Beach, Santa Barbara, CA	Survived
8 Oct 2013	J. S.	Surfing	"Bunkers" North Jetty, Humboldt Bay, CA	Survived
22 Nov 2013	A. G.	Surfing	Gleneden Beach, OR	Survived
5 Jul 2014	R. J.	Surfing	Oceano Dunes State Beach, Morro Bay, CA	Survived

Statistics compiled by Ralph Collier, Shark Research Committee
<http://www.sharkresearchcommittee.com/2000.htm>

Please consider the foreseeable hazard this beach closure project at Children's Pool will create in La Jolla and deny approval of this project. Require the City of San Diego to reconsider its beach management policies when they attempt to close public land for the exclusive use by seals that attract increasing numbers of sharks. The Children's Pool can be managed in ways that do not endanger human lives.


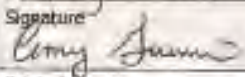
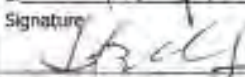

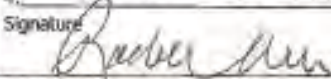
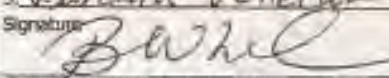
Sincerely,



Kenneth L. Hunrichs

San Diego, CA

Petition to the California Coastal Commission and San Diego City Council: Preserve human access and enjoyment of the Children's Pool in La Jolla, CA

 Petition summary and background	<p>Eco-groups and "friends of the seals" have orchestrated a campaign of harassment and intimidation against divers, fishermen and the beach-going public for over a decade now. Actions such as throwing rocks, spitting, stealing, vandalizing, punching, shoving, yelling profanity and even assaults with a stun gun perpetrated by animal-extremists against beach-goers and tourists are commonplace and often ignored by the police and the City of San Diego. Additionally, despite court orders and in violation of state law, the City of San Diego has continuously ignored its obligations to the citizens of the State of California and residents of San Diego. These obligations are set-out in the so-called Children's Pool Trust and the State Constitution. Among these obligations is the guaranteed right of "convenient access" to the Children's Pool beach for fishermen. Despite this constitutional right to access, the City has, in the past, closed this beach and continues to post rope barriers and warnings across the beach. The City has even sought to outright close the beach and pool for part of the year in violation of State law and the Constitution.</p> <p>Unfortunately, what was once recognized as a true San Diego treasure and originally built primarily for a Children's bathing pool and playground has been neglected and virtually destroyed. Hollywood once shot movies there. Detroit shot a car commercial at the Children's Pool. The first permanent San Diego Lifeguard Station was constructed there. National Geographic once wrote of the Children's Pool: "Even Alice, fresh from Wonderland, would have gasped at the landscape spread below me". However, we have a lifeguard station which has been condemned. We have "port-a-potties" on the sidewalk. The sea wall and stairs are literally crumbling. The cliff-side has collapsed onto the beach and undermined the sidewalk. Extremists populate the sidewalk shouting obscenities at anyone with the temerity to step foot on the beach. The City Police Department has a special "policy" not to enforce many City codes and ordinances at the Children's Pool. The sand is polluted with seal feces. This San Diego treasure has nearly been lost.</p> <p>A proposal to either close the beach and/or further encroach on public access is before the Coastal Commission and San Diego City Council.</p>		
Action petitioned for	<p>We respectfully petition that the rights of the citizens of the State of California be recognized and the Children's Pool beach remain open and be quickly restored to its original condition. Please do not allow this treasure entrusted to us from previous generations to be destroyed and sold to environmental activists. Keep the Children's Pool open! Do not approve any proposal to close or limit access at the Children's Pool beach.</p>		
<p>NOTICE TO THE PUBLIC THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.</p>			
Printed Name 1. Amy Guinn	Residence Address Only 3998 Ramblwood Dr. City <u>Murietta</u> State <u>CA</u>	Official Use Only	
Signature 			
Printed Name 2. Seth Spaul	Residence Address Only 7546 La Jolla Blv City <u>La Jolla</u> State <u>CA</u>	Official Use Only	
Signature 			
Printed Name 3. Carol G. Lurmo	Residence Address Only City _____ State _____	Official Use Only	
Signature 			
Printed Name 4. RACHEL WELSH	Residence Address Only 7777 Lookout Dr City <u>La Jolla</u> State <u>Ca</u>	Official Use Only	
Signature 			
Printed Name 5. Barbara Wheeler	Residence Address Only 7660 Fay Ave # H-186 City <u>La Jolla</u> State <u>Ca</u> 92037	Official Use Only	
Signature 			
<p>DECLARATION OF CIRCULATOR</p> <p><u>SAN DIEGO</u> I, <u>DAVID PIERRE</u> (print name) declare that my residence address is in _____ County California, and I am a registered voter in <u>San Diego</u> County, and I personally circulated this initiative petition for signing, and I further state that I witnessed each of the appended signatures on this initiative petition being signed, and to my best information and belief, each of the signatures on this initiative petition were obtained by the State (City/County) _____</p>			

Re: CDP #6-14-0691

LCP-GLJS-14-0607

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JUL 21 2014

What I will miss if Childrens Pool is closed.

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

The seabed just to the north of Childrens Pool (just past Seal Rocks) is a jumble of boulders and huge rock blocks broken from the adjacent cliffs. These rocks are covered with a wide variety of marine growths accompanied by a multitude of vertebrate and invertebrate life (at least, before the proliferation of seals in the Childrens Pool area). This chaotic and picturesque area was easily accessible from the Childrens Pool and did not involve a dangerous put-in from rocky Boomers Beach or combat the swirling currents just south of the Childrens Pool or an arduous swim from the Cove. I believe there is no other underwater scenic area that is this beautiful with an easy access elsewhere on the San Diego coast.

Edwin Hookin

Edwin Hookin
5946 Wenrich Drive
San Diego CA 92120

July 15, 2014

Coastal Commission

7575 Metropolitan Drive Suite 103

Shemlyn Sarp Deputy Director

RECEIVED

JUL 21 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Childrens' Pool

CDP # 6-14-0691 LCP-6LJS-14-0607

Was I lucky or unlucky since I know the difference between
now and then?!

In the early 40ys I got my first chance at swimming and exploring this beautiful beach. It was spectacular with translucent green water complete with an ecosystem that was phenomenal. It included large pink and green anenomes, many species of star fish, octopi, crabs to follow and examine. (I was enthralled with those hermit crabs that looked like walking shells) and an occasional passing small seal. I wasn't a snorkler yet so I and the other kids chased around peering into pools at the plants and baby fish. We were learning to swim even as we often faked it by putting our hands on the bottom and kicking our feet.

Later when I had become a swimmer/snorkler I could enjoy colorful sea plants and algae and multitudes of baby fish, some colorful and others like silvery drops of rain sparkling in the water. There were innumerable species of fish to watch and enjoy. Swimmers and divers came from afar to enjoy the sights. San Diego and La Jolla specifically was on the map for beauty and for a place to be active. Obesity would certainly be encouraged if spectator sports were to become the preferred way to enjoy the seal

Now the seals have become a force with which to be reckoned! They are hungry, consuming approximately 15% of their body weight in fish per day and leave their excrement to pollute the once clear water. Not only are people left high and dry but all the fish of the area are being wiped out! It reminds me of people feeding squirrels and having to poison them. Let nature take care of the biodiversity balance that is so fragile at our "childrens' pool".

Please keep access for people including disabled via the ramp.

Sincerely,
Donna M. Gookin
(San Diego native)

From: [John Miller](#)
To: [Laven, Brittney@coastal](#)
Subject: Background Info - CCC hearing on Children's Pool Closure Attempt
Date: Thursday, July 24, 2014 7:28:07 AM

Brittney: I submit the following recital of fact, for the edification of the CCC members involved in this issue. I also attach a copy of this Word 2000 document, for your convenience. Thank you for your attention.

7/23/2014

To:
California Coastal Commission c/o brittney.laven@coastal.ca.gov,
Diana.Lilly@coastal.ca.gov
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

CDP # 6-14-0691, LCP-SLUS-14-0607-1

Honorable Commissioners:

Children's Pool was formed by the construction of a seawall on an existing rock reef on the northwest corner of La Jolla, a suburb of San Diego generally recognized locally as one of the wealthiest, least polluted, and most scenic of San Diego. It was constructed at the behest of Ellen Browning Scripps, in the early 1930s, adjacent or on her property at that time. It was left in trust to the people of San Diego, on the condition it be maintained for it's primary purpose, a bathing pool sheltered from the swells of the very exposed coast from La Jolla Cove to it's north, all the way south to Pacific Beach. Even La Jolla Cove, sheltered by it's orientation, is not as safe a haven for children, in the case of a swell, which may wrap around Boomer Beach to it's south, and break directly into the Cove. I have seen 6 to 8 foot swell breaking in the Cove. My primary interest in the Children's Pool is it's security as an entry /exit point for shore diving the many pocket reefs scattered around it, as well as the extensive Casa reef upon which the wall is built. I have been an independent scuba instructor, teaching in the San Diego YMCAs for more than 25 years. Children's Pool has been widely regarded as the go to entry/exit point in the area, because, in addition to physical safety, the only showers and restrooms from the cove to pacific beach are located here. Additionally, as a currently handicapped victim of degenerative joint disease, Children's Pool offers the easiest entry/exit point to a placid section of water inside the wall, in spite of the extensive stairs there. A very small investment in refurbishing the ramp that used to be maintained there would restore the best ocean access point that exists in San Diego. This is also important to what is often thought to be the largest collection of handicapped military veterans that exists in the United States. Children's pool alone could also support a significant industry catering to the large disabled persons population, who desire ocean access.

Unfortunately, the City of San Diego has done it's best to renege on it's responsibilities to Children's Pool, and the children and disabled of San Diego. Apparently at some point during the tenure of Mayor Susan Golding, in the 1960s, someone in authority had decided that perhaps the merchants and restaurateurs of La Jolla were more deserving of support. A

plan was conceived to create a harbor seal colony on the near offshore rocks commonly referred to as seal rocks, slightly north of Children's Pool, off Shell Beach, the next semi developed and totally exposed beach. The city sidewalks were rebuilt, to afford a widened observation area there. Sea World, who had been releasing the seals brought to them for rehabilitation off Point Loma, where another generally unrecognized rookery was thriving, started to release harbor seals off the Children's Pool/seal rock area. Tourists strolling off their dinners at nearby downtown La Jolla were entranced. A provisional seal refuge was granted for several years at seal rocks. Groups such as "Friends of the Seals" found it lucrative to set up their fund raising tables on the sidewalks overlooking the rocks and pool. In what I hope was a genuine effort to enhance public safety, the lifeguards started roping off a big chunk of Children's Pool. I believe nearly 15 years of these activities greatly enhanced the number of seals at Children's Pool. I believe the current population of seals to exceed 300. The trial period of a Seal Rock Mammal Reserve was allowed to expire without attempt to make it permanent. I believe the Friends of the Seals group then had their eyes on a larger prize. Their stated goal is to close all beaches on which seals/sea lions haul out. Children's Pool, the Cove, and South Casa are their next targets.

The only Marine Protected Area in San Diego has been for years from the left side of the Cove, extending north toward the Scripps Pier. It had been for years considered too small. Recently, almost 10 years after it passed the California legislature, a marine protected area was established from Palomar St. (blocks south of C.P.), to Pacific Beach. These two marine protected areas are the only ones in San Diego. They were established to try and reestablish the ravaged marine environment. Where do you think our children's pool seals and their Sea Lion buddies now feed?

As if this is not more than enough, California Sea Lions, a larger pliniped, seems to have been encouraged by the harbor seal population nearby, and started both hauling out and pupping at the bird refuge at the Cove, and on the peninsula north of that (In front of the Cave Store), as it was less frequented by people. This is because the whole peninsula, popularly known as the "Clam", was undercut by a large sea cave, and threatening to collapse. The city response here was quite different. As the upscale eateries and hotels above started losing money due to the stink attendant to these sea lion haul outs, the same city eager to close children's Pool to the public, now sought to placate outraged nearby merchants, by encouraging public access to the formerly fenced off areas of the bird sanctuary, in order to reduce the smell, and encourage public return to the tourist traps above. I believe an effort has been made to clean the rocks there, also. No doubt at taxpayer expense. I guess the only proximate neighbors to Children's Pool, an old folks home across the street, have not been vocal enough, as it is equally rank downwind of Children's Pool. The State, when they bother to test the water off the end of the wall at the pool, have on previous occasions closed that area to water contact, due to bacteria exceeding state health standards. Those bacteria have been shown through genetic testing, to emit from harbor seal alimentary tracts.

San Diego has done it's best over the years, to neglect it's responsibility to maintain Children's Pool under the terms of the trust by which they received it. Decay due to neglect at the former lifeguard tower/restroom/shower complex there, (which maintains visual contact and responsibility for the stretch of Beach from Boomer in the north to what is locally known as Hospital Point in the south, including Shell, South Casa, and Wipeout beaches), forced lifeguard surveillance for several years to occur only from an elevated tower and temporary buildings that occupied almost all the formerly public space above Children's Pool, and next to the

inadequate for seal viewing crowds parking flanking it. No effort, by the way, has been made to improve driving access to, or parking at the Pool. A series of court challenges failed to reinforce the city position, and they had to resort to a state legislature bill to escape living up to the terms of the trust, insofar as maintaining the Pool and it's infrastructure. That bill only added the function of marine mammal viewing area to the existing uses of beach access, fishing, and protected children's water access. It is only the city that seeks to close the beach to all but marine mammal viewing. NOAA has issued a statement denying San Diego need close any beach to protect any pinnepeds. San Diego has made no attempt to research any other alternative solutions. A "lifeguard plan" proposed by those closest to the beach has been ignored. An "environmentally sensitive area" declaration has failed. The city has refused to fund an environmental impact report. Court orders have been bypassed with a Legislative end run. The restrooms currently consist of street level portapotties, and two if not all three of the formerly functioning showers do not now function. With Children's Pool closed, there would be less reason to ever reopen them. If San Diego is allowed to close Children's Pool for pupping season (which they claim to be longer than many recognized authorities state), the rest of the year, and neighboring beaches will be next. Other cash strapped California cities may see closing beaches as an answer to their various problems, if you set this dangerous precedent.

Harbor seals are naturally timid animals. Neither they nor seal lions, nor any other pinniped are even threatened anywhere on the West Coast. Their populations have exploded and created many similar situations in San Francisco, Monterey, LA county, and elsewhere in California. It is only because ropes, signs, and intimidation of the public has occurred at Children's Pool, along with the nearby marine protected area's source of food, and artificially releasing people habituated animals for years that we inherit the current situation. I believe intimidation of divers has reached the point at the pool where divers forgo the safety of exiting large surf conditions during our winter months of lobster season solely due to perceived harassment from the uninformed and misled people that often surround the pool. I have been jeered at and acoustically harassed at midnight there. Lobster diving frequently occurs at night, as they are out of their hiding places to scavenge. Please deny San Diego's attempt to manipulate the situation for the benefit of the few, and to the detriment of the many, before the next logical, predictable event occurs. When a population of animals swells, the next population to swell will be those that prey on them. We San Diego divers never used to observe sevengill sharks, and only juvenile, fish eating great white sharks commonly inhabit our waters. The adult, seal eating great whites have confined themselves to the seal rich areas off San Francisco. Seven gills are now common here. Normally docile, they have been observed in Oregon aquaria to bite in half 5 foot leopard sharks. We have documented a few adult great whites off San Diego. An artificially inflated population of their prey can only lead to the leading area of shark attacks in the world moving a little south. The situation at the pool has been bad for years, closure will only make it worse.

All of the statements I have made above are verified facts, which I can substantiate. I have left off footnotes to simplify your understanding of the situation. I attended a meeting with your staff in San Diego recently. The questions we asked them made it clear they did not have a good grasp of the facts then. Please read the public input, and listen carefully to the comments that will be made August 13th, in Pacific Beach. Consider the source. The backers of San Diego's closure greatly outnumber, are better financed, and organized than my fellow opponents. An unbiased review of the facts will lead to only one conclusion. Thank you for your attention.

Philip Miller, RN
6317 Brooklyn Ave
San Diego, CA 92114
(619) 266-9504

California Coastal Commission
San Diego Coast District Office
Sherilyn Sarb, Deputy Director
Deborah Lee, District Manager

7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

RECEIVED

JUL 24 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Coastal Commissioners,

Please accept the following on behalf of the San Diego Freedivers 150+ members and long history of ocean stewardship in our local areas. We trust you will give great consideration to the deep reaching implications regarding the upcoming vote to close the Children's Pool in La Jolla. These decisions will have a drastic effect on the lifestyles and deep rooted traditions held by our diving community. La Jolla is the global birth place of modern diving and this legacy deserves to be honored alongside the wide variety of other reasons why beach access is important to many different user groups living in and visiting La Jolla each year.

Please remind the city of San Diego that these closure tactics are not appropriate and will not be supported. San Diego has created this crisis by its own mismanagement and feigned incompetence to force the CCC into a corner, and the Commission need not tolerate it. San Diego must be told: *"Go back and talk to your community advisors and local groups and stake holders and ocean users. Try alternatives. Solve your problems yourself within the confines of existing State laws. If that is truly impossible then go to the legislature. If we have an emergency then bring it to us as such with the evidence.* Despite what you may have heard, there is no effort to make our seals leave. Seal presence is protected by State and Federal law and we like them. The only authorized agency allowed to protect seals has endorsed shared use on our beach. (See attached letter from NOAA)

San Diego wants to create a new loophole in the Local Coastal Plan system to allow singular removals of historic guardianship of public tidelands access. The Coastal Commission needs to protect itself and the people of California in August. San Diego's problems are self-inflicted and no emergency requires the CCC to intervene. The Harbor seals that have taken up residence in La Jolla have been there since the 1990's.

Below are 9 reasons to disallow piecemeal removal of constitutional access guarantees on a California public tideland.

(1). San Diego officials are asking the CCC to approve violations of the 1931 Children's Pool land grant trust, the Marine Mammal Protection Act (109a – see attached) and key sections of the Coastal Act and the California State Constitution. [Art 1, Sec 25] –

"California Constitution Article I Declaration of Rights Section 25.

The people shall have the right to fish upon and from the public lands of the State and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon; and no law shall ever be passed making it a crime for the people to enter upon the public lands within this State for the

purpose of fishing in any water containing fish that have been planted therein by the State; provided, that the legislature may by statute, provide for the season when and the conditions under which the different species of fish may be taken."

(2). The Coastal Commission must consider the balancing section of the Coastal Act under 30007.5 when evaluating a most significant resource: human safety and public access.

(3). Without an Environmental Impact Report (EIR), foreseeable and cumulative ecological consequences have been ignored. This violates CEQA and NEPA policies.

(4). Scientific data requiring or even supporting closure does not exist. NOAA/NMFS rejected any need to close the Children's Pool Beach to comply with the MMPA. Scientific studies, from the City's own consultants, cited "minimal disturbance of harbor seals at Children's Pool from typical human activity without harm"

(5). Allowing a City to strip a public tideland of access protection in its LCP removes CCC jurisdiction with no way to get it back. This sets a new, lowered standard for beach closure for all of California.

(6). This City plan misuses Coastal Act Section 30230 as if an artificial urban beach were an ESHA. A man-made beach formed behind a protective concrete seawall is not a natural habitat and alters nature to create animal dependence on human supplied shelter. Harbor Seals are not depleted, threatened, or endangered, or under State jurisdiction.

(7). Less drastic alternatives should be tried before beach closure. San Diego has ignored known alternatives and striven to fail at shared use, to create a useful crisis. Check the Lifeguard Plan, which the City has ignored for 2 years.

(8). A beach closure would reverse the 2001 Commission's ruling against any permanent seal reserve in application 6-00-126 for a permanent seal reserve in La Jolla on trust protected public recreational tidelands. (See attached - Regular Calendar Staff Report & Preliminary Recommendation).

(9). City politicians presented this latest beach closure plan as the next step in a series without revealing the obvious next steps. Seals are pupping on other public beaches in San Diego. Will those beaches be closed next?

Please don't allow the closure of the Children's Pool beach in La Jolla. That would be against every ounce of why it was created in the first place and is not necessary for the health of the eco-system.

Sincerely,



Ryan Sweeney

San Diego Freedivers - President

Subject: [No Subject]

From: Melinda Merryweather (mbeherenow@sboglobal.net)

To: Mbeherenow@sboglobal.net; kenhurrichs@cox.net; brittney.laver@coastal.ca.gov;

Date: Sunday, July 20, 2014 1:12 PM

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JUL 21 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

AttnBrittney Laver: And to All Commissioners

This has to do with CPD#6-14-0691, LCP-6LJS-14-0607-1

I am writing to ask you NOT to close our Childrens Pool in La Jolla.

The Pool is part of our history and fabric in La Jolla, my grandmother swam in the pool so did my Mother, I taught my son to swim there, and now is the time for my grandchildren.

The community of La Jolla has asked for over 15 YEARS to give our pool BACK to the CHILDREN.

If you chose to close the pool YOU will CHANGE the HISTORY OF CALIFORNIA. Any one at any time can say a seal was born on any beach, and you will HAVE to close that beach because you did it in La Jolla.

You will forever be responsible for this very BAD decision.

ALL of you are on the Commission to PROTECT public access NOT to take it away!

Respectively submitted Melinda Merryweather.

Please Make SURE Every
Commissioner get A Copy —
Thank You.

Melinda Merryweather
858-454-5939

July 21, 2014

California Coastal Commission, San Diego Coast District Office
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402
Attn: Brittney Laver & Diana Lilly

RECEIVED

JUL 22 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Commissioners and Staff,

Now in your hands is honoring the very heart of the California Coastal Commission's mission: to "Protect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations. This letter is a plea to retain an open beach at the Children's Pool, fully accessible to man and beast in the best interests and health of both.

This letter disputes the agenda presented to your local staff by the City of San Diego in their request for a permit to close La Jolla's Children's Pool for part of every year – permanently!

Remarkably, the City's reason's for requesting this closure has absolutely no basis in fact.

UNPROVEN ASSERTIONS FOR CLOSING THE CHILDREN'S POOL TO HUMANS

Seals need the Children's Pool beach for pupping – FALSE.

FACT—SEALS PROCREATE & BIRTH IN THE WATER, HAUL OUT ROUTINELY ON ROCKS.

Seal population at Children's Pool will self-regulate at 250 animals. – FALSE.

FACT—A MIGRATORY POPULATION OF 600 SEALS AT CP IS DOCUMENTED BY SCRIPPS SCIENTISTS. SEALS & SEA LIONS ARE STARVING AFTER CONSUMING MULTIPLE SPECIES.

Humans on the beach cause premature seal births. – FALSE.

FACT—NOAA PUTS NATURAL INFANT SEAL MORTALITY AT NEARLY 50%.

Seals bring tourists and improve San Diego's economy. – FALSE. (undocumented!)

FACT—SAN DIEGO'S CLIMATE, OCEAN ACCESS, SCIENCE CENTERS, THEATERS & ACTIVITIES DREW GLOBAL TOURISM LONG BEFORE SEALS ARRIVED.

Coastal beaches other than CP are safe for child & handicapped swimming. – FALSE.

FACT—CP'S SEAWALL ENSURES COASTAL SAFETY BY BLOCKING RIP CURRENTS & WAVES.

Shared beach use by humans & seals is unworkable. – FALSE. WHY?

FACT—ALTERNATIVES TO CP CLOSURE EXIST! 1) SHARED USE. 2) THE LIFEGUARD PLAN FOR MOVABLE SEAL BOUNDARIES. 3) Sherry LIGHTNER PLAN FOR COMPREHENSIVE COASTAL MANAGEMENT. Please see the accurate truths presented on the next page.

The effort to block beach & ocean access defies the coastal plan (Section 30230), intrudes on the Commission's authority to protect State's rights and is a dangerous, irreversible precedent. Traditional use and law protect ocean access.

Other planned beach closures will follow unless a CCC ruling ends it now!

CALIFORNIA'S THREE ORGANIZATIONS THAT ENSURE COASTAL ACCESS

California Coastal Conservancy: protect, restore, and enhance coastal resources and provides access to the shore.

California Coastal Trail: public trails for walkers, bikers, equestrians, wheelchair riders and others along the 1200-mile California coastline ... for preservation and responsible access. **California Coastal Commission:**

Protect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean.

COMMUNITY OPINION IN SUPPORT OF OPEN BEACH ACCESS AT THE CHILDREN'S POOL

Rejection of the Coastal Commission's staff recommendation for Children's Pool closure

- Three local organizations are designated to provide the City of San Diego with oversight of local issues. These organizations are 1) La Jolla Community Planning Association, 2) La Jolla Parks and Beaches, Inc., and 3) La Jolla Town Council. Officers and Directors of all three organizations have rejected seasonal closure of the Children's Pool beach and a majority has voted in favor of shared used by humans and marine mammals.
- Local residents care so deeply about Coast Boulevard at the Children's Pool site and beyond, they have instituted and are privately funding three rebuilding and repair projects to improve those sites. The projects are 1) the Cove Pavilion, a rest area construction at La Jolla Cove, 2) Children's Pool Walk, a sidewalk safety and view expansion project, 3) Whale Watch Point, an eight-part coastal access and environmental improvement development.

The local news publication, *La Jolla Light*, published a write-in poll of this issue, and a majority of respondents voted in favor of open beach access for all.

United States Senator Scott Peters has written to advocate your "protection of our treasured coastline, . . . provide public access, and take into account appropriate rules and regulations."

NOAA "prefers education and does not want to see the beach closed to people."

The local RAMP/COAST organization, which advocates for the handicapped, says, "the Children's Pool, our only safe ocean pool into the real ocean, is great for toddlers and families, the elderly, and wheelchairs! Calm water, the only dedicated ramp on the La Jolla Community Plan. Our Challenged Athletes can roll right in and swim; Wounded Warriors can heal, disabled children can snorkel and see a real sea star like at no other place on the Coast, the elderly love the ramp into the calm ocean pool and healing water therapy.

**HARMONY CANNOT BE LEGISLATED, BUT
THE LAW AND TRADITIONAL LAND USE
ARE IN YOUR HANDS TO HONOR.**

With hope for your careful attention and support for access.

Rueylin Minick

Regarding Billings Park Access to all families
To All Our Great Community - Cale

Please save C.P. -
because people with
broken legs need a
ramp. I can not swim
in surf. It is for
children and me!

Thank you,
Cale Aspenleiter
5 years old

7/18/14

JUL 22 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

B6

U-T SAN DIEGO | EARLY WEEKEND | SUNDAY • JULY 20, 2014

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Letters/Reader
Outreach Editor

Steve Brinn
Editorial Cartoonist

Online: utsandiego.com/news/opinion
Letters to the editor: letters@utsandiego.com

On Children's Pool: Remember disabled

The Coastal Commission will meet in San Diego in August to decide whether to close the Children's Pool during seal pupping season. The pros and cons, along with the facts and fiction of both sides, are well documented.

I have my own opinion, but it doesn't matter. What does matter is that if the Commissioners vote to support seasonal closing, it will be the worst example of discrimination they can show against persons with disabilities. Seals are not endangered. They freely roam California's coastline. But there are thousands of disabled individuals who cannot swim in the ocean because there is no safe and easy access point. The Children's Pool is that single access.

The City of San Diego is spending millions of dollars to upgrade the lifeguard towers at the La Jolla Cove and Children's Pool. As required by law, there will be handicapped facilities. This means a person in a wheelchair can go to the bathroom, but can only watch from afar able-bodied persons swimming in the ocean. This is a direct violation of the Americans with Disabilities Act, which specifies that persons with disabilities must be given the same opportunities as able-bodied individuals. To close the Children's Pool would be a slap in the face to citizens with disabilities, especially Wounded Warriors, who would benefit from the therapy of floating in the ocean, forgetting for a few moments that they no longer have arms or legs.

Maxine Baker
San Diego

Maxine Baker



Power Scuba

12546 Heatherton Court #41

San Diego, CA 92128

powerscuba1@gmail.com

858-345-0078

PowerScuba.org

June 29, 2014

California Coastal Commission

RE: August Meeting Agenda Item LA JOLLA CHILDREN'S POOL

RECEIVED

JUL 17 2014

NOTE: This document has been sent to the Staff of the California Coastal Commission

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Honorable Commissioner and Chairman Steve Kinsey:

I am writing to you in my capacity as President of Power Scuba, a scuba diving organization with over 2300 members.

This letter is in reference to the proposal by the City of San Diego to close citizen access on a seasonal basis to the beach area known as the "Children's Pool" in La Jolla, California.

The intent of this letter is to voice strong opposition to the said proposed closure of the Children's Pool. As will be discussed, such an extreme measure would be based on no peer-reviewed scientific studies, no sound marine management planning, and an incorrect interpretation of applicable law and regulations. Furthermore, acceding to the City's request would have serious consequences for ocean users and the disabled.

There is no scientific basis to assert, as advocates of Closure have done, that the harbor seals found at the Children's Pool are adversely affected by their proximity to urban civilization and interactions with humans. Like the Northern Right Whale Population off New England, the Children's Pool Harbor Seals may be considered to be "Urban Seals" that have adapted rather well to the noise and inevitable disturbances inherent to their location. There is no doubt that these seals would probably be more successful as a population if they lived far removed from modern cities, but there is no scientific evidence that human interactions have caused observable harm.

To be sure, there have been cases of reported harassment, but this is a matter of a few uninformed or immature individuals, and is easily preventable with adequate law enforcement. Closure of the facility would have little to no effect on the behavior of a handful of such persons. It should be borne in mind that if the City wishes to promote the seals as a tourist attraction, such incidents are unavoidable without proper enforcement, which is currently lacking.

Harbor seal populations in California have been steadily growing since the 1940's. Official estimates now put the total California population at approximately 34,000 individuals. Advocates of Closure often point out that growth rates of the population have been decreasing, but this is perfectly normal, in that species' populations in nature grow according to a logistic growth curve, in which growth rates level off as populations near the so-called "carrying capacity" of their environment, which seems to be the case for this species. It may be that prior to the presence of Europeans on the California coast, the carrying capacity was greater, but consistent with the concept of shifting baselines, the present environment along the California coast sadly does not support a return to such historical levels.

The City of San Diego has been advised by your Staff that closure cannot be based upon the designation of the Children's Pool as an ESHA, but that Closure could be based upon a finding that the Children's Pool seal population constitutes a "special" population, either in terms of its unique importance to the species, or to its great economic significance to the community. Any such finding would be grossly mistaken: at present, NMFS estimates suggest that there are between 400-600 harbor seal haul-out sites in California. Many are much larger than that at the Children's Pool. Although the migratory nature of this species makes it difficult to assess the size of any "resident" population, the most reasonable estimate is that there are less than 100 residents seals at the Children's Pool. It is a small colony, and it is not in any way unique: there are multiple nearby haul-out sites at both the Coronados Islands just below the Mexican border, and many more at the California Channel islands. Seals found at the latter locations are often observed "visiting" at the Children's Pool, (which often leads to vast overestimates of the resident population), and it is believed that Children's Pool residents often travel to other haul out sites.

Nor can it be concluded that the harbor seals of the Children's Pool have significant value to the local economy. Though the City likes to promote the seals as a tourist "attraction" there is no data to support the assertion that they represent clear and significant value. Tourists come to San Diego for many reasons, but the seals are at best a tertiary motivation. Most tourists learn about the seals only after arrival in San Diego, perhaps at Sea World, or from their hotel or tourist bureaus. To close off the Children's Pool to citizens based upon a belief in the value of the seals to the local economy would be risible. Thus, Closure on either of these grounds would be an incorrect application of law and state regulations.

From the standpoint of marine management, the presence of the seals, especially when large numbers of "visiting" seals arrive, is clearly problematic. Seals forage locally and have likely played a major role in the depletion of coastal reef fishes. Moreover, their waste products have fouled local waters with large bacterial and viral outbreaks, at times forcing closures of beaches as a matter of public health. Such unhealthy waters have caused great mortality to the benthic invertebrate community as well. Harbor seals are prey to Great White Sharks. The connection between a harbor seal colony at the Children's Pool and shark predators is unclear, but sightings of White Sharks, though still uncommon, appear to have become more frequent. Attacks upon humans by these predators are considered to be a case of mistaking the person for a seal, but any such incidents would drastically reduce the appeal of our coast for tourists and residents alike.

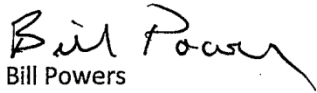
Finally, the Commission should carefully consider certain consequences of the proposed Closure. The land and structure at the Children's Pool was deeded to the City for the express use of humans, as a place where children and others might safely enjoy the ocean. Though the City has engaged in various legal maneuvers, (as well as defying court orders to avoid its responsibility for maintaining the property in satisfactory condition) in order to alter the trust, the Commission should not be party to such a violation of the original terms under which the property became public property. Furthermore, the Children's Pool has for many decades been a safe haven for those finding themselves in suddenly dangerous sea conditions. Many swimmers and divers have found themselves confronted with large and unexpected surf, and have used the Children's Pool as a place to safely exit without serious injury. Closure would deprive all ocean users of this safe harbor. Finally, the Children's Pool is unique as a human facility in that it alone affords access to the ocean for disabled Americans, including many veterans of foreign wars. Wounded Warriors who have lost limbs can reach the water and swim in a therapeutic environment if access to the Children's Pool is encouraged, and the facility renovated. Closure might well be found to be a violation of the Americans with Disabilities Act. At a time of scandal within the Veterans'

Administration, it would be horrific if the California Coastal Commission, breaching the traditional constitutional rights of all Californians to beach access, were to slam the door in the face of those who have faithfully served their country.

Closure of the Children's Pool would be an extreme measure inconsistent with California law and tradition; it therefore must be justified by clear and present need in the interest of the public. But, no such need exists.

I therefore urge you to reject the proposal to close public access to this historic, but also very contemporary, public resource.

Sincerely,

A handwritten signature in black ink that reads "Bill Powers". The signature is written in a cursive, slightly slanted style.

Bill Powers
President
Power Scuba

July 12, 2014

RECEIVED

JUL 18 2014

Dear Commissioner Chairman Kinsey:

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Please vote to keep the Children's Pool open year-round for these reasons:

- 1 Following through with the San Diego City Council's recommendation to close beach access to the Children's Pool during seal pupping season sets a dangerous precedent for future public beach closings along the entire California coastline.
- 2 Closure would violate California's constitution that says all beaches must be free and open to the public.
- 3 Closure would violate the trust in which Ellen Browning Scripps provided money to build a retaining wall to create a safe place for children to learn to swim.
- 4 People were there first. The beach was created by the retaining wall paid for by Mrs. Scripps. The City Council is turning a public beach that was specifically built for children into a seal rookery.
- 5 There is no proof that the public is endangering the mortality of seals by being on the beach at the same time.
- 6 Seals are polluting the beach with feces and after-birth and making it unsafe for humans to swim in the ocean.
- 7 The City Council has not conducted an Environmental Impact Report that examines the presence of seals on the nearby marine environment.
- 8 Seals can live on any of the more than 400-600 other seal haul-out sites along the California coast, while this is the ONLY safe beach for persons with disabilities to enter and exit the ocean safely.
- 9 Accepting the City Council's recommendation would clearly be an act of discrimination and a violation of the Americans with Disabilities Act because it restricts people with disabilities from the same opportunity of an able-bodied person --- and that is to swim in the Pacific Ocean.
- 10 The City of San Diego is spending millions of dollars to remodel lifeguard stations and restroom facilities at the La Jolla Cove and the Children's Pool, including providing disability access. It is ironic that disabled individuals can go to the bathroom but they can only watch from afar able-bodied people swim in the ocean.
- 11 Hundreds of military personnel are returning to San Diego's Veterans Hospital for rehabilitation for severed limbs. The Children's Pool is an ideal place for rehabilitation.

Please keep this public beach open to people year-round.

Sincerely,
Maxine Yee Baker
San Diego

Children's Pool Beach Closure Project CDP # 6-14-0691, LCP-6LJS-14-0607-1

Portia S Wadsworth [portia.w@sbcbglobal.net]

Sent: Monday, July 14, 2014 11:35 PM

To: Laver, Brittney@Coastal

Dear Brittney

I oppose deleting public access protection from Children's Pool Beach because . . .it is a public beach #1....Children's Pool was designed for

our children, then and now #2.....it is time for the seals to move to the open, wild ocean, where they belong and where they long to be #3.... the exponential number of seal pups continues and adds to the excrement and danger of sharks #4....La Jollans who pay property taxes should have a heavy decision in this ongoing travesty (we want our beach back) #5.... the seals have used CP for too many years (rent free); it is time to restore this natural pool with the breakwater back to the people #6....

Warm regards,

Portia S. Wadsworth