



March 10, 2010

Chairwoman Donna Frye
Natural Resources & Culture Committee
San Diego City Council
202 C St.
San Diego, CA 92101

RE: PROPOSAL TO PROTECT LA JOLLA SEALS

Dear Chairwoman Frye:

Thank you for docketing protection of the La Jolla seals on the March 17 Natural Resources & Culture Committee agenda. It is particularly important during an economic recession to support preservation of a free natural and educational resource that attracts tourist dollars and increases support for local businesses. Our proposal involves three simple points:

- 1) **Close the rookery during pupping season as recommended by NMFS and as done in Carpinteria;**
- 2) **Keep a guideline rope up the rest of the year with no gap at the bottom of the stairs; and**
- 3) **Declare that Casa Beach is a marine mammal park, encouraging NMFS to fully enforce the Marine Mammal Protection Act**

Independent, scientific polling conducted by Zogby International as well as Competitive Edge in San Diego have found huge majorities of the public favoring use of this tiny 200 foot beach as a seal watching area, which is surrounded by over 70 miles of swimming beaches.

Attached please find two letters from NMFS requesting that the city close Casa Beach during pupping season, a Union Tribune editorial board endorsement of our proposal, and summaries of the above referenced polls.

Thank you again for taking on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bryan Pease', is written over the typed name.

Bryan Pease, Esq.
Pro bono attorney for
La Jolla Friends of the Seals and
Animal Protection and Rescue League



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Office for Law Enforcement
Southwest Region
501 W. Ocean Blvd., Suite 4300
Long Beach, CA 90802

March 21, 2006

Mayor Jerry Sanders
City Administration Building
11th Floor
202 C Street
San Diego, CA 92101

Dear Mayor Sanders,

I am writing in regard to the marine mammals at La Jolla's Children's Pool and steps we can take to protect them and the people in the community. In the past few months, there have been numerous calls and other communications to NOAA's Office for Law Enforcement (OLE) regarding incidents of marine mammal harassment by the public at the Children's Pool Beach (CPB) in La Jolla, CA. As you know under the Marine Mammal Protection Act (MMPA), §16 U.S.C. 1372 (a)(2)(A), *it is unlawful for any person or vessel or other conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States.* Harassment is listed under the definition of 'take.'

Take means to harass, hunt, capture, collect, or kill, or to attempt to... any marine mammal.

Harassment (Level B) means any act or pursuit, torment, or annoyance which 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 but which does not have the potential to injure a marine mammal or marine mammal stock in the wild.

The CPB receives an estimated 80,000 visitors per month which increases the potential for seal/human interaction. OLE has placed two signs down on the beach which warn the public to keep a safe distance from the hauled out seals and sea lions. While the guidelines are useful, they have not prevented actions that could be considered harassment from occurring at the beach, particularly during pupping season. The OLE has received over 60 HOTLINE calls reporting alleged marine mammal harassment at the CPB since January 1, 2006. The agency responded to these complaints by increasing the number of patrols to the beach, especially on weekends but, resources do not afford us with the ability to maintain a constant presence.



Harbor seals haul out at CPB for breeding, nursing, molting, and resting. The pupping season at the CPB is from January through the end of April. Typically, the pup is born and weaned during the late spring. Nursing usually lasts about 3-6 weeks, averaging about 4 weeks until the pup is weaned. Unlike many other seal pups, harbor seals are able to swim at birth, but harbor seal mothers are very protective and the mother/pup bond is very important, particularly during the time immediately following birth.

California State Parks closed beaches in Arroyo Laguna and Piedras Blancas because of concerns of elephant seals being harassed at sites they are known to haul out to rest, give birth, care for their pups, and molt.

OLE is concerned that the public will continue to harass marine mammals and continue to be subject to citation under the MMPA at CPB. Therefore, we strongly recommend, as well, that the City close the CPB during the remainder of pupping season (through the end of April). The closure during this time will afford the City with time to decide, plan, and place into action a more permanent strategy for the CPB.

In the event you decide against a temporary closing of the beach, as conducted at Arroyo Laguna and Piedras Blancas, consider reinstating the CPB rope barrier that was once in place. Unfortunately, in the past the rope barrier did not deter the "determined" individual(s) from approaching the seals. The rope barrier will provide a clear message for those that have a sincere desire to respect the marine mammals present on the beach, and therefore will provide some level of heightened protection for the adult and newborn seals. The rope barrier will also aid in informing humans when they are more likely to be found in violation of the MMPA and potentially cited. This option has been supported by Susan Davis, Member of the U.S. Congress (House of Representatives).

OLE appreciates and looks forward to a continued opportunity to work with you in assisting you fulfill your goals as well as protect the animals and citizens of our community.

Sincerely,


Donald W. Masters
Special Agent in Charge

cc: Julie Teel, Office of the City Attorney
April Penner, City Manager's Office
Dale Jones, Director, Office for Law Enforcement
Rod McInnis, Regional Administrator, SW Region



UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NOAA FISHERIES SERVICE
Office of Law Enforcement
501 W. Ocean Blvd., Suite 4300
Long Beach, CA 90802
November 30, 2007

San Diego City Attorney's Office
Nina M. Fain, Deputy City Attorney
1200 Third Ave, Suite 1100
San Diego, CA 92101

Dear Ms. Fain,

I am writing in regard to the marine mammals at La Jolla's Children's Pool and steps we can take to protect them and the people in the community. In the past few months, there have been numerous calls and other communications to NOAA's Office of Law Enforcement (OLE) regarding incidents of marine mammal harassment by the public at the Children's Pool Beach (CPB) in La Jolla, CA. As you know, under the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1372 (a)(2)(A), *it is unlawful for any person or vessel or other conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States.* Harassment is listed under the definition of 'take.' Take means to harass, hunt, capture, collect, or kill, or to attempt to... any marine mammal.

Harassment (Level B) means any act of pursuit, torment, or annoyance which 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 but which does not have the potential to injure a marine mammal or marine mammal stock in the wild.

Joe Cordaro, NOAA Wildlife Biologist, advises that harbor seals haul out at CPB for breeding, nursing, molting, and resting. The first full-term pups are usually born in early-mid January. Pups wean from their mothers in approximately 4-7 weeks. The last pups of the season may not wean until the end of May.

The CPB receives numerous visitors each month which increases the potential for seal/human interaction. OLE has placed signs on the landings above the CPB, which warn the public to keep a safe distance from the hauled out harbor seals. While the guidelines are useful, they have not prevented actions that could be considered harassment from occurring at the beach, particularly during pupping season. OLE continues to receive HOTLINE calls reporting alleged marine mammal harassment at the CPB.

OLE is concerned that the public will continue to harass marine mammals and continue to be subject to citation under the MMPA at CPB. Therefore, we strongly recommend, that the City close the CPB starting December 15 through May 30 or, at a minimum, consider reinstating the CPB rope barrier that was once in place. Unfortunately, in the past the rope barrier did not deter the "determined" individual(s) from approaching the seals. The rope barrier will provide a clear message for those that have a sincere desire to respect the marine mammals present on the beach, and therefore will provide some level of heightened protection for the adults and newborn seals. The rope barrier will also aid in informing people when they are more likely to be found in violation of the MMPA and potentially cited.



As in previous years, OLE appreciates your practice of implementing the rope barrier. The rope barrier has been a needed step in the right direction, but closing the beach would make a safer environment for the nursing seals. OLE appreciates and looks forward to a continued opportunity to work with you in assisting you achieving your goals as well as protecting the animals and citizens of our community.

Sincerely,



Donald W. Masters
Special Agent in Charge
NOAA Fisheries/OLE

cc: April Pender, City Manager's Office
Dale Jones, Director, Office of Law Enforcement
Rod McInnis, Regional Administrator, SW Region
Russ Strach, Assistant Regional Administrator for Protected Resources, SW Region

Date: May 11, 2007

To: Bryan Pease
bryan@aprl.org

From: Rebecca Wittman
rebecca@zogby.com

RE: Results from San Diego poll

Survey Methodology: Survey of San Diego California, 5/9/07 through 5/11/07

This is a telephone survey of adults, conducted by Zogby International. The target sample is 602 interviews with approximately 15 questions asked. Samples are randomly drawn from telephone CDs of national listed sample. Zogby International surveys employ sampling strategies in which selection probabilities are proportional to population size within area codes and exchanges. Up to six calls are made to reach a sampled phone number. Cooperation rates are calculated using one of AAPOR's approved methodologies¹ and are comparable to other professional public-opinion surveys conducted using similar sampling strategies.² Weighting by age, race, and gender is used to adjust for non-response. The margin of error is +/- 4.1 percentage points. Margins of error are higher in sub-groups.

Zogby International's sampling and weighting procedures also have been validated through its political polling: more than 95% of the firm's polls have come within 1% of actual election-day outcomes.

¹ See COOP4 (p.38) in *Standard Definitions: Final Dispositions of Case Codes and Outcome Rates of Surveys*. The American Association for Public Opinion Research, (2000).

² *Cooperation Tracking Study: April 2003 Update*, Jane M. Sheppard and Shelly Haas. The Council for Marketing & Opinion Research (CMOR). Cincinnati, Ohio (2003).

Narrative Summary

201. Do you strongly agree, somewhat agree, somewhat disagree or strongly disagree that wild animals should be protected?

Strongly agree	77%		
Somewhat agree	15	Agree	92%
Somewhat disagree	3		
Strongly disagree	3	Disagree	6
Not sure	2		

Most every respondent (92%) agrees that wild animals should be protected, including over three-fourths (77%) who agree strongly. Only 6% disagree.

202. A sea wall was built at the Children's Pool in La Jolla in 1931. It was built on top of what was previously called "seal rock" because harbor seals used it for resting. Since the early 1990's, harbor seals have come back to this area and now use the beach for resting, and they give birth to pups right on the sand every spring. Swimming at this beach can disturb the seals, sometimes causing mothers to become separated from their pups, and is not recommended due to the presence of seal fecal matter. Do you strongly agree, somewhat agree, somewhat disagree or strongly disagree that this beach should be reserved for educational seal watching, and not swimming?

Strongly agree	68%		
Somewhat agree	13	Agree	81%
Somewhat disagree	4		
Strongly disagree	14	Disagree	18
Not sure	1		

San Diego adults are more than four times as likely to agree than disagree that the beach should be reserved for educational seal watching, and not swimming. Four out of five respondents (81%) agree, with two-thirds overall strongly agreeing. Just fewer than one in five (18%) disagree, with disagreement more likely to be "strong" (14%) than "somewhat" (4%).

203. *The City currently maintains a rope barrier on the beach during pupping season, December 15 through May 15, to give the seals space from people. The rope is a guideline, instructing people to watch the seals from a respectful distance. Most people respect the rope even though it is not illegal to cross it. During seven months out of the year, there is no rope, and people often go right up to the seals and end up scaring them away. Do you strongly agree, somewhat agree, somewhat disagree or strongly disagree that the rope should be kept up year round?*

Strongly agree	64%		
Somewhat agree	16	Agree	80%
Somewhat disagree	8		
Strongly disagree	10	Disagree	18
Not sure	2		

A vast four-fifths majority (80%) agrees this rope should be kept up year round. This includes nearly two out of three overall (64%) who agree strongly. In contrast, less than one in five (18%) disagree that the rope should be kept up year round.

204. *Do you strongly agree, somewhat agree, somewhat disagree or strongly disagree that crossing the rope should be illegal during pupping season, which is Dec. 15 through May 15?*

Strongly agree	68%		
Somewhat agree	12	Agree	80%
Somewhat disagree	5		
Strongly disagree	14	Disagree	19
Not sure	1		

Respondents are four times as likely to agree than disagree that crossing this rope should be illegal during pupping season. Four in five (80%) agree, with two in three (68%) in strong agreement. One in five (19%) disagrees, with one in seven (14%) disagreeing strongly.



Public Research

[KPBS Polling](#)
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I've Been Called

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Paid Research Opportunity

Competitive Edge conducts in-person paid research. San Diego County residents only, please complete our Potential Respondent form if you would like to be contacted.

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Poll: 60% Oppose Removing Seals

By [Adnan Florido](#)
San Diego Union Tribune
www.voicesandsd.org
June 24, 2009

Just when you thought every angle of the La Jolla seals ordeal had been exhausted, someone conducts a scientific study.

A survey conducted by the Competitive Edge Research & Communication firm found that 7 percent fewer adults would visit La Jolla children's pool this summer if the city removes the seals that have taken up residence there.

Of the 504 San Diegans questioned, 43 percent said they planned on visiting the children's pool this summer. But only 36 percent said they'd make the trip if the seals are forced out. That 7 percent drop represents about 70,000 fewer visitors this summer, the research firm found.

More than 60 percent of the respondents said they opposed city efforts to get rid of the seals. Twenty-five percent think they should be removed.

The study, which only surveyed adults, broke the responses down by age and gender, and found that, (surprise?), women between the ages of 18 and 34 were most likely to support letting the seals stay, at 93 percent.

Those most likely to want them gone? Old men. (Surprise?) Forty-five percent of men older than 55 supported getting rid of them, compared to 40 percent who said they should be left alone.

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Union-Tribune Editorial

Protect the seals

Saturday, January 16, 2010 at 12:04 a.m.



Lawyer and pro-seals activist Bryan Pease took this photograph Christmas weekend. It shows a lone beach-goer who placed his lounge chair and umbrella across the rope intended to separate people from seals during pupping season at the Children's Pool beach in La Jolla.

SAN DIEGO — The four-year legal battle over seals vs. people at Children's Pool beach in La Jolla having been finally resolved last fall, the controversy now returns to the place where all local public policy issues are supposed to be decided – the City Council. We urge the council to act quickly to protect the seal colony and rookery once and for all.

Bryan Pease, a San Diego lawyer who represents the La Jolla Friends of the Seals and the Animal Protection and Rescue League, wrote a letter to Mayor Jerry Sanders and City Council members Dec. 30, asking that the city's current policy of "shared use" of the beach by seals and people be ended.

Pease asked that the council instead declare as official city policy that "seal watching is the legally preferred use for this beach." He also asked that the council order that a rope intended to keep people away from the seals during the pupping season be kept in place year round and that the council make it a crime to cross the rope during the pupping season. He enclosed several photographs he said he had taken a week earlier, including one showing a beach-goer in a lounge chair on what was supposed to be the seals' side of the rope.

"The federal agents who would ordinarily issue citations for disturbing the seals have been extremely reluctant to do so because they do not want to clash with the city's 'shared use' policy for this beach," Pease wrote.

Pease said in an interview that the council's Natural Resources and Culture Committee, chaired by Donna Frye, will likely consider his proposal in February or March.

We agree that in the long run the shared-use policy does not serve the best interests of people or the seals. We also believe that, as demonstrated by two scientific surveys, the large majority of San Diegans want the seal colony protected. And there is precedent: Carpinteria, a city south of Santa Barbara that has the only other such seal colony on a public beach in Southern California, has closed its beach to the public entirely from Dec. 1 to June 1.

San Diego should do no less.

Find this article at:

<http://www.signonsandiego.com/news/2010/jan/16/protect-seals>

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