

February 22, 2010
San Diego Council of Divers
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San Diego City Council
220 C Street,
San Diego, CA 920101

Dear Council members,

Since 1 January 2010, a Trust amendment has safeguarded the seal colony at Children's Pool. Our attached recommendations were driven by the deliberated wishes of the City Council on 2/17/09, written law, and minimal legal risk to San Diego resources.

We suggest the City safeguard its options and carefully consider its needs, and all other parties, based on its own investigations. What is "common knowledge" about the situation is often crafted by special interest groups, and we ask the City get expert analyses of its new role and responsibilities.

Divers have affection for, and special knowledge of seals and their unassuming friendly ways. We are also concerned about future miss-steps costing our City any more litigation or loss of citizen ocean access there and on other public beaches. The City has a trust in place that supports Joint Use.

The San Diego Council of Divers has represented divers in San Diego through their clubs for over 50 years. Through the dive clubs we hear from thousands of divers. We found divers overwhelmingly support the City Policy of Joint Use at Children's Pool.

Please see attached Beach Management Proposal, which was drafted with input from the various San Diego Dive Clubs.



San Diego Council of Divers
Scott Anderson, President

Proposal 1 - Management of La Jolla Beaches – Looking to the Future

San Diego divers wish to see safeguards against undesired loss of public beach in the future. We are concerned by past seal incursions into South Casa Beach, and about future marine mammal colonizations of beaches in La Jolla and all of San Diego. Our fondness for these animals notwithstanding, the City needs a policy and management plan to deal with future colonizations of more public beaches including how to get wayward seals back to Children's Pool.

We urge the City to preserve its shared use policy at Children's Pool, and take steps to assure public access to all beaches on the San Diego coastline. The City can declare seals and sea lions on public beaches other than Children's Pool to be subject to removal under MMPA 109(h) so that quick action can be taken when needed. This can be modeled after the volunteer plan made in Pacific Grove when seals threatened their most valuable tourist beach. (Exhibit I)

San Diego has a history of maintaining open beaches for its citizens and tourists to share and enjoy access to its oceans for swimming, surfing, diving, sunbathing, and fishing per the State Constitution and the Coastal Act. Maintaining that policy will allow enjoyment of the beaches by locals and tourists to continue and avoid confrontations by special interest groups or law suits. San Diego is a major world class dive destination, with beautiful beaches, sunken wrecks and a wide range of businesses serving the industry.

Divers have worked with the City of San Diego for 50 years. None advocate harm to seals, who are our dive buddies in the wild. We just want to be assured the public can respectfully and lawfully go on public land to access the ocean, per various laws.

Derived by consensus of Dive Club delegates from all over San Diego, 1/28/2010, and 2/09/2010.

Proposal 2 - Management of Children's Pool - Effective Planning

Representatives of the dive clubs in San Diego share a concern over the future of Children's Pool. Divers are happy to have the seal colony there, but see unintended consequences without judicious steps taken. We would propose the City craft a long range plan to administer that public park to preclude new liability, contention or expense.

Our proposal requests a total City plan validated by a panel of scientists appointed by Scripps Institute of Oceanography working with California Department of Fish and Game Commission, NOAA law office, La Jolla Community Planning Association and the California Coastal Commission.

That panel can formulate ways to protect San Diego beaches for all its citizens and stay within all the terms of the amended trust and the Coastal Act and the State Constitution. Violating any one could start more protracted loss of City resources. We just got free of 5 years of litigation.

We further propose the City enforce its Public Right of Way codes (§127.0304(b)(1), §129.0802, §142.1206, §33.1406, §54.0105) pertaining to vendors' tables and signs drawing crowds in the public's right of way and creating an attractive nuisance, even obstructing public, emergency and handicapped access. The City has done an outstanding job of providing clear signage in the area. Other signs by special interest groups create confusion, cause contention and should be removed per City Codes. We urge the City to enforce its signage codes (Art 2, div 12 and Art 9, div 8; §121.0504; §121.0505) to eliminate private party or special interest group signs.

The San Diego Dive Community agrees with the City of San Diego's Joint Use policy at Children's Pool, as was formulated by a Children's Pool Technical Advisory Committee on July 29, 2003. This policy was cited repeatedly to defend the City against the O'Sullivan suit. (Superior Court, Aug 2006) It makes more sense than ever.

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