

MARINE MAMMAL COMMISSION
4340 East-West Highway, Room 700
Bethesda, MD 20814-4447

25 August 2008

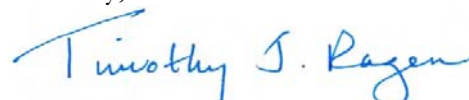
Vice Admiral Conrad C. Lautenbacher, Jr., Ph.D.
Undersecretary for Oceans and Atmosphere
Department of Commerce
14th and Constitution Avenue, NW, Room 5128
Washington, DC 20230

Dear Admiral Lautenbacher:

Last week the Marine Mammal Commission received an e-mail directing us to the Web site <http://www.youtube.com/watch?v=aHiMTPAIBNI&feature=user>, which documents a scene at Children's Pool in La Jolla, California. This site has been the focus of a longstanding disagreement between those promoting access to and use of the beach by swimmers and those who wish to protect a colony of harbor seals that has become established there. The disagreement has played out in a number of fora and has involved federal, state, and local agencies. It has yet to be satisfactorily resolved, and the video provides clear evidence that the controversy has reached a new stage. Based on the activities documented in the video, people are being allowed to approach within a few feet of the seals and even touch them. In one sequence, a seal is touched repeatedly by one woman and reacts adversely each time. We believe these activities clearly constitute harassment of the seals and are in violation of the Marine Mammal Protection Act. (If NOAA disagrees, we would like to know the basis for disagreement.) Furthermore, the activities are placing members of the public, including children, at risk of being bitten or otherwise injured by the seals. In the Commission's view, the lack of enforcement and control of this situation by the responsible authorities has devolved to an inexcusable state. It is only a matter of time before someone is seriously injured.

Regardless of NOAA's views on the opposing arguments in this controversy or its preferred resolution, NOAA is responsible for enforcing the Act and preventing impermissible taking of marine mammals. In this case, inaction by the responsible authorities also may lead to serious human injury, including injury of children. After consultation with its Committee of Scientific Advisors on Marine Mammals, the Marine Mammal Commission recommends that NOAA take prompt action to enforce the Act and establish control over this situation. This will require greater presence of agency enforcement officers at the site. In addition, NOAA should consider authorizing local law enforcement officials to act on its behalf, as is allowed under section 107(b) of the Act. We urge you to move swiftly as the tensions surrounding this controversy are likely to continue to increase, particularly if someone is injured. Once control over the situation has been established, we would be pleased to work with NOAA and other parties to seek a reasonable, long-term solution.

Sincerely,



Timothy J. Ragen, Ph.D.
Executive Director

cc: James W. Balsiger, Ph.D.
Mr. James H. Lecky