

Judge says seals can stay in California cove

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This July 20, 2009 file photo shows Harbor seals lounging on the beach where they have gathered for years in the La Jolla section of San Diego. Superior Court Judge Timothy Taylor issued a tentative ruling Thursday, Nov. 12, 2009 that allows this seal colony at Children's Pool in La Jolla to remain. He's expected to issue a final ruling Friday Nov. 13, 2009 after opponents get a chance to argue the pool should be restored for people. (AP Photo/Lenny Ignelzi, File)

(AP) -- The seals can stay and play at a La Jolla swimming cove.

A judge ruled Friday that harbor seals that have colonized the cove in La Jolla for more than a decade can remain there. That overruled an earlier decision to have the city remove the seals because their waste bacteria was dangerous for humans.

San Diego County Superior Court Judge Timothy Taylor ruled that a state law signed by the governor in July will allow the cove to be designated as a marine park starting Jan. 1, and that there is no reason to evict the animals before then. The move finalized a tentative ruling Taylor made Thursday.

"Today's decision means that the issue can now be decided by the City Council and mayor the way public policy issues are supposed to be decided," Deputy City Attorney George Schaefer said.

Seals began moving into the cove in the 1990s, setting off a long legal scrap between advocates for animals and kids.

Philanthropist Ellen Browning Scripps donated the area - an artificial cove created by a seawall built in 1931 - to the state, and it's governed by the city under a state trust. It was used for years as a children's swimming hole.

In 1997 after the seal population surged, the city posted a warning that swimmers should avoid the water because of bacterial contamination.

Few people now brave the waters - or the seals, whose population can be as high as 200 at times.

But in 2004, a swimmer sued the city. Valerie O'Sullivan argued that letting seals linger at the cove violated terms of the state trust, which specified the area could be used as a park or children's beach.

In 2005, a judge ordered the city to remove the seals and clean up their mess.

That order was later upheld even though the city fought it. Last July, the city was ready to begin a \$688,000-a-year program to repel the seals by

playing nonstop recordings of barking dogs. The seals can't be removed by force because they are a federally protected species.

A judge postponed the eviction at the city's request.

La Jolla, which has opposed seal-eviction orders because they could cost millions of dollars, asked the judge to reconsider because Gov. Arnold Schwarzenegger had signed a bill that could permit the [seals](#) to remain. The measure changes the state trust to permit the Children's Pool to be used as a marine mammal park, and the City Council is not expected to force any costly eviction.

O'Sullivan's attorney Paul Kennerson said he does not yet know if she plans to appeal the decision to a state court.

"This may well be the end of the line for my client," he said.

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