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July 8, 2010

Mayor Jerry Sanders
City of San Diego
202 "C" Street, 11th Floor
San Diego, California 92101

Via First Class Mail and Electronic Mail
JerrySanders@sandiego.gov
(See CC List)

Re: California Public Records Act Request - Multiple Departments
Special Events Permits, Park Use Permits, Fireworks Shows

Dear Mayor Sanders and Department Heads:

Please accept this letter on behalf of the Coastal Environmental Rights Foundation (CERF), a non-profit environmental organization committed to enforcement of environmental laws throughout California's coastal regions. As you should be aware, CERF has filed a lawsuit challenging the City's failure to follow the California Environmental Quality Act and California Coastal Act with respect to the annual fireworks show at La Jolla Cove. As a result of CERF's investigations and experiences with this year's show, CERF is convinced there exist much larger and more pervasive problems with the City's special events permitting process, and that these problems span various departments under the control of the Mayor's office.

In addition to its state court efforts, CERF intends to file federal Clean Water Act lawsuits to allege prospective illegal discharges of fireworks-related pollutants to waters of the United States without NPDES Permits, as well as a violations of the Municipal Stormwater Permit for illegal fireworks and wet weather discharges to the La Jolla Area of Special Biological Significance. Should the City desire to settle any of these claims before attorneys' fees liability significantly increases, I suggest you contact us immediately.

In the meantime, CERF will be focusing efforts on expanding its current lawsuit to address additional claims relating to other fireworks shows and the City's special events permitting in general. Because the fireworks shows are annual events, they are likely to continue in the future, and CERF's permitting concerns are not likely to be addressed absent expanded citizen enforcement efforts. In anticipation of amendments to our lawsuit, we make this request for documents pursuant to the California Public Records Act ("PRA," Government Code Section 6252, *et seq.*).

CERF hereby requests access to certain materials in the possession of the City of San Diego for inspection and copying pursuant to the PRA. We would like to review all records, as that term is used in the PRA, in the City's possession that concern or relate to the categories described below. For purposes of this request, "City staff" means all employees, consultants, sub-consultants or other personnel under the control and/or management of the Mayor or staff of the City of San Diego. City staff also includes the Mayor himself, as well as the staff within his office. "Media" means any television, print, radio or web-based news agency representative. The "public" means any person who is not a member of City staff, including applicants for special events or other permits as noted. The records to be produced expressly includes, but is not limited to, all electronic mail correspondence. The words "document" and "record" as used herein, have their ordinary meanings, consistent with the manner in which they are used in the PRA.

Please provide the following categories of documents and records:

1. **Mayor's Office.** Please provide all records and documents, including all electronic mail messages, to or from any City staff in the Mayor's office (including the Mayor himself) relating to fireworks or fireworks shows between January 1, 2010 and the date this letter is received. Please be certain to include all communications between Alex Roth and any media or City staff, as well as communications between all Mayoral staff and department heads or staff of any department in the City. Every communication or other document referencing or having to do with fireworks displays in the City or elsewhere in 2010 should be included.

A. Please provide all communications and documents used by the Mayor's office to reach its opinion that CERF's La Jolla Cove lawsuit is a "baseless attempt to collect attorney's fees," as attributed to the Mayor's spokesman in an article available on the San Diego Union Tribune's website (dated June 25, 2010):
www.signonsandiego.com/news/2010/jun/25/attorney-sues-to-halt-la-jolla-fireworks

2. **Individual Fireworks Shows.** For the following list of fireworks shows, please provide all documents in the City's possession relating in any way to event permitting, environmental review, and public health and safety:

Shows: CERF would like to review communication, permitting, and environmental review documents and records related to the following 2010 July 4th fireworks shows/events: (i) La Jolla Country Club, (ii) Mira Mesa Community Park, (iii) Sea World/Fiesta Island, (iv) West Mission Bay/El Carmel Point, (v) La Jolla Cove, (vi) San Diego Bay, (vii) Ocean Beach, (viii) Lake Murray.

Response to this request will include, but may not be limited to, the following:

A. All communication by and between City staff relating to each fireworks show; all communication by and between City staff relating to any other activity associated with the 4th of July 2010 event at the same location as the fireworks show and put on by the same entity (e.g. the concert at the La Jolla Cove, the Musical Festival at Lake Murray). This request includes all communications by and between staff and any member of the public as well. CERF desires every document in the City's possession relating to each of these events.

City staff potentially involved in each show include, but may not be limited to, the following City departments: Parks and Recreation Department; Office of Special Events; Fire-Rescue Department; Police Department; and Development Services.

B. Application materials for all City-issued permits for each show (including, but not limited to, Park Use Permits, Special Events Permits (whether "Citywide" or other designated "special event" permit), Fire-Rescue Department "Application for Single Event Permit". The entire event files should be made available for each department listed above that maintains a file. If records are only kept electronically, they should be printed out and made available for inspection and copying.

C. Issued permits for each show. Each and every permit issued for each of the noted fireworks shows (including related events the same day and location with the same sponsor or applicant) should be produced, including any permits in City files issued by non-City agencies. In addition, all documents related to pre-event and day-of-event road closure planning are

specifically requested.

3. Other Special Events, Park Use Permits, and Denied Permits. To the Office of Special Events and the Parks and Recreation Department, please make the following also available for inspection and possibly copying:

A. Copies of applications for each and every event for which a Park Use Permit or Special Event Permit was issued for which a CEQA Initial Study was conducted or CEQA exemption granted since January 1, 2005.

B. Copies of all application materials and associated permits issued for any event for which a "Citywide Special Event Permit" has been issued since January 1, 2005. A "Citywide Special Event Permit" generally describes that type of permit coordinated by the Office of Special Events and administered pursuant to the San Diego Municipal Code's "Special Events Ordinance" (§§ 22.4001 *et seq.*). (see also, Respondent City of San Diego's Opposition to Plaintiff's Request for Injunctive Relief, reference to "Citywide Special Event Permit," at p.2)

C. Copies of all application materials and associated permits issued for any special event for which City staff considered the San Diego Municipal Code "Special Events Ordinance" (§§ 22.4001 *et seq.*) to apply since January 1, 2005. If the list contains more than 10 events per year, please provide a list of such events and we will provide further direction regarding specific event documents desired.

D. Copies of all application materials and associated permits issued for every event permitted in the City since January 1, 2005 that meets all of the following criteria:

- The event took place on, or impacted, City owned land or facilities such that a permit was required from any City department; and,
- The event took place on a Saturday or Sunday; and,
- The event application indicated an attendance of at least 10,000 people (and such was reflected on the City's online Special Events Calendar).

E. Copies of all application materials for events that were deemed to require Citywide Special Event Permits since January 1, 2005, but were denied the same for any reason. Please include all documents indicating the City's reasons for denial of such permit requests.

4. Administrative Documents. Please provide all documents and records that describe how permitting decisions are made within the Office of Special Events and the Department of Parks and Recreation. Such documents and records would include, but not be limited to, flow charts, decision trees, reference lists, guidance memoranda, etc.

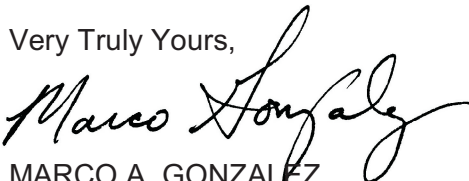
In the existing lawsuit regarding the La Jolla Cove fireworks show, the City indicated it "only required a Citywide Special Event Permit for complex events (e.g., involving numerous other regulatory agencies) that involve the organization, direction, and control of large groups of people." CERF seeks to understand through this category of documents how the City decides whether and when an event is sufficiently "complex" to require a Citywide Special Event Permit. If City staff has no guidance documents or records, but rather makes such decisions based

upon experience and judgment, please so indicate.

A. Parks and Recreation. Please also provide copies of each and every valid permit application form used by the Parks and Recreation Department. Attached to her declaration in the La Jolla Fireworks lawsuit, Stacey LoMedico indicated the October 27, 2009 "Facility and Park Use Permit Application" was a "true and correct copy of the permit application used generally for firework shows within the shoreline and regional parks." Yet, the application submitted by Promote La Jolla was an October 16, 2009 document entitled, "Developed Regional Parks Special Event Request Application" (a copy of which was also available on the Parks and Recreation website). CERF desires to review copies of all park use permit applications, and any documents or records that describe or otherwise inform how decisions are made as to which is the appropriate application form. CERF also requests any manuals or other administrative documents that provide instruction to staff reviewing such applications as to how decisions and mitigation measures are to be made regarding impacts from events. Specifically, CERF also requests documents that detail how the Parks and Recreation department decides whether to permit amplified music despite admonitions to the contrary on all application forms.

As required by Section 6257 of the PRA, I ask that you make these records available promptly. To the extent that a portion of any record is expressly exempted under the PRA, please segregate and delete the exempt information so that the remainder may be provided to satisfy the request. Please provide a log of all exempted information so that the public interest justification mandated by the act for nondisclosure may be made.

Please contact me at your earliest convenience to discuss a time and date for reviewing the documents. In addition, please contact me prior to taking any action that would cause my clients to incur any costs for document reproduction.

Very Truly Yours,

MARCO A. GONZALEZ
Attorney for Coastal Environmental
Rights Foundation

cc: City Council Offices
Elizabeth Maland, City Clerk (emaland@sandiego.gov)
Kris Michelle, Office of the Mayor (kmichell@sandiego.gov)
Kelly Broughton, Developmental Services (kbroughton@sandiego.gov)
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