



2015 Animal Law Conference

October 18, 2015

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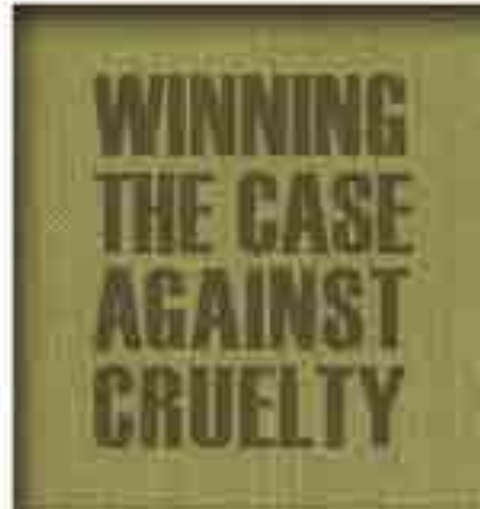
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@NOLAVeganDiva

# Overview

- **Chris Green, Out with a Bang**
- **October 8, 2015: California Coastal Commission Decision**  
→ **What does it mean?**
- **ALDF's Lobbying Efforts (CA, CB)**
- **Former CCC Chair Sara Wan**
- **Collaboration with Other Groups**
- **SeaWorld's Announcement that it will Challenge CCC in Court** → **What Next?**



# SeaWorld San Diego



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THE CASE  
AGAINST  
CRUELTY





# Blue World Project



News

Realm

Education

Research

## Transformational New Environments

Once again, SeaWorld is on the leading edge of innovation and science with the announcement of these first-of-its-kind killer whale environments. These new homes will build upon SeaWorld's legacy of providing state-of-the-art animal living spaces and offering park guests unique killer whale encounters, inspiring generations to come.

The new killer whale homes and related research initiatives have a bold vision: to advance global understanding of these animals, to educate, and to inspire conservation efforts focused on protecting killer whales in the wild.

The first of these environments will be built at SeaWorld San Diego and is planned to have a water volume of 10 million gallons, nearly double that of the existing facility. With a maximum depth of 50 feet and a surface area of nearly 1.5 acres spanning more than 350 feet in length, there will be no other realm like this in the world. The new environment will also have views exceeding 40 feet in height, providing guests with the world's largest underwater killer whale viewing experience.

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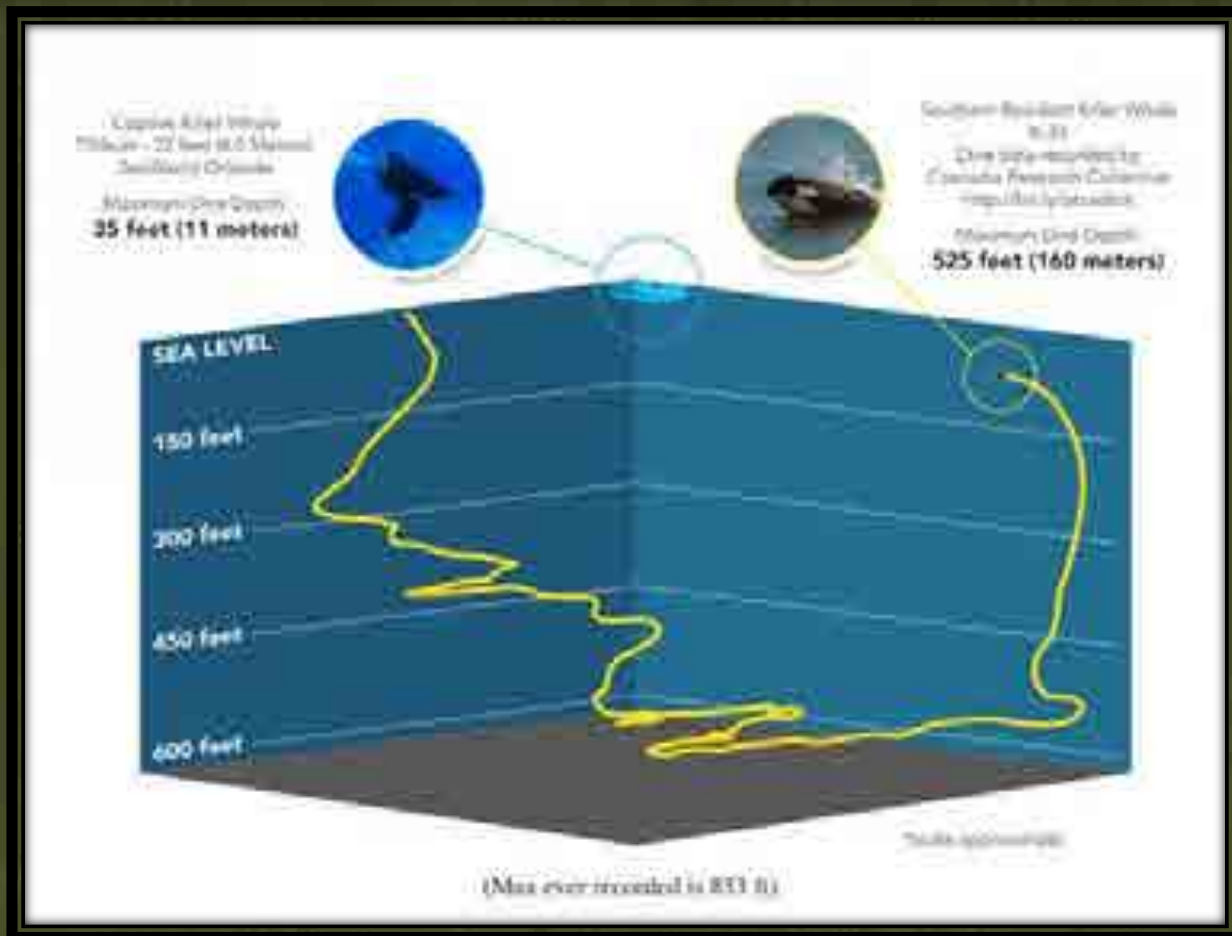
# Blue World Project



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# Blue World Project



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# THE "PHASE-OUT" COALITION



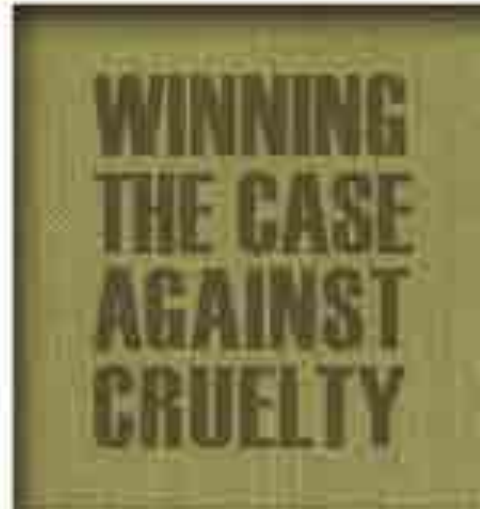
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# CCC Jurisdiction

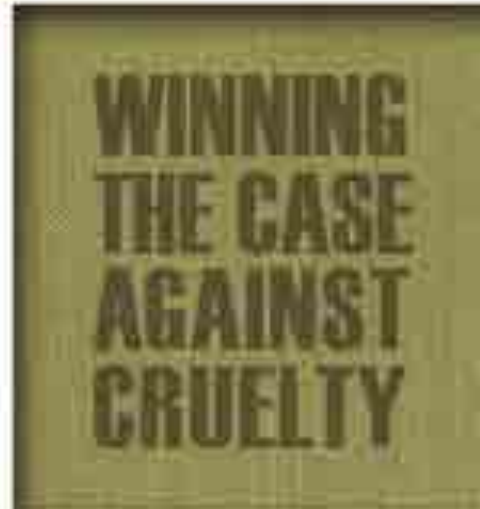
## SeaWorld's faulty legal analysis on preemption →ALDF'S Response (Chris Berry)

- "The commission, unless specifically otherwise provided, shall have the primary responsibility for the implementation of the provisions of this division and is designated as the state coastal zone planning and management agency *for any and all purposes . . .*" (Pub. Res. Code § 30330.)
- "Any permit that is issued . . . shall be subject to reasonable terms and conditions in order to ensure that such development or action will be in accordance with the provisions of this [statute]." (Pub. Res. Code § 30607; see also *Liberty v. Cal. Coastal Comm'n*, 113 Cal. App. 3d 491, 498 (1980) (affirming that the Commission "can impose reasonable terms and conditions in order to ensure a development will be in accordance with the provisions of the law").
- Commission's authority is derived from the Coastal Management Plan that specifically authorizes the Commission to **regulate coastal and marine resources**. California's Coastal Management Plan was passed as part of the federal/state partnership embodied in the federal Coastal Zone Management Act (CZMA) and **California Coastal Act** provisions. This includes a provision that **explicitly requires that "[m]arine resources shall be maintained, enhanced, and, where feasible, restored."** (Pub. Res. Code § 30230.) Orcas are, of course, marine resources, both as species and as individuals and without regard to wild or captive status.

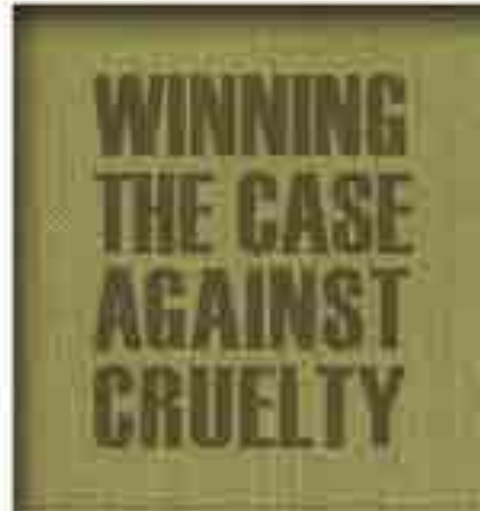


# THE VOTE: 10/8/15

- **9 Hours of Testimony**
- **Comm'r Cox: motion to grant permit w/out conditions**
- **Vice Chair Dayna Bochco's motion to amend with conditions (use of tanks only for eleven existing orcas) (11-1)**
- **Final Vote on permit approval with conditions**
- **And the result was ....**



# UNANIMOUS WIN!

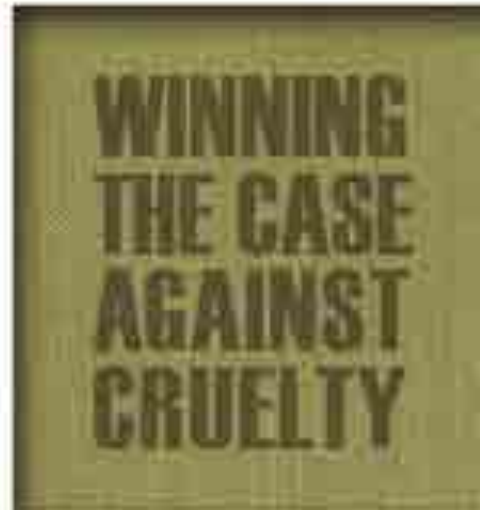


# SeaWorld's Response

**“Breeding is a natural fundamental right of animals. We know killer whales are social animals. It would be inhumane to not allow them to breed. Breeding is stimulating for the animals [Freudian slip?]. The production of calves produces social bonds that are fundamental for the social structure of killer whales.”\* - Dr. Todd Schmidt, DVM, SeaWorld Entertainment**

**\* (Except at least 19 calves removed from mothers during the years John Hargrove was a trainer.)**

**NOTE: when your opposition has to use animal welfare language for its own messaging, then you are winning.**



# What Will SW Do Next?



SEAWORLD  
ENTERTAINMENT

NEWS RELEASE

SeaWorld Entertainment, Inc. Announces It Intends To Challenge California Coastal Commission Condition

10/15/2015

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# ALDF'S Response



## Does California Coastal Commission Have Authority To Ban Breeding At SeaWorld?

Published on May 12, 2016

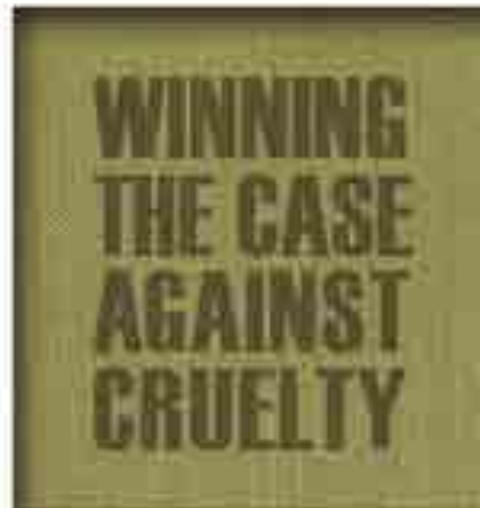
October 12, 2016, 1:14 p.m.

Does California Coastal Commission Have Authority To Ban Breeding At SeaWorld?

GUESTS:

Sara Wan, former member, California Coastal Commission

Carney Anna Nasser, legislative counsel, Animal Legal Defense Fund



# CCC'S Response

## Commission: Banning whale sex legal, ethical

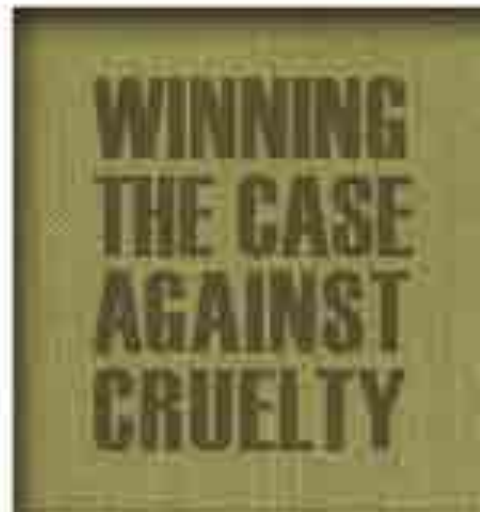
By Dayna Bocho | 5:15 p.m. | Oct. 15, 2015

The Coastal Commission approved SeaWorld's Blue World project to expand its orca tanks, but prohibited the corporation from breeding or importing any new whales as part of the display. While passions ran high in the hearing room, the commission's 11 to 1 vote to add these conditions to the project was substantively grounded in Coastal Act policies that protect marine resources and species of special biological significance — which surely describes orcas. These policies are routinely applied to marine mammals in the wild, but the law does not preclude their application to captive marine mammals.

This was not a power grab. The commission is not pre-empted by any federal law, and no other state agency is addressing issues related to captive whales. We were faced with making our decision in a regulatory vacuum.

The commission has always been forward-thinking in its protection of the environment, and the Coastal Act is a broad law. Over the decades it has been interpreted in ways that were controversial at the time but have since become important foundations for coastal protection. For instance, courts have upheld the commission's past actions to end racial and gender discrimination in a private men's club to promote public access, prohibit fireworks displays that disturb seabirds, and reverse the federal abandonment of a railroad.

Last week the commission determined that orcas are a marine resource and a species of special biological significance deserving of Coastal Act protections, whether captive or free. In our view, these protections are best provided to the whales at SeaWorld by allowing tank expansion, but slowly phasing out captivity over time. We heard abundant evidence demonstrating that captive breeding perpetuates wild capture, and this harms marine resources. Researchers and eyewitness experts made a compelling case that the stress and anguish associated with confining such large, social, intelligent animals creates aggressive behavior among whales that results in terrible wounds or death. Offspring are separated from their mothers and orcas bite the steel gates and concrete walls, causing dental injuries that result in systemic health problems. Although the majority of speakers asked us to deny the project, we felt that our approach was a compromise solution, benefiting both SeaWorld and the whales.

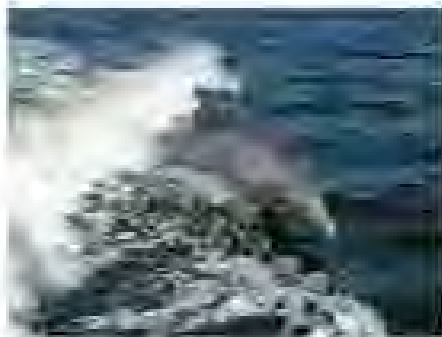




# Other Countries

## India: Dolphins declared non-human persons

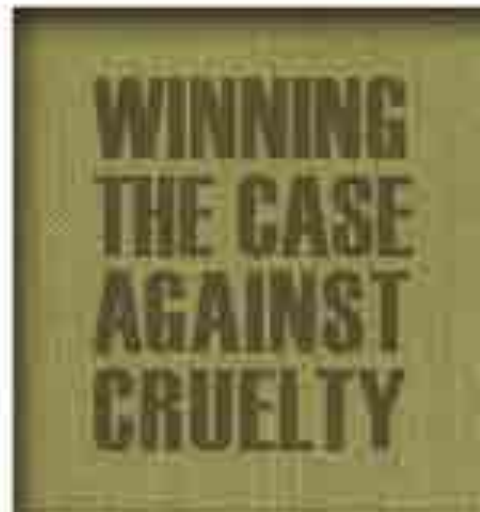
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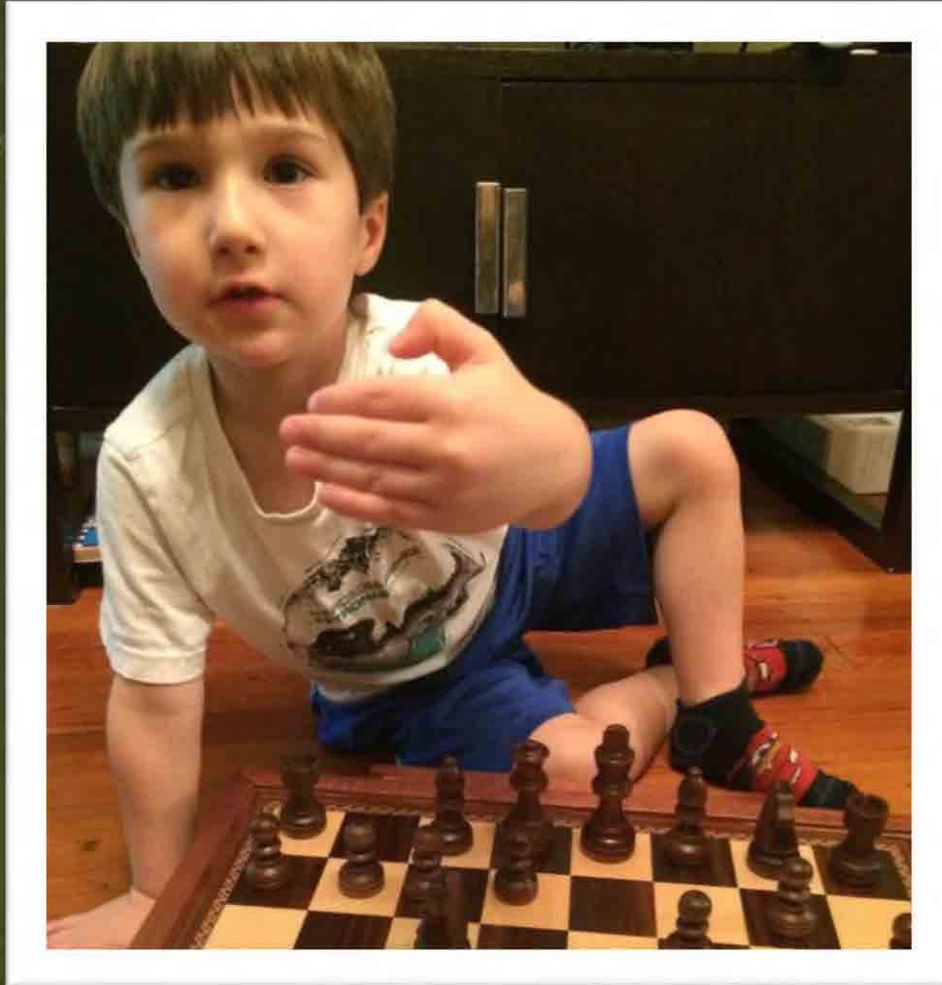
Cetaceans should be regarded as non-human persons with their own rights and therefore it is morally unacceptable to keep them in captivity - this is the new ruling by the Government of India, which in a landmark decision has taken an important first step in establishing global animal welfare rights.

The decision was taken by India's Minister of the Environment and Forests, who banned dolphin shows. All Indian states have been warned by the Government to reject proposals to hold dolphin shows or open dolphinariums, be these requests public or private.

The Central Animal Authority issued the following statement: "Cetaceans... should be seen as 'non-human persons' and as such should have their own specific rights." The direct result is that dolphin parks which have opened recently in India will close and proposals for new ones will be shelved. The move makes it illegal to capture or confine cetacean species, which include whales and dolphins, the reasoning being that these animals are highly intelligent and sensitive.



# “Whales don’t belong in Cages” – Jackson, 5



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