

# Equal Access to California's Beaches

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### The City Project

### Policy Brief



**OVERVIEW.** Keeping public beaches public for all, and protecting beaches from destruction, is a priority for equal access to public resources around the country, up and down the California coast, and in hot spots including San Onofre and Malibu.

Nine in ten Californians say the quality of the beach and ocean is just as important to them personally as for the overall quality of life and economy in the state, according to a survey by the Public Policy Institute of California. The condition of the coast is very important (61%) or somewhat important (30%) on a personal level, very important (70%) or somewhat important (24%) to the state's quality of life, and very important (63%) or somewhat important (30%) to the economy. Majorities agree across regions and political parties.<sup>2</sup>

San Onofre and Malibu are hot spots in the epic struggle for beach access between public interest and private greed. A proposed toll road through San Onofre State Beach would violate environmental laws and compromise sacred Native American grounds, harm recreation, threaten endangered species, and mar natural resources, according to a Coastal Commission staff analysis that recommends denying certification of the project near San Clemente.

In 2005 beachfront property owners in Malibu took the astonishing step bulldozing of away public beaches and piling the sand on private property, ruining the beach environment and reducing public beach access. The environmental destruction included damage to grunion runs, the rack line, marine invertebrates, and intertidal zones. It also caused erosion and down coast beach damage, destruction of habitat restoration, and negative visual and aesthetic impacts. The Attorney General for the State of California filed suit against the Trancas Property Owners Association, which represents property owners along Broad Beach, for violation of the Coastal Act, interference with legal public access to the beach, and conversion of beach minerals.

While eighty percent of the 34 million people of California live within an hour of the coast,<sup>3</sup> low-income communities of color are disproportionately denied the benefit of access to the beach. Beaches are not a luxury – beaches are a public space that provides a different set of rhythms to renew public life. Beaches are a democratic commons that bring people together as equals. Rio de Janeiro, like Los Angeles, is marked by some of the greatest disparities between wealth and poverty in the world. Yet Rio's famous beaches are open to all, rich and poor, black and white. The beach in Rio is the great equalizer. California's world famous beaches must also remain public for all, not the exclusive province of the rich and famous. California's beaches belong to all the people.

The campaign for public access to the beach is analyzed in Robert García and Erica Flores Baltodano, *Free the Beach! Public Access, Equal Justice, and the California Coast*, 2 *Stanford Journal of Civil Rights and Civil Liberties* 143 (2005), and in *Photograph Reports* by Nicolas García (2005), available at [www.cityprojectca.org/ourwork/beachaccess.html](http://www.cityprojectca.org/ourwork/beachaccess.html).

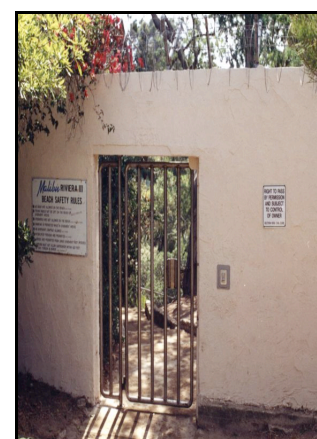
State high courts across the country have upheld the public right to reach the beach. The Connecticut Supreme Court upheld the First Amendment right of non-residents to a public beach against efforts by Greenwich to restrict access to its residents.<sup>4</sup> Michigan's Supreme Court upheld the time-honored tradition of walking on the beach as inherent in the exercise of protected rights under the public trust doctrine.<sup>5</sup> The New Jersey Supreme Court held that



*Beachfront property owners bulldozed public Malibu*



*San Onofre Beach is threatened by a toll road*



*Prison-like locked gate with barbed ribbon wire blocks access to a beach in Malibu. Sign reads: "Right to pass by permission and subject to control of owner."*

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<sup>2</sup> Mark Baldasare, Special Survey on Californians and the Environment: Ignoring Environmental, Coastal Concerns Could Be Perilous for California Politicos in 2006 Election Year (Feb.23, 2006).

<sup>3</sup> Timothy Egan, Owners of Malibu Mansions Cry, "This Sand Is My Sand," *N.Y. Times*, Aug. 25, 2002, p. 1.

<sup>4</sup> *Leydon v. Town of Greenwich*, 777 A.2d 552 (Conn. 2001).

<sup>5</sup> *Glass v. Goeckel*, 473 Mich. 667 (Mich. 2005).

under the public trust doctrine, a stretch of upland dry sand beach operated as a private beach club must be available to the general public at a reasonable fee.<sup>6</sup>

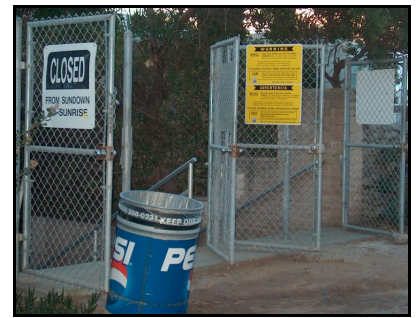
**THE RIGHT TO PUBLIC BEACHES.** In California, land below mean high tide is public.<sup>7</sup> This stems from the public trust doctrine, which dictates that tide waters and land below high water are held in trust for the people of the state. California has developed the doctrine to protect public access to the beach for recreation, navigation, commerce, and fisheries.<sup>8</sup> The California Coastal Act aims to maximize public access to and along the shoreline<sup>9</sup> and the California Constitution protects the right of way to California's waters for public purposes.<sup>10</sup> Preserving the right to public beaches was a condition of California joining the Union.<sup>11</sup> The right to public beaches can be traced back to common law England and Roman law and is accepted around the world.<sup>12</sup>

**EQUAL ACCESS FOR ALL.** Everyone loses when public beaches are privatized, but low income communities of color suffer first and worst. Low-income people of color lack equal access to the beach as a result of a history and pattern of discriminatory land use planning, restrictive housing covenants, and funding policies.<sup>13</sup>

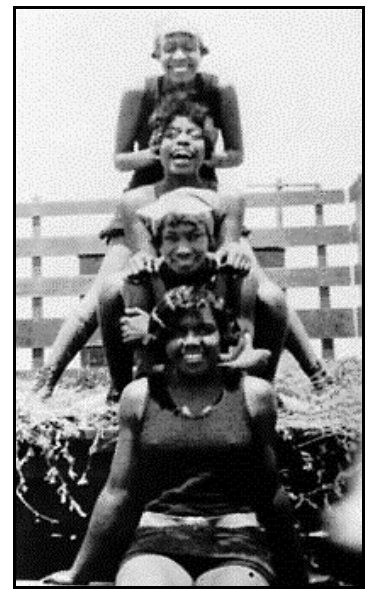
*Manhattan Beach.* When Manhattan Beach was incorporated in 1912, the city set aside a two-block area on the ocean for African-Americans. A black couple named Charles and Willa Bruce bought the land and built the only beach resort in the Los Angeles area that allowed blacks. Bruces' Beach offered bathhouses, outdoor sports, dining, and dancing to African-Americans who craved a share of Southern California's good life. As the area's black population increased, so did white opposition to the black beach. Manhattan Beach drove out the black community and closed down Bruces' Beach in the 1930s. City officials forced black property owners to sell at prices below fair market value through condemnation proceedings. Nearby Peck's Pier – the only pier that allowed blacks – and the surrounding black neighborhood were destroyed. Black Angelenos were then relegated to the blacks-only section of Santa Monica beach at Pico Boulevard known as the Inkwell.<sup>14</sup>

Manhattan Beach in 2006 commemorated the struggle of the Bruce family and the African American community by renaming the park at the historical site as Bruce's Beach Park. The City Project worked continues to work with Mr. Bernard Bruce, the Bruces' grandson, and SPARC for public art to tell the story of Bruce's Beach at the site.

In the 1980s, Manhattan Beach requested the predecessor of the Los Angeles County Metropolitan Transportation Agency (MTA) to change its service so inner city residents could not travel directly to the beach. This effectively deterred people of color from going to the beach at all because of the time and hassle it took to get there by bus. MTA granted a similar



*Paths with garbage cans, "CLOSED" signs, and warnings deter beach visitors in Malibu.*



*Hayride at Bruce's Beach, circa 1920s.*

<sup>6</sup> *Raleigh Avenue Beach Ass'n v. Atlantis Beach Club, Inc.*, 879 A.2d 112 (N.J. 2005).

<sup>7</sup> *Lechuzza Villas v. California Coastal Commission*, 60 Cal. App. 4th 218 (1997); Ca. Civ. Code §§ 670 and 830.

<sup>8</sup> *Marks v. Whitney*, 23 Cal.3d 251, 259 (1971).

<sup>9</sup> Cal. Pub. Resources Code § 30001.5(c).

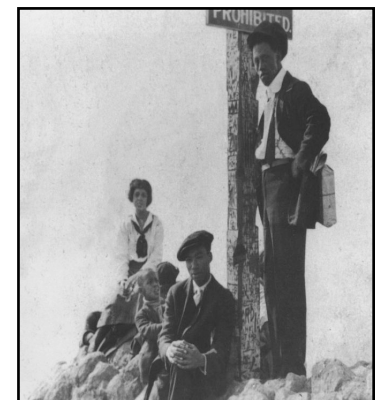
<sup>10</sup> Cal. Const. Article X, Section 4.

<sup>11</sup> *National Audubon Society v. Superior Court*, 33 Cal. 3d 419, 434 (1983) (citing *City of Berkeley v. Superior Court*, 26 Cal. 3d 515 (1980)).

<sup>12</sup> See *City of Berkeley v. Superior Court*, 26 Cal. 3d 515 (1980). Spanish law and eventually Mexican law also recognized the public trust doctrine. *National Audubon Society v. Superior Court*, 33 Cal.3d 419, 434 n.15 (1983). Commentators suggest that public trust rights under Mexican law, which are guaranteed by the Treaty of Guadalupe Hidalgo, serve as an independent basis for the public trust doctrine in California. *Id.*

<sup>13</sup> Robert García and Erica S. Flores, "Anatomy of the Urban Park Movement: Equal Justice, Democracy, and Livability in Los Angeles," in Robert Bullard, ed., *The Quest for Environmental Justice* (2005); Robert García and Erica Flores Baltodano, *We Shall Be Moved: Community Activism As a Tool for Reversing the Rollback*, in Denise C. Morgan et al., eds., *Awakening From the Dream: Pursuing Civil Rights In A Conservative Era* (2006).

<sup>14</sup> See Cecilia Rasmussen, L.A. Then And Now: Resort Was An Oasis For Blacks Until Racism Drove Them Out, *L.A. Times*, July 21, 2002; Cecilia Rasmussen, Community Profile: Manhattan Beach, *L.A. Times*, Nov. 29, 1996.



*Blacks Prohibited sign in Santa Monica.*

request for the Palos Verdes Peninsula.<sup>15</sup> Recently residents of Malibu have been asking MTA to cut off bus service.

*Lake Arrowhead.* In the 1920s and beyond, racially restrictive covenants prevented people of color from occupying or using property at Lake Arrowhead, the major mountain lake near Los Angeles.<sup>16</sup> The federal government traded away land on the lake for land in the woods. Today private mansions and businesses ring the lake and only the wealthy can live in what is known as “the Beverly Hills of the Mountains.” There is no public access to the beaches at Lake Arrowhead,<sup>17</sup> which will serve as a prologue for California’s coast if privatization efforts like Malibu’s succeed.

*Malibu.* Malibu was formerly part of a 13,316-acre ranch owned by Frederick H. Rindge and later by his widow May. After her husband’s death, May Rindge began leasing and selling off land parcels to movie celebrities and others.<sup>18</sup> These parcels carried racially restrictive covenants intended to run with the land in perpetuity. The covenants prevented people who were not white from occupying beach premises or even using public beaches.

Today Malibu is 89% non-Hispanic white and 25% of households have incomes of \$200,000 or more per year, compared to 31% and 3% for Los Angeles County, respectively. Only 14 to 28 paths from the road to the beach are open along Malibu’s 27 miles of coastline. There should be a path to the beach every quarter mile.

Media mogul David Geffen, along with the City of Malibu, filed suit to cut off the people’s right to reach the beach. Geffen’s suit was dismissed six times before he finally gave up and opened a nine-foot path from the highway to the beach. Phony “private beach” signs on Malibu beaches deterred innocent beach goers with warnings that the sheriff would enforce no trespassing statutes. Five armed sheriff’s deputies recently harassed California Coastal Commission member Sara Wan to prevent her from using a public beach.<sup>19</sup> The California Coastal Commission in August 2005 ordered an end to phony “no trespassing” signs on the beach in Malibu. The Commission also ordered an end to the use of all-terrain vehicles by security guards who harass the public on private beaches.<sup>20</sup> The Commission issued a cease and desist order to force Malibu to remove boulders blocking public parking at the beach.

*Other hot spots of opposition to beach access.* In Santa Barbara, billionaire Wendy McCaw went all the way to the United States Supreme Court seeking to block the public’s right to use a strip of beach 80 feet below her bluff-top estate. The High Court refused to hear her case.<sup>21</sup> California officials said that they would move quickly to open access to several beaches in light of the decision.<sup>22</sup>

Race and class biases lurk behind attempts to limit beach access. Newport Beach City Councilman Richard Nichols proclaimed that he opposes improvements to a local state beach because “with grass we usually get Mexicans coming in there early in the morning and they claim it as theirs and it becomes their personal, private grounds all day.”<sup>23</sup> That statement is just one more indication that people of color are not welcome at public beaches. As *Los Angeles Times* columnist Steve Lopez noted, “If not for the likes of Nichols letting loose now and then, we’d have to constantly remind ourselves why we have civil rights attorneys.”<sup>24</sup>

**THE ECONOMIC VALUE OF BEACHES.** Beaches are among California’s most valuable public

The People of Malibu		
	Malibu	County
N/H White:	88.5%	31%
Latino:	6%	47%
Black:	0.9%	11%
Asian:	2.6%	10%
Other:	0.2%	3%
Income		
> \$200,000:	25%	3%



*Below the mean high tide line  
In public wet sand,  
an illegal sign in Malibu  
reads: “Private Property.  
Do Not Trespass.”*



*A private “security guard”  
patrolling the beach on an ATV.*

<sup>15</sup> Deposition of former MTA official in *Labor/Community Strategy Center v. MTA* (1996).

<sup>16</sup> Stan Bellamy, *My Mountain, My People Vol. I: Arrowhead!* 188 (2000).

<sup>17</sup> John W. Robinson, *The San Bernardinos* 127-32 (1989).

<sup>18</sup> Leonard Pitt & Dale Pitt, *Los Angeles A to Z: An Encyclopedia of the City and County* at 313-14 (1997).

<sup>19</sup> Kenneth R. Weiss, A Malibu Civics Lesson: Beach Is Open, *L.A. Times* Aug. 25, 2003.

<sup>20</sup> Sara Lin, Public’s Use of Beach Is Affirmed: Malibu homeowners group must forgo signs and security guards, coastal panel says, *L.A. Times*, Aug. 15, 2005, at B1.

<sup>21</sup> *Cole v. County of Santa Barbara*, 123 S. Ct. 466; 154 L. Ed. 2d 328 (2002).

<sup>22</sup> See, e.g., Barbara Whitaker, Ruling Clears Way to Ease Beach Access in California, *N.Y. Times*, Oct. 23, 2002; David G. Savage & Kenneth R. Weiss, Justices Bolster Beach Access, *L.A. Times*, Oct. 22, 2002.

<sup>23</sup> June Casagrande, Councilman Opposes Grass Areas on Beach, *Daily Pilot*, June 18, 2003.

<sup>24</sup> Steve Lopez, Councilman Visits Archie Bunker Dimension to Justify Comments, *L.A. Times*, June 20, 2003.

assets. California has the largest ocean economy in the nation, a large portion revolving around the state's beaches. Ocean-related activities in California produced a gross state product (GSP) of \$42.9 billion and provided almost 700,000 jobs and more than \$11.4 billion in wages and salaries in 2000.<sup>25</sup>

**PROTECTING COASTAL ACCESS IN AND OUT OF COURT.** The classic 1930 Olmsted Report *Parks, Playgrounds, and Beaches for the Los Angeles Region* called for the doubling of public beach frontage: "Public control of the ocean shore, especially where there are broad and satisfactory beaches, is one of the prime needs of the Region, chiefly for the use of throngs of people coming from inlands. . . . [T]he public holdings should be very materially increased." See the Olmsted map at [www.cityprojectca.org/ourwork/olmsted.html](http://www.cityprojectca.org/ourwork/olmsted.html). Advocates and activists are restoring a part of that vision today.

The Coastal Commission adopted a coastal plan for Malibu to maximize public access to the beach while ensuring the fair treatment of people of all races, cultures, and incomes.<sup>26</sup> This is the first time an agency has implemented the definition of environmental justice under California law, setting a precedent for other communities.<sup>27</sup> Beaches should remain public for all, not the exclusive province of the rich and famous.

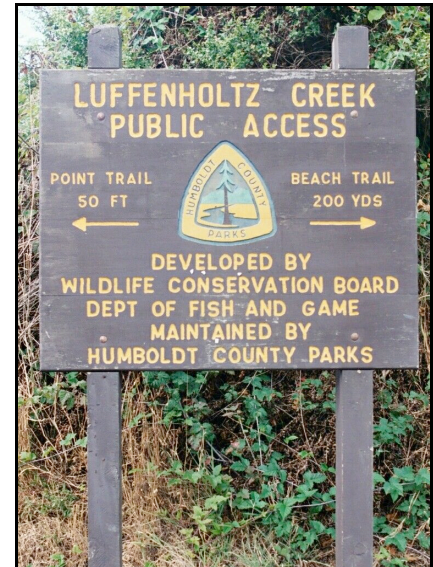
Public beaches should be user-friendly with well marked access paths, and well-maintained trashcans, toilets, and parking. Transit to trails and beaches should maximize public access.

Phony and misleading "no trespassing" and "private beach" signs should be banned and removed from public beaches, private security guards should be prohibited from harassing the public, all-terrain vehicles should be prohibited, and local law enforcement agencies should zealously enforce the public's right to public beaches.

Resource bonds should require equal access to the beach.

Federal, state, and local agencies should take all necessary steps to save San Onofre State Beach and stop the toll road there.

The struggle never ends to free the beach and to prevent the destruction of beaches and public access through toll roads, privatization, bulldozing, litigation, and otherwise.



*Paths should be clearly marked with inviting language.*



*Public beaches can easily provide necessary services like garbage cans and toilets.*

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*All donations are tax deductible.*



*The City of San Francisco provides five miles of public access to Ocean Beach.*

<sup>25</sup> National Ocean Economies Program, *California's Ocean Economy*, Report to the Resources Agency, State of California 1 (July 2005).

<sup>26</sup> Malibu Local Coastal Program Land Use Plan adopted by California Coastal Commission (Sept. 13, 2002).

<sup>27</sup> Ca. Gov. Code § 65040.12.