

John A. Stokes  
Facilities Development Project Coordinator  
San Diego Unified School District / Facilities Planning and Construction

Written Testimony on  
**“Taxpayer Funded Litigation: Benefitting Lawyers and Harming Species, Jobs  
and Schools”**

June 17, 2012

Good morning. Thank you for the opportunity to come here and present this testimony to you today.

The project to be described in this brief testimony is the history of the Salk Elementary School which is named in honor of Jonas Salk.

The San Diego Unified School District (District) acquired the Salk property as a graded developable 13.7 acre pad by Pardee construction in 1979. This was required as part of the PUD for Mira Mesa housing developments. However, due to the effects of the California Proposition 13 initiative which was passed by the voters in 1978, funds were not available to design or construct a school. The property sat undeveloped until the need was identified for a new school as part of the Proposition MM school bond initiative which was passed by the voters in 1998.

In 1997, just prior to the bond's passage, an environmental assessment was performed at the Salk site and San Diego Fairy Shrimp were identified in non native depressions which formed due to settlement, foot and unauthorized vehicle traffic.

In Between 2003 and 2005, The District Board of Education certified the final Environmental Impact Report (EIR) which identified on-site mitigation. However, the US Fish and Wildlife Service (Service) began to raise concerns regarding the on-site mitigation. Further, in 2005 after additional study, the District's biological consultant/crustacean expert, Dr. Marie Simovich concurred with the Service and identified that there were two species of shrimp at the site. One was the Federally protected San Diego Fairy shrimp, and the other being the Lindahls shrimp, a non protected and aggressive species. It was further determined that the shrimp and vernal pool habitat quality at Salk was undesirable as it was not indigenous, but formed in settlement, foot and vehicle traffic depressions. Regardless of this, the District was still required to look at off-site mitigation options.

In late 2005, the District began negotiations with the City of San Diego to develop a mitigation plan at the nearby McAuliffe Park open space site.

In late 2006, as a sidebar action, an injunction was filed in federal court by fourteen environmental groups against the Service challenging a decision to issue an Incidental Take Permit to the City of San Diego based on it's conservation plan regarding property in the vicinity of the Salk school site. The then City of San Diego leadership mistakenly added the Salk property into this injunction which then was filed in the federal court system. This essentially shut down the District's ability to

construct the Salk school until the District was removed from the injunction in late 2010. The District was advised that it highly probable that it would be removed from the injunction, but it would have to be filtered through the Federal court system and it would be safe to proceed with school site planning, but at a slowed pace. This 4 year action was a major delay to this project.

Going back to the school planning, In early 2008, the Service issued a letter to the District concurring with the design direction which included the use of the McAuliffe site for mitigation.

In late 2009, the District and City of San Diego entered into and approved a Memorandum of Understanding (MOU) which identified a trade of 6.1 acres of the Salk school site property for the 12.7 acre McAuliffe open space site. The land swap also included fees of approximately 2.7million dollars to be paid to the City of San Diego which would encompass the development of the 6.1 acres of the Salk Property.

In mid 2010, the District released the revised EIR for public review which included the McAuliffe mitigation site. However, in late 2010, the Service approached the District and stated that they deemed all the vernal pools on the Salk site to be actively occupied with San Diego Fairy shrimp, and that there didn't appear to be enough vernal pool mitigation acreage at the McAuliffe site. The District protested, but to prove otherwise, several years of additional delays and additional funds would be required to perform wet and dry season testing of the pools. This decision then required the District to seek additional mitigation land at the City of San Diego's Carroll Canyon site which caused an additional 1 year time delay and consultants fees and community frustration.

The Service then supported the District's use of the Carroll Canyon site and opened multiple dialogues with the City of San Diego to secure the use of the site for mitigation purposes. In late 2011, the City of San Diego informed the District in support of the use of the Carroll Canyon site for vernal pool restoration.

Due to no design requirements being issued and continual agency sequencing and review issues, the process has taken much longer than anticipated and added millions of dollars in additional costs as well as affected local job creation and the quality of education

Currently, the District has completed the final Habitat Conservation Plan (HCP) and Environmental Assessment (EA) process and is awaiting them being entered into the Federal Register for public review sometime within the next 30 days. It is hoped that necessary permits will be issued to the District by the end of September, 2012 and that actual construction can begin by no later than mid 2013.