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**Oil Spills**

**Caption: Ocean –** A large oil spill reported off the coast of San Clemente Island has prompted local environmental groups to call on regulatory agencies to further investigate the incident. Photo: Shawn Raymundo

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**Source of Oil Spill off San Clemente Island Remains Unidentified**

*By Eryka Forquer*

With the source of an oil spill off San Clemente Island reported by the captain of a whale watching boat yet to be identified, local environmental groups are pushing for further investigative efforts from authorities and voicing their concerns on the widespread repercussions of oil spills.

On June 19, Domenic Biagini, the captain of Gone Whale Watching, reported a large oil slick approximately 14 miles off San Clemente Island while conducting a whale watching tour with about a half-dozen passengers aboard.

In drone footage that he shared on Instagram, Biagini captured a pod of dolphins swimming through the rainbow-colored sheen. Three days later, the U.S. Coast Guard conducted an overflight of the area and did not report sighting of the slick.

“Despite my reporting of this larger spill area on Saturday, the Coast Guard claims that somehow that report didn’t reach command,” Biagini wrote on Instagram. “It was almost 72 hours before they went looking for the spill, which is of course either no longer in the same place due to ocean currents or has diluted enough to not be visible.”

Despite its report of not seeing the oil spill, the Coast Guard suspects that the sheen was caused by [diesel fuel](https://www.sanclementetimes.com/reported-oil-spill-off-san-clemente-island-prompts-environmental-concerns/), a petroleum-based product that dissipates within a day or less, according to California’s [Office of Spill Prevention and Response](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=29220&inline).

“There is some good news,” Biagini wrote on Instagram. “As far as spills go, diesel fuel is one of the less ‘tragic’ ones. It eventually spreads and dilutes in water fairly quickly, hopefully limiting long-term environmental impact.”

While the source of the spill remains unknown, Jonathan Bishop, the oil spill coordinator for the California Coastal Commission, said it is not uncommon for the source of spills to remain unidentified.

“There are a large number of small spills that occur every day,” Bishop said. “Many small spills go unreported, and the cause or source of some spills are unknown. Lots of small spills add up to bigger problems.”

Orange County Coastkeeper Senior Staff Attorney Sarah Spinuzzi stressed the importance of the Coast Guard’s investigation.

“This particular oil spill off San Clemente Island obviously is concerning because of the silence that we have had from a regulatory agency,” Spinuzzi said.

According to the National Oceanic and Atmospheric Administration, the severity of an oil spill depends on a few factors: where the oil was spilled, what type of oil was spilled and the different plants and animals found in the surrounding habitat.

While diesel oil is considered to be among the less toxic types of oil, it can be dispersed by waves and transformed into droplets that move with the currents. When ingested, diesel oil can cause mortality for organisms including invertebrates, fish and birds. Crabs and shellfish can also be impacted by diesel spills in shallow areas where they absorb and depurate the oil for several weeks after being exposed to the spill.

Alissa Deming, a doctor at the Pacific Marine Mammal Center in Laguna Beach, said oil impacts mammals through external and ocular exposure, ingestion of the oil and the inhalation of fumes at the water interface.

“Each route can be associated with different heat impacts,” Deming said. “Topical skin and ocular exposure can cause skin and eye irritation/damage, and ingestion can result in more systemic effects like impacts on immune function, decreased reproductive success and heart problems. Inhalation can cause chemical irritation of the airway and lungs.”

Oil impairs the insulating ability of mammals with fur and the water repellency of a bird’s feathers. It traps juvenile sea turtles and is mistaken as food by fish, dolphins, whales and other marine organisms. The ingestion and inhalation route of oil in mammals can result in short-term and long-term health problems, depending on the dose of oil and the duration of exposure.

While the impacts of an oil spill can be compromised in a physical sense, Deming said that oil spills can have a damaging snowball effect on the entire structure of an ecosystem. Oil spills can cause populations to decrease, leading to a shift in the landscape and environmental patterns.

In addition to environmental impacts, marine oil spills also have negative repercussions on the economy in coastal communities. Tourism is a major source of income in coastal areas, attracting people to local businesses and beaches where they can participate in recreational activities including boating, swimming and diving.

“California is a coastal economy,” Spinuzzi said. “The closer you get to the beach, the more expensive things are and the more people come here for tourism. The further you get away, the less money people are spending on tourism, and that is because the coastal resources and keeping them clean is what drives our economy.”

Oil spills also impact fisheries, including any portion of the economy that is related to fishing. Other large economic impacts include the costs of cleanup and compensation.

The Coast Guard is responsible for cleaning up oil spills and taking reports of all maritime safety incidents, including chemical and oil spills. Oil spill reports in California are included in a long [list of spill reports](https://w3.calema.ca.gov/operational/malhaz.nsf/f1841a103c102734882563e200760c4a?SearchView) composed by the Office of Spill Prevention and Response, which can be filtered by city.

The types of spills range from chemical, sewage, railroad and petroleum. When looking for spill reports in San Clemente, the OSPR lists about 150 reports that date back to 2006 and includes about 50 petroleum spills. The OSPR lists about 120 reports for Dana Point that date back to 2006 and includes close to 80 petroleum spills.

In addition to the OSPR, oil spill reports can also be tracked by an [interactive map](https://alerts.skytruth.org/) created by the environmental nonprofit organization SkyTruth, which uses data collected from the U.S. Coast Guard National Response Center.

“Those are reports of accidental and hazardous oil material spills, and many of these reports are actually submitted to the Coast Guard by the polluters themselves,” said John Amos, founder and president of SkyTruth. “Each of those red pins on the map is a leak or spill report, and the map will show you the most recent 100 of those reports based on your display.”

SkyTruth, founded in 2002, uses radar satellite imagery to map offshore infrastructure and detect marine oil spills. Using two satellites operated by the European Space Agency, the organization receives 1,500 black-and-white radar images a day that are automatically analyzed by a machine learning model for the detection of an oil slick. In the radar imagery, an oil slick will appear as a black line.

“It’s a pretty distinctive thing when you see an oil slick from a vessel,” Amos said. “It’s practically a slam dunk when you see a big, bright spot at the end of the slick and that bright spot is the vessel that is causing that pollution.”

“That is what we found when we started looking at radar satellite imagery around San Clemente Island to see if we could find anything indicating the source of a diesel fuel spill that was captured on video on the night of June 19,” he continued.

Amos said he was unable to detect any oil slicks on June 19 off San Clemente Island due to weather conditions. The area was covered in fog that Saturday, and he was unable to see the surface of the water in the radar imagery. However, Amos did detect an oil slick in the area on May 23 that was left by a vessel the size of three football fields.

While he was unable to detect the June 19 oil slick, Amos suspected that the spill could have occurred from a collision of vessels, a leak during a refueling operation out at sea or a refueling exercise conducted by the Navy that had gone wrong.

“These relatively small oil spills happening out in the ocean far offshore used to get ignored,” Amos said. “Technology has just evolved to the point where we can uncover these problems and make them visible, knowable, measurable, and hopefully that means actionable.”

While there have not been any recent updates pertaining to the source of the oil, Adam Stanton, a Coast Guard public affairs specialist, said the spill is still being investigated.

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**Beach Report**

**Caption: Pier –** Heal the Bay’s annual Beach Report Card gave the San Clemente Pier a C grade, a stark improvement from the F it had received three of the previous five years. Photo: Shawn Raymundo

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**Annual Beach Report Shows Water Quality Improvements at San Clemente Pier**

*By Shawn Raymundo*

After appearing on Heal the Bay’s collection of California’s most polluted beaches three of the previous five years, the San Clemente Pier finds itself removed from this year’s infamous “Beach Bummer” list, signaling a stark improvement in ocean water quality at the popular beach spot.

For the 2020 summer dry season, comprising the months of April through October, the San Clemente Pier earned a C in Heal the Bay’s latest [Beach Report Card](https://healthebay.org/wp-content/uploads/2021/06/Beach-Report-Card-2020-2021.pdf), which assigns letter grades to West Coast beaches based on water quality samplings during dry and wet weather periods.

Except for the 2017-2018 report card, the [pier has been assigned an F since 2016](https://www.sanclementetimes.com/poche-beach-pier-ranked-among-states-most-polluted-beaches/) because of “untreated dry weather runoff that flows into the ocean through a storm drain,” [Heal the Bay explained](https://healthebay.org/beachbummers2020/) last year.

City officials had previously pointed to bird droppings as the primary culprit, which prompted the city to install bird deterrent netting directly under the entrance of the pier, below Fisherman’s Restaurant and Bar.

In a [press release](https://www.san-clemente.org/Home/Components/News/News/6678/16?backlist=%2f) last week, the city attributed the improved letter grade to the installation of the netting and a study that was initiated to identify and abate the root cause of bacteria exceedances found in the ocean water.

“The Study’s Stakeholder Advisory Committee, the City’s Coastal Advisory Committee, and City staff have been instrumental in water quality improvements,” the city said in the press release.

Poche Beach and the creek outlet—another San Clemente beach segment but operated by the County of Orange—was also removed from the Beach Bummer list after making five prior appearances since Heal the Bay’s 2010-2011 report.

Most recently, the Poche Creek Outlet received an F in the 2019-2020 report, because pollution carried from the Prima Deshecha Cañada storm drain, sometimes called Poche Creek, empties out into Poche, contributing to the bacteria levels.

The creek outlet improved slightly this past year, earning a D during the summer dry period, and a C during the winter dry season, which covered November 2020 through March 2021.

For the first time since the 2013-2014 Beach Report Card, none of Orange County’s beaches appeared on the Beach Bummer list. Among the county’s beaches, 10 made Heal the Bay’s Honor Roll, the most of any county in the state, according to the report.

Most of the county beaches that made the Honor Roll, which represents beaches that have consistently earned an A+ on a weekly basis throughout all seasons and weather conditions, were concentrated in Newport Beach and the Balboa Peninsula area.

According to the report card, the county’s summer and winter dry grades were “excellent” and “stellar,” respectively, as 96% of the beaches received A and B grades during those periods. Wet weather grades, however, were “substandard” and much lower than average, as only 42% of the beaches were given A’s and B’s this past year.

California’s beaches overall, Heal the Bay reported, “had excellent water quality during the summer months of 2020. Out of over 500 beaches across the state, 93% earned good marks (A’s & B’s) in the summer.”

During the winter dry season, the pier earned an A, according to the report [released late last month](https://healthebay.org/beachreportcard2021/). With the exception of the Poche Creek Outlet, all of San Clemente’s beaches received a B or higher in the winter months.

Eight of the 12 San Clemente beaches highlighted in the report earned an A or A+ during the summer months, while one area, the Pico drain at North Beach, received a B during the summer. Heal the Bay didn’t assign a summer dry grade to Riviera Beach.

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**James Legal Fees**

**Caption: GJames –** The city of San Clemente is pursuing arbitration with its insurance carrier, which has denied repeated requests to cover Mayor Pro Tem Gene James’ legal expenses in a defamation suit filed against him. Photo: Shawn Raymundo

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**City Challenges Insurance Pool’s Rejections to Cover Gene James in Defamation Suit**

*By Shawn Raymundo*

The city last month filed one last appeal to its insurance carrier as it seeks to overturn previous denials to cover Mayor Pro Tem Gene James’s legal expenses in a defamation lawsuit filed against him by a former political ally.

The California Joint Powers Insurance Authority has [three times over the past year denied the city’s and James’s prior requests](https://www.sanclementetimes.com/city-playing-unclear-role-in-defamation-suit-against-councilmember/) to provide the elected official with coverage and legal representation, finding that that the allegations raised in the suit were not based on any actions the mayor pro tem took as a councilmember.

June 25, according to City Attorney Scott Smith, was the deadline to submit the appeal to the JPIA and challenge the three rejections through binding arbitration—the city’s last available remedy and a process estimated to cost the city between $20,000 and $30,000.

In the [June 24 letter to the JPIA requesting arbitration](06-24-21%20Letter%20to%20Jonathan%20Shull-c1.pdf), the city said it disagreed with the insurance pool’s rejections to indemnify James, arguing that he was acting within the scope of his duties as an elected official when he allegedly made a defamatory claim about his former political associate, Jim Bieber, to other San Clemente residents in private text messages.

Those texts, [the city has said](https://www.sanclementetimes.com/wp-content/uploads/2021/04/CITYSC_BBK_012521.pdf), represent the councilmember’s fulfillment of his duty to engage with constituents.

“As will be shown during the arbitration, the alleged remarks were made within the scope of James’ duties under California law,” the letter stated. “Specifically, the alleged remarks were made during a conversation between Mr. James and certain of his constituents affiliated with Plaintiff (Bieber) regarding James’ meeting with another City councilmember …”

Bieber’s lawsuit [filed in Orange County Superior Court last year](https://www.sanclementetimes.com/defamation-suit-against-councilmember-james-renews-claims-of-stolen-valor/) accuses the councilmember of making false claims to those constituents by telling them Bieber had threatened to kill James during a heated exchange at a bar in early 2020.

Bieber, in his complaint, denies ever making such a threat.

James, who was preparing to run for reelection at the time the lawsuit was filed, has argued the complaint was politically motivated. He also has acknowledged speaking with residents via text messages to explain Bieber’s alleged threat—a conversation that came about after being seen meeting with then-Councilmember Chris Hamm.

Believing that the lawsuit warrants coverage from the insurance pool, councilmembers during their [mid-June meeting](https://www.san-clemente.org/home/showpublisheddocument/64744/637589398412168058) approved the plan to request arbitration.

“I feel like there’s a good argument to be made that this was in the course of councilmember duties,” Councilmember Chris Duncan said during the June 15 meeting, when he and Mayor Kathy Ward voted to move forward with the challenge, while Councilmember Steve Knoblock abstained from voting.

“As a councilmember, I have particular interest in ensuring that councilmembers are represented and get to exercise their due process right throughout the entire process and seek representation for allegations that are made against them as a councilmember,” Duncan continued.

The latest vote ended a months-long standstill as a result of the council not having a quorum to deliberate and consider the matter. James has had to recuse himself from any discussions during closed and open council sessions because of his financial interest, while Knoblock, a witness in the complaint, has also recused himself.

Councilmember Laura Ferguson has also repeatedly recused herself for reasons that were unclear prior to the June 15 vote, at which time she stated that she “will possibly be a potential witness in this case.”

Ferguson explained to *San Clemente Times* that she may be called as a witness because, according to her, the alleged exchange between Bieber and James occurred during a farewell party she had hosted for a mutual friend at the Red Fox Lounge.

“So, these words that were allegedly said that created this whole defamation lawsuit were a result of being at this location,” she said. “I was there, and I didn’t see or hear anything of the sort that may have allegedly happened, which means that I could potentially be called as a witness.”

As of press time, Bieber’s attorney, Paul Carter, had not responded to an email requesting comment regarding Ferguson’s claim of being a witness. James did not wish to comment on the matter.

During a previous attempt on May 4 to consider the issue in a public session, Ferguson, after announcing her recusal, stated: “Had I participated in that, I would’ve voted no, because I see that as a gift of public funds.”

“I believe it’s a very personal matter between two people, and I don’t see this as being anything done in terms of action of city business at all,” Ferguson said last week. “It was an event that was done after hours, after council meeting hours at a local bar, to celebrate a friend.”

The city initially had until May 24 to request arbitration. However, following the May 4 meeting, when the council didn’t have a quorum to take up the discussion, Smith—along with city management and the city’s risk management office— had asked the JPIA to extend the deadline.

“When the council was unable to assemble a quorum, we contacted the JPIA, and they agreed to give the city more time to make that decision,” Smith explained.

At the mid-June meeting, the council was also slated to consider whether the city itself should provide James with legal defense in the lawsuit—expenses that could exceed $100,000. Knoblock opted to participate solely in the discussion on the JPIA challenge and asked to bifurcate the two decisions.

“Because I’m a witness in this matter, I’ve recused myself a number of times, and because I didn’t want to show partiality to either the claimant (Bieber) or the defendant (James), because both of them I know—known for a substantial period of time,” Knoblock explained.

“I’m going to sit in for this reason: because I believe that all members of the council are entitled to proper representation,” Knoblock continued, after noting that his recusal had contributed to the lack of quorum.

He further added that the issue of whether a councilmember is owed representation is related to the [council’s decision to censure Ferguson last fall](https://www.sanclementetimes.com/council-votes-to-censure-ferguson/), when she wasn’t provided her own legal counsel from the city.

“I think every councilmember is entitled to proper representation when needed, when appropriate,” he said. “And it should extend to all those parties with whom—even with whom—they vigorously disagree or have civic or personal matters of disagreement.”

Wanting to give the council a quorum, Knoblock said he believed he could be impartial and would abstain from voting.

Speaking with *SC Times* last week, Knoblock reiterated his position that he wanted to remove his recusal while still abstaining from voting, out of fairness, so the council could have a quorum.

Asked to expound on his decision to participate in the discussion on the JPIA matter but not deliberate on the proposal to fund James’s legal expenses, Knoblock said there are a number of distinctions between the two.

“One is the insurance professionals weighing in on the insurance provision,” he explained, referring to the carrier’s obligations to the city. “The other is the city using tax dollars.”

In the city’s latest letter to the JPIA, it asked that the arbitration process “occur as soon as reasonably practicable,” because it “wishes to resolve this dispute expeditiously.”

As of press time, JPIA Executive Officer Jonathan Shull had not returned *SC Times*’ phone call requesting comment.

The next court hearing on the lawsuit is scheduled for July 12.

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**Chick-fil-A**

**Caption: ChickfilA** – Suzanne Alameri and Erik Baker of Chick-fil-A San Clemente celebrate the restaurant’s one-year anniversary on July 1. Photo: Norb Garrett

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**Chick-fil-A Celebrates 1 Year in San Clemente**

*By Norb Garrett*

One year ago, on July 1, 2020, smack in the middle of the worst pandemic the world has known in 100 years, Chick-fil-A opened at the Outlets at San Clemente.

“The word of the year is ‘unexpected’—unexpected challenges, hiccups, you name it. But with that comes opportunity,’” said owner and operator Erik Baker during a one-year anniversary celebration last week.

Baker, along with his general manager, Suzanne Alameri, and a number of new employees paired with a large contingent of employees who had moved from his Foothill Ranch location, opened the popular chicken restaurant, offering drive-through service and a new dining option for San Clementeans.

Within a week, the business added curbside ordering and delivery options as well, and the business was off and running. Despite the challenges, the restaurant one year later celebrated its anniversary with a party in the parking lot, featuring live music, giveaways and a raffle.

Baker said he’s happy with how the business has fared.

“San Clemente is a community that’s really chill,” he said. “The community had patience and grace that got us through.”

*Chick-fil-A at the Outlets at San Clemente is located 495 W. Avenida Vista Hermosa, San Clemente. 949.486.6023.*