

## Documents: Romberg's conflicts with salmon institute pre-date new director

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**B**ROOKE HALSEY dates his troubles at the Romberg Tiburon Center for Environmental Studies to 2014, when current director Karina Nielsen arrived. But long before Halsey went head to head with Nielsen, her predecessor, Newell "Toby" Garfield, recognized the need to regulate the Tiburon Salmon Institute for safety and liability reasons.

According to emails acquired by The Ark as part of a California Public Records Act request, as early as 2010 Garfield told his colleagues at San Francisco State University, which operates Romberg, that "the (Tiburon Salmon Institute) gang is out of control" and was taking unacceptable safety risks with children that could make the university liable in a lawsuit.

"The way they are going now, I'm ready to boot (them) off the property," Garfield wrote. "I like their mission, but can't accommodate groups that won't play by the rules."

The emails suggest relations between Romberg and the salmon institute began to sour in 2008 — just a year after the university took ownership of the property — when Garfield had concerns that Halsey had sunk six temporary pilings to hold his fish pens without obtaining permits required by the San Francisco Bay Conservation and Development Commission.

In the emails, Halsey asked Garfield to "keep it low key" if he spoke to the commission and said that if there was any trouble from the agency, "Jared" — presumably U.S. Rep. Jared Huffman — would intervene. Halsey later refers to the pier as the "Jared Huffman Deep Water Research Pier."

Garfield also makes it clear that no one from Romberg was to use the pens as floating docks until a lease is in place because of liability issues, leading to months of back and forth between Halsey and Romberg officials about getting a lease drawn up.

Things flared up again in 2009 when Garfield discovered that Halsey intended to use Building 86 as an educational and interpretive center and began moving thousands of dollars of aquarium tanks and other equipment donated by the California Academy of the Sciences onto the site.

Garfield was alarmed because the building was not structurally safe for children, and the university could be held liable for deaths or injuries at the site. He noted that the building did not have sufficient fire exits or sprinkler systems.

"There is no way that building in its present state can be used for educational functions," he told a colleague in a July 2010 email. "The state fire marshal would shut us down immediately if not sooner."

In another email, Linda Mayo, operations director at Romberg, told her superiors of concerns that children were "wandering onto our boat launch, beach, atrium, fishing off the seawall and a gantry way in need of repair."

The salmon institute held a birthday

party and fundraising events with hundreds of people crowding around the piers and in Building 86.

This was not the intended use of the building, Garfield told his superiors. The federal government transferred ownership of the property from the National Oceanic and Atmospheric Administration to the university in 2007, but NOAA retained a license to use Building 86 only as a storage facility. NOAA then allowed the salmon institute to use the space — with Romberg officials taking the position that any use beyond simple storage was a violation of the terms of the license.

Halsey told Romberg officials that he carried \$2 million in insurance for the program and offered to sign a liability waiver absolving NOAA and the university, but Romberg officials worried that because the institute was an unaffiliated nonprofit without a valid lease, his insurance would not cover the university.

"Without a lease, (a memorandum of understanding) or other agreement that includes a scope, any insurance policy does not have value," Mayo wrote Garfield in July 2010. "If there was a claim there could be an insurance war."

Romberg staff considered a cease-and-desist order against the salmon institute until the safety concerns could be worked out.

Starting in mid 2009, several versions of a lease were drawn up — the first, submitted by Halsey, was rejected immediately by the university, while subsequent standard leases offered by the university were heavily amended by Halsey. Then as now, he insisted on a long-term lease in which he paid little to no rent.

Halsey says he signed and submitted a lease agreement in 2010 and believed he would hear back from university officials, but never did. According to one government official, it had been determined the issue fell under federal jurisdiction because NOAA had made the agreement with Halsey. The matter was handed over to NOAA, which did not pursue it further.

For the next four years it was back to business as usual for the salmon institute, and the safety and insurance issues were shelved.



Halsey said Garfield granted him written permission when he needed special use of facilities.

In 2014, Romberg's new director, Nielsen, revisited the issue. The Sonoma State University biology professor had moved to the directorship that August with ambitious ideas about rescuing and repurposing the hulking, dilapidated buildings on the Romberg site. She quickly discovered there were complications — and she considered Halsey one of them. Halsey was still letting kids out on the piers and gantry ways without lifejackets and allowing them to wander among the tanks and equipment in Building 86. And there was still no lease or formal agreement with either San Francisco State or NOAA.

Things came to a head last November ahead of the strong winter storms, when on short notice Halsey requested permission from Nielsen to allow a crane on the Romberg site to remove his salmon pens.

*EDITOR'S NOTE — California State University and, by extension, the Romberg Tiburon Center for Environmental Studies are subject to the California Public Records Act because they are government-run organizations and its paid staff are state employees. The Ark filed its formal public records request for Romberg's documents and emails involving and related to the privately operated Tiburon Salmon Institute and its executive director, Brooke Halsey, after university and Romberg officials repeatedly declined to comment or return calls related to its reasons behind evicting the institute, and after Halsey declined to provide copies of the notices he received from Romberg or his responses to them.*

In her reply, Nielsen said the notice was too short to get clearances, and she went on to express the same concern as Garfield had four years earlier about liability.

"I could not find any evidence that your activities have any official connection to NOAA ... aside from permission to use some storage space in Building (86)," she wrote in an email to Halsey. "I communicated with Steve Lindley and others at NOAA last week to learn more about your claim to a NOAA affiliation of some sort. ... Steve told me that you are not a NOAA affiliate and not a NOAA employee, thus your activities are not 'covered' for liability purposed by NOAA in any way."

She did, however, say that she wanted to work with Halsey to create an "above board relationship ... looking forward."

In the meantime, the salmon pens were never removed from the water and, when the storms struck in early December 2014, they broke loose and damaged university property. That's when Nielsen pulled the plug.

"You may not continue to use university property for free or without a written lease agreement," she wrote in a Dec. 3, 2014, email. "Before you can resume any activities at (Romberg) ... you must have a lease in place that authorizes your activities and you must comply with all appropriate ... policies."

A formal cease-and-desist notice was sent to Halsey in mid-January, with the formal eviction notice coming in late May, effective July 1. In early June, when Halsey sought to release 8,000 salmon at Romberg that were trucked in by the California Department of Fish and Wildlife, Romberg officials blocked access and forced the release to Paradise Cay.

Halsey maintains that he has tried his best to address the university's safety and liability concerns. The building, he says, has not been a "destination for kids," only ones feeding the fish in the aquariums he has collected.

"We've conformed with anything and everything they've asked us," he said.