



# National Press Photographers Association

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Via Email ([LNastro@parks.ca.gov](mailto:LNastro@parks.ca.gov))

May 6, 2013

California State Park & Recreation Commission

Louis Nastro

Assistant to the Commission

P.O. Box 942896

Sacramento, CA 94296-0001

**Re: KGTU Incident at San Onofre State Beach, Event # 213314040**

Dear Mr. Nastro,

As the general counsel of the National Press Photographers Association (NPPA) I write to you to express our strong objections regarding an incident that occurred on the morning of April 29, 2013. It is my understanding that KGTU, reporter Mitch Blacher and photographer Arie Thanasoulis were assigned to do a story on the San Onofre Nuclear power plant. They arrived at the San Onofre State Beach and paid \$15.00 for access to the public beach. They informed the attendant that they were members of the news media and then asked where the best vantage point was to see the plant from the beach. While following those directions a state beach employee pulled up and confronted them about their activities.

Without going into lengthy detail (supplied upon request) Mr. Blacher explained to your employee (later identified as Bob Warman) that they were getting some video of the power plant as members of the news media. Rather than being helpful Mr. Warman accused them of trespassing, blocked their vehicle, ordered them not to record and then called State Parks Police Officer E. Rocca (badge #1517) who arrived and also proceeded to harass and threaten to arrest the pair for doing nothing more than recording video of the plant from an area open to the public. Officer Rocca in turn called an unidentified employee of Southern California Edison, who arrived on the scene dressed in full SWAT gear. The three (3) of them then ordered the crew to delete whatever video they had already shot under threat of arrest in blatant violation of the First and Fourth Amendments.

The "Guidelines for Filming in California State Parks" includes "News Media Photography" in the section titled "Photography That Does Not Require Permitting." In pertinent part that section states: "No permit is required for news agencies in the process of gathering breaking news for broadcast or print media." Subsequent apologies from Parks Police Captain Rick Haydon and a spokeswoman for Southern California Edison, are inadequate to make up for the behavior of employees who trample on the Constitutional rights of citizens and journalists under color of law, especially when it abridges the ability to cover a matter of vital public safety and finance.

Additionally, the coerced deletion of video constitutes a seizure under the Fourth Amendment. It is no less an illegal taking, than had the trio decided to steal the crews' camera and equipment with no intent to return

them. As stated by the U.S. Department of Justice in another similar matter, “**there are no circumstances under which the contents of a camera or recording device should be deleted or destroyed**” by police (emphasis added).

In any free country the balance between actual vigilance and over-zealous enforcement is delicate. It is one thing for officers to act when there is probable cause; it is quite another to abuse that discretion in order to create a climate that infringes upon free speech under the pretext of safety and security. It is our position that your employees’ behavior did just that. Therefore, we respectfully request that this matter be fully investigated and the employees properly disciplined if so indicated.

By this letter, the NPPA offers to work with the Commission (as we have with a number of other agencies around the country) to help develop reasonable and workable policies, practices and training in order to avoid similar situations in which citizens and journalists are illegally mistreated for doing nothing more than photographing or recording in public.

Thank you for your attention in this matter. I look forward to your response.

Very truly yours,

*Mickey H. Osterreicher*

Mickey H. Osterreicher  
General Counsel

cc: Ronald L. Litzinger, President, *Southern California Edison*  
Enrique Martinez, VP, Safety, Security & Compliance, *Southern California Edison*  
Gaddi Vasquez, Senior VP, Public Affairs, *Southern California Edison*  
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