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➤ **Press Release, For Immediate Release**

Mayor Filner's illegal Children's Pool Beach closure- San Diego, CA

As residents of the City of San Diego and citizens of the State of California, we have been blessed with many rights and privileges. For example, the citizens of the State of California have long recognized the importance of their coastline and have sought to protect it in many ways. As a result, the people of the State of California have enshrined in their State Constitution several rights reserved to the people. Within the State Constitution, you will find the right to access the ocean (Article X, Section 4) and the right to fish (Article I, Section 25). Specifically, "No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands.... shall be permitted to exclude the right of way to such water whenever it is required for any public purpose". Therefore, the people of the State of California enjoy the guaranteed right to access the ocean and to use it. As stated in the Constitution, "the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof". As a result, you will see numerous references to the State Constitution in the Coastal Act and other State laws.

Unfortunately, Mayor Filner seems to be unaware of these laws or the Constitution. News stories have referenced him saying "I'm a Congressman and can do whatever I want". Unfortunately, as Mayor, he is bound by the law and cannot simply ignore it whenever he wishes. Unilateral actions in defiance of the law have already caused several lawsuits and may cost the City dearly as warned by the City Attorney in his December 24, 2012 memo. The City Attorney stated, "Should the City engage in Coastal Development without the proper permits, it may be subject to causes of action by both private citizens and the CCC, which may include the imposition of civil penalties and attorney's fees".

Although we all deplore incidents which cause harm to the seals and nobody wishes to see wildlife injured, closing City beaches to the public is not the way to prevent these actions. The Mayor had already requested a 24/7 police presence at the Children's Pool. As a result, the closure of a public beach under an emergency permit is both unlawful and a gross overreaction. As San Diego Police Captain, Brian Ahearn said, "Since officers have been stationed there, there have been no incidents and no arrests". We agree with the Captain's assessment and note the San Diego Municipal Code says, "All emergency Coastal Development Permits shall authorize only the minimum necessary to stabilize the emergency". With a 24/7 police presence and the apparent lack of incidents, how could an outright beach closure possibly be needed to "stabilize the emergency"?

The Friends of the Children's Pool are opposed to this drastic overreaction by the Mayor. We feel that when Constitutional rights are to be restricted, a careful analysis and a compelling government interest should be provided. Likewise, such restrictions of Constitutional rights must be the least restrictive of the various options. Clearly, closing a public beach to all forms of access at night is not the least restrictive option available and in light of the current 24/7 police presence is neither consistent with City law nor the State Constitution.

<http://articles.latimes.com/2010/dec/09/opinion/la-oe-w-neeley-beach-closures-20101209>



The specific purpose of this corporation is to educate the public as to the use of the Children's Pool in accord with Miss Ellen Scripps' charitable intent in 1931 in order to protect La Jolla Children's Pool surroundings as a public park, a bathing pool for children, and public recreational usage in accordance with chapter 937 of the deed of trust between Miss Ellen Browning Scripps, the State of California, and the City of San Diego, county of San Diego. Publicize the return of Children's Pool to public recreational use. Promote water quality and safety. Facilitate cleaning the beach and adjacent areas to make it attractive and convenient for public use.