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## **FOR IMMEDIATE RELEASE – Proposal to Close Children's Pool Sent Back to the Drawing Board**

### **San Diego, CA**

On Tuesday, October 29, 2013, the City Council was scheduled to hold the latest in a long line of hearings with proposals to close the Children's Pool beach to human use. Activists and newspapers have long framed the issue as seals versus humans. However, community organizations in La Jolla, including the Friends of the Children's Pool have long insisted that the City of San Diego should be required to comply with the laws and procedures that they routinely demand of others. This is particularly the case when the sensitive issue of closing a dedicated public beach is raised. Today, the City Council of San Diego and State Coastal Commission agreed with us. The hearing scheduled for 2 p.m. today has been postponed while the proposal to create an "Environmentally Sensitive Habitat Area" (ESHA) on a artificial beach designed for human use has been sent back to the drawing board. After significant input from community organizations, including the Friends of the Children's Pool, the Watermen's Alliance and State Agencies such as the Coastal Commission, the proposed Children's Pool closure has been "returned to staff".

Returning an item to staff is a procedure which is used when the City Council feels there are flaws in a proposal. It gives City Staff an opportunity to correct deficiencies and improve a proposed action but it also is an implicit admission that a proposal is not ready to be heard due to inadequacies. The State Coastal Commission agreed and recommended such action in a letter sent to the City on October 25, 2013. According to the Coastal Commission, "we do not support an ESHA designation at the Children's Pool" and "marine mammal protection and maximum public access opportunities are both mandated". The Coastal Commission letter continued to point out several deficiencies with the City's planned course of action including pointing out that other protected areas in CA "do not share the same site-specific conditions present at Children's Pool". In short, the Coastal Commission recognized that the Children's Pool is a unique area and that the City's proposed ESHA is not appropriate. As a result, the City Council sent the item back to the drawing board.

At the earlier Planning Commission hearing, City Staff acknowledged that they had long known there were problems with the ESHA proposal. They recommended that the Planning Commission ignore Coastal Commission comments at the time that an ESHA was not appropriate and approve it anyway in order to justify a proposed ordinance to close the Children's Pool. At the time, staff acknowledged that they knew of no other way to close a public beach for half of the year. However, as the Coastal Commission stated and the City Council acknowledged today, ignoring the Coastal Act and miss-using laws to restrict public rights is not a proper exercise of power.

The City of San Diego has a long history of ignoring proper procedures in a rush to revoke the rights of the public. Previously, a case which went all the way to the State Supreme Court, found that the City had violated State Law in previous attempts to close the Children's Pool beach. More recently, the Friends of the Children's Pool were forced to sue the City of San Diego over permit violations which were ordered by controversial former-Mayor Bob Filner. These violations were recognized and commented on in a memo by the City Attorney as well as the Coastal Commission. Resolution of the case is still pending. However, the court recognized that ex-Mayor Filner had violated the Coastal act saying, "there is no authority that this procedure (extending the rope) validly amended the permit under the Coastal Act regulations or the Land Development Code". The Court continued saying, "there was no hearing regarding this correction, denying petitioner and any other members of the public to any hearing on their position".

The City Council has taken the first step in preventing further injury to the rights of citizens with respect to the Children's Pool. By sending the proposed closure back to the drawing board, the City Council acknowledges that there were errors which need to be corrected. We hope that City Staff take the opportunity they have been given to take into account not only the comments of State Agencies but community organizations in La Jolla. At a minimum, City Staff should evaluate superior alternatives such as the Lifeguard Union Plan which was eluded to when the Coastal Commission said, "there are clear alternatives that result in the same protective measures". The Friends of the Children's Pool as well as numerous other community organizations supports the Lifeguard Union Plan as a common-sense alternative which accomplishes seal protection while maintaining human access and avoiding the years of conflict caused by misguided but well meaning proposals to close a public beach.



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.