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June 9, 2010

Mr. Martin Mc Clelland, Chair  
Humboldt Local Agency Formation Commission  
1125 16<sup>th</sup> Street, Suite 202  
Arcata, CA 95521  
C/o: Executive Officer Alternate Merle Anderson  
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Subject: City of Rio Dell's Annexation Application For Scotia

Dear Mr. McClelland and Commission Members:

The City of Rio Dell wishes to state for the record that it is our intent to have a completed LAFCo application for the annexation of Scotia to the City of Rio Dell filed within 90 days of the date that the annexation application from the Town of Scotia LLC is deemed complete. That said, the City of Rio Dell respectfully requests that the Commission make the findings at its July 7, 2010 meeting that the annexation alternative is LAFCo's preference. Furthermore, the City requests that the Town of Scotia, LLC, be directed to apply for annexation to the City of Rio Dell. The City is committed to processing the application expeditiously and returning to LAFCo for hearing.

#### Narrow the Options

We urge LAFCo to remove the Community Service District (CSD) option from the table so that talks between the developer and the City can resume. Until that option is unavailable, Scotia LLC will remain uncooperative, even hostile with the City and will do everything it can to disrupt and delay our efforts. The bottom line appears to be one of control, shifting costs to the future residents and thereby maximizing corporate profits. Someone has to pay for the infrastructure improvements; the question is whether it will be the developer as a condition of annexation or the future residents and businesses through a CSD structured by the developer.

#### It Started With Pacific Lumber Company (PALCO)

As you are no doubt aware, PALCO approached the City of Rio Dell in 2006 with a proposal to annex Scotia to the City. There was a large body of work mutually produced in terms of planning, engineering and financial analysis. However, before that process was complete, literally the day after a meeting, PALCO filed for bankruptcy and discussions ended. The bankruptcy pro-

ceedings lasted approximately one and one-half (1 ½) years and Marathon Corporation, as the secured creditor, emerged from the bankruptcy with ownership of most of the property and assets in the community. The Town of Scotia, LLC is a corporate creature of Marathon Corporation, a global asset management giant out of New York.

The Town of Scotia, LLC, returned to the City to pick up on the topic of annexation where PALCO left off. They left the table in 2007 over the cost of infrastructure improvements that the City wanted them to make; principally waster and wastewater systems and other physical improvements in the community, such as roads and ADA requirements. All cities have minimum development standards that developers have to follow, but Marathon Corporation found an “end-run” to the annexation process and filed a CSD application.

### Annexation—LAFCo Preference

The Commission’s Evaluation Policies support Rio Dell’s position that annexation is the proper option. Evaluation Policy #7 on page 31 of the LAFCo Commissioners Handbook clearly states that “new, expanded or consolidated services should be reviewed by one of the following governmental agencies shown in descending order of preference:

1. **Annexation to an existing City.**
2. Annexation to an existing multi-purpose district.
3. Annexation to an existing single-purpose district.
4. Annexation to an existing county service area (CSA).
5. Incorporation of a new City.
6. *Formation of a new multi-purpose district.*
7. Formation of a new single-purpose district.
8. Formation of a new CSA”

The City of Rio Dell is ready, willing and able to annex Scotia to provide the full range of municipal services to the area in a seamless manner. The CSD application before LAFCo ranks 6<sup>th</sup> in the order of preference and does not provide such important services as police protection, building and planning services, or road maintenance for 73% of the paved streets in the community. Furthermore, with a projected population of only 800 residents, the financial feasibility and economies of scale of the CSD proposal are highly questionable, if not downright reckless.

For a year the City waited for the developers CSD application to come up for hearing. We had fully expected that LAFCo would deny the application for reasons mentioned above and send Scotia back to us to work it out. But it did not happen. So, on February 16, 2010 the City Council directed staff to prepare a LAFCo application for the annexation and move forward.

### Good Things are Happening

Since then, the city administrative staff, planning and engineering consultants have been preparing the necessary LAFCo documents. At the same time we have been engaged in the analysis of the CSD proposal and involved in community meetings and study sessions on the topic. The City’s actions to date on the annexation application are as follows:

- 2-16-10 City Council authorizes staff to prepare LAFCO application to annex Scotia.
- 3-02-10 City Council approves “Annexation Proposal Justification” and directs City Manager to file application.

- 3-02-10 City Council receives proposed General Plan and Zoning designations for Scotia.
- 3-17-10 City attends LAFCO meeting and requests combined study session.
- 4-06-10 Council receives information on the Financial Impact Study on the annexation of Scotia, prepared by MuniFinancial, 2007, and noted that in the Program Environmental Impact Report prepared by County of Humboldt, the City commented that Alternative A was the Environmentally Superior Alternative. The City will use the PEIR with adaptations as necessary in the annexation application.
- 4-21-10 City participates in LAFCO study session comparing the CSD and Annexation proposals.
- 4-28-10 Rio Dell Planning Commission receives General Plan and Zoning Amendments for Scotia annexation for review and comment.
- 5-11-10 City Council holds widely advertised community evening meeting for Scotia and Rio Dell residents on the City's annexation proposal and comparing the wide difference in costs to residents between the 2 proposals.
- 5-17-10 City attends LAFCo meeting for update on applications
- 5-26-10 Rio Dell Planning Commission holds public hearing on Scotia Sphere of Influence and General Plan and Zoning Amendments related to annexation.
- 6-08-10 City of Rio Dell forwards comments to LAFCo on annexation being preferred alternative, according to LAFCo Commissioners Handbook.
- 6-15-10 City Council to hold public hearing to review proposed Sphere of Influence; General Plan and Zoning amendments, and Municipal Service Review Determinations for annexing Scotia to Rio Dell.

The City's annexation proposal is moving forward with deliberate speed!

#### Timeline for Annexation Application

Extensive work has already been completed that will enable the City to process the Town of Scotia Annexation application and schedule this matter for hearing, in an expeditious matter. The City is committed to processing the Scotia Annexation application, and scheduling and conducting public hearings before the Rio Dell Planning Commission and City Council, within 90 days of having a complete annexation application from the Town of Scotia.

The single issue of governance and the combined strength of two (2) small communities being successful during these tough economic times as a larger unit would normally carry the day, as recognized in LAFCo policy. But, if that is not a sufficient argument to LAFCo to prevail, the City has prepared a number of observations and comments concerning the CSD proposal that you are asked to consider.

#### Annexation 43% Cheaper Than CSD

The formation of a CSD right on the boundary of a City that already provides all of the services that the CSD would provide will by its very nature duplicate significant costs for staff, housing and equipment. Table 1 in attached Exhibit 1 lists the personnel that the CSD would recruit, hire and fund. The total cost as noted in their Financial Assessment for personnel is \$405,000. They allow for an additional \$30,000 for bookkeeping services elsewhere in the document. Our information is that the cost of bookkeeping, accounting, payroll and utility billings for a CSD will run

at least \$50,000. That brings the total to \$455,000. The estimated cost for the City to provide the same level of administration and workers in the field is \$276,150, \$178,850 less for a 12 month period. And, over time, because there is also a duplication of Licensed Water and Wastewater Operators, the annual savings can increase to \$246,150 by attrition.

The same is true for the duplication of public works equipment and housing by the CSD. Table 2 in Exhibit 1 details the items that the CSD proposes to acquire in the first year, including rents which they estimate at \$26,600. The CSD proposed costs are \$303,329. In comparison, the city's additional cost for annexation is \$135,000, a savings of \$168,329. A Scotia CSD will unnecessarily cost the residents and businesses in Scotia \$347,179 in the first year, with an ongoing cost difference between \$205,450 and \$272,750 in the out years.

#### Police Services Only by Annexation

Table 1 of Exhibit 1 also shows the addition of 2 police officers to the department, if annexation occurs, to provide Scotia residents 24/7 law enforcement coverage. The CSD proposal does not include municipal police services. The City's Chief of Police, Graham Hill, has conferred with all law enforcement agencies in the County and believes that the formation of a CSD as proposed by the developer will have a significant impact on the police services in Rio Dell. There would be virtually no law enforcement services available to the residents and businesses there. There is a unique reason for this belief.

When PALCO was in operation, the company could easily control what happened on their private property with their security personnel. Residents worked for the company, lived in company housing, received utilities from the company, sent their kids to the company school, shopped at the Company shopping center and so on. If there was a problem, the company took care of it. Now that there will be no company, the leverage used for control will be gone. 272 homes will potentially be sold to people that have no connection to the mill or the historic past. Company security might work at the mill site, but with more than 300 individual parcel ownerships resulting from the subdivision; Scotia, LLC, will have no presence or authority in the community.

Calls for service that used to go to company security will now go to the Sheriff's Office. That office will tell you that they will not be able to respond to 1,000-1,200 calls per year at the level of the Rio Dell PD. The County Sheriff's Office would then call the Rio Dell Police Department for a mutual aid response. It is a fair assumption that Scotia residents will call the City directly, especially if there is an emergency. Annexation brings the revenue to the City to put 2 patrol cars on duty during periods of greatest need.

Chief Hill's April 14, 2010 inter-office memo to the Interim City Manager on this topic is attached as Exhibit 2.

#### Special Revenue for Cities

Cities receive revenue to fund services that CSD's do not. For example, through annexation the City would receive Transient Occupancy Tax, Sales Tax, Vehicle License Fee, (VLF), VLF Per Capita revenue, VLF Tax in-Lieu, Transportation Development Act

funds and Gas Tax revenues estimated at \$198,700 annually in the 2007 MuniFinancial study. So, the special assessments proposed under the CSD are not required under annexation. With the CSD, most of these revenues would remain with the County to be used countywide. Under annexation they will be spent for services and improvements in the community--another plus!

### Number Problems and Bad Assumptions in CSD Proposal

The attached letter dated June 8, 2010 (Exhibit 3) from City Engineer Neal Carnam, Managing Principal at Winzler and Kelly, finds a number of glaring problems in the CSD proposal. Here are a few of them:

- The revenue projections for determining the all-important CSD **Equivalent Dwelling Units** (EDU's) assumes a 15% property tax transfer from the County to the CSD for assumed services. County Officials have dubbed this assumption "unrealistic". In fact, the City of Rio Dell provides the full range of public services which the CSD would not, most notably law enforcement, road maintenance and community development services, and only has an allocation of 8.7%. Realistically, given the diminished level of services, a fair allocation for the CSD might be in the 4% to 6% range. In any event, the EDU's are off, resulting in the understatement of the amount of property assessments and user fees required to balance the CSD budget.
- Another bad assumption is made in the CSD Financial Assessment Report where it is assumed that the **Average Medium Household Income** (AMHI) for Scotia is the same as the County average. We know from the last published US Bureau of the Census figures that the Rio Dell AMHI is 6.7% lower than the County average and we suspect that Scotia's number will be quite similar. In this case, the use of a higher number distorts an important conclusion.
- The combination of assumptions that the property tax factor will be 15%, thereby reducing the EDU values, and that the available household income is higher than it actually is, allows the CSD consultant to conclude that the monthly water and wastewater assessments fall within the **EPA Affordability Guidelines**. They don't! When the corrections are made the combined value for water and wastewater is \$152 per month and the upper end of the affordability scale is \$122 per month.
- The numbers at the bottom of Table 1 of Attachment 1, Exhibit 2, are from the CSD Financial Assessment Report. They do not match the numbers on Table 4 in

the same exhibit. For example, the O&M cost for wastewater in Table 1 is \$54, but is stated as \$41.73 in Table 4.

- On Tables 1 & 2 of Attachment 1, Exhibit 2, the CSD Financial Assessment Report states the number of EDU's shown as an "averaged number". But, because the majority of the services noted must be accounted for in an Enterprise Fund, they should be separated. The difference in sewer rates for 400 EDU's will undoubtedly be higher than what is shown for 533 EDU's.

Attachment 3 of Exhibit 2 also compares user fees and costs for annexation vs. the CSD and compares costs for proposed new wastewater facility options. In addition, there are many more points worth noting in the Winzler & Kelly letter.

### Consolidation Saves Scotia Residents Millions of Dollars for Wastewater System

The latest version of the CSD Municipal Service Review (MSR) does not include the most up-to-date information about the City's wastewater plan. Our plant is old, but Scotia's is older. Rio Dell presently is under construction with a major \$2.25 million wastewater system upgrade on the headwaters unit, chlorination process and a new sludge press. Furthermore, the City is heavily involved in the planning and engineering for the \$8.9 million replacement of its wastewater plant with a pasture irrigation solution for treated effluent north of town. Now is the time for Scotia to participate in a regional solution to our common problem

The enclosed Winzler & Kelly letter to LAFCo (Exhibit 4), dated April 5, 2010, details those estimated costs. It would cost the Scotia \$4.2 million to become part of the regional system solution, hooking the community to the Rio Dell System.

To date, Scotia, LLC refuses to address their impending problem, and if they can duck the issue until the CSD is formed, the total cost for the solution will fall to the future residents. Scotia plans to spend \$2.4 million for upgrades to the old plant over the next 5 years, but leave it in the flood zone of the Eel River, probably the most flood prone river on the north coast. If they joined with the City now to build a regional facility, it would only cost them an additional \$1.8 million and Scotia would have their wastewater issues taken care of for decades. If the CSD waits until after the City's upgrade, it would cost them another \$3.7 million to tie in to the City. While the initial cost is slightly higher, Scotia would have a new state-of-the-art treatment plant instead of a 60 year old facility with partial upgrades.

### Shifting Costs from Residents to Developer through Annexation

Replacing the Scotia wastewater plant as a stand alone facility will cost future property owners somewhere between the cost of Ferndale's facility at \$8.5 million and Rio Dell's at \$11.4 million in today's dollars, call it \$10 million. That cost, added to already high assessment of \$200 per mo. (per EDU) for each of the future 335 property owners, would likely cause the CSD to fail. And if the CSD fails and the developer is gone, who picks up the pieces--most likely Humboldt County.

The cost of infrastructure improvements for a development is customarily a cost that a developer is required to fund under any annexation proposal. In the CSD proposal the developer chooses to simply not address the wastewater issues, because it is not required today in the NPDES permit. But, we know that Scotia has been required by the Board to study various significant matters in the plant and system (Attachment 2 of Exhibit 2), which is their method of telling an agency that new regulations and requirements are coming their way. Scotia's permit is up for renewal in 2011(Attachment 2 on Exhibit 3). Yet, no cost is anticipated by the developer in this regard.

Scotia LLC, also is proposing that the future residents fund the \$5 million cost for infrastructure improvements found in Table 4 as mentioned before and Table 8 (Exhibit 5) (pages 7 and 15) of the CSD report as noted above. This cost is estimated at \$63 per month per EDU to retire the debt. That cost is yet another requirement that the developer should pay for up-front, with the option to either recoup his cost from property sales or take less profit-- Marathon Corporation has options.

### CSD Residents Pay Twice For Services

CSD Residents pay twice for services; once when they pay their property taxes, transient occupancy tax, sales tax, gas tax, et, which will that go to the County under the CSD proposal. Scotia residents and businesses would then pay second time in the proposed special monthly user fees and assessments. Under annexation, residents pay only once for services.

### Wastewater and Drinking Water Don't Mix

The removal of the Scotia wastewater treatment plant and evaporation ponds from the edge of the Eel River is a no-brainer since accidents and floods do happen. In 1964 the wastewater plant was under 10.1 ft of river. The City's only freshwater infiltration gallery (in the Eel River) is only ½ mile downstream from the plant. This is another compelling reason to replace the existing plant.

### Annexation Also Benefits Rio Dell

Annexation will be beneficial to Rio Dell to cover the cost of police services for calls that we know will come to us, directly or indirectly. Also, increasing the City population by 25% allows for the spreading of costs for services like water and wastewater services to a larger base, thereby reducing the cost to everyone. Annexation expands the property tax base with commercial and industrial uses, thereby reducing the funding burden on households.

The potential contamination of Rio Dell's freshwater intake by Scotia's wastewater plant would be eliminated.

The combined mix of land uses under annexation makes for a much more balanced community. It would provide a better blend of residential, commercial, industrial and public facility uses which will make both communities stronger together. Even though combined as a political unit, the distinct identities of the historic towns will be carefully preserved. There will still be the Scotia Post Office, community parks and the logging museum, and other notable landmarks will be preserved.

The City is prepared to adopt and implement strong guidelines for preserving the historic resources in Scotia. The features that make both Rio Dell and Scotia special places to live, shop, work and recreate will be appropriately protected and preserved. Scotia residents will have every opportunity to participate in their government for the first time, and will have the chance to make sure that the community continues to reflect its special heritage and pride.

### Comparative Facts Developed For CSD vs. Annexation

Attached to this letter is a comparative fact sheet developed by the City in May 2010, (Exhibit #6) used on several occasions in public meeting to compare the benefits of the City's annexation proposal to Marathons' Scotia LLC CSD proposal. We believe that the facts are compelling for annexation.

### Scotia, LLC Confusion Over Presentation at Study Session

Attached to this letter (Exhibit # 7) is a response dated June 8, 2010 from City of Rio Dell Finance Director, Stephanie Beauchaine, to LAFCo concerning revenue and grant funding information presented to LAFCo at the April 21, 2010 study session. Basically, the unique sources of revenues that a City receives that a CSD doesn't, is apparently not in dispute by Scotia. In terms of grant funds that each type of agency may receive, the potential is quite similar with a few exceptions.

The City has access to and has successfully acquired and implemented several Community Development Programs including CDBG Grant Funds for First Time Home Buyers, Owner Occu-



pied Housing Rehabilitation, and Business Revolving Loan Funds for start up businesses. In addition to funding available to private citizens, the City can and has accessed grant funds for Economic Development including Brownfield's Assessment, planning and reuse, and cleanup grants. The City can also assist private developers with the acquisition of low interest loans and grants to facilitate community redevelopment. None of these programs would be accessible by the proposed CSD or their residents.

The City of Rio Dell has the existing staff that understands grant procedures and has a successful history competing in this field. Of course, there is the potential that Humboldt County can also assist the CSD with some of this work, but generally don't and there is no proposed staff under the CSD to work grants, let alone monitor them and prepare reports. The City's ability in grantsmanship is excellent!

The City of Rio Dell's primary purpose is to provide public services to members of the community. Its incorporation status as a general law City and unique demographic profile provides funding opportunities that are not available for a Community Services District, which establishes annexation as the fiscally superior alternative to CSD formation.

#### Municipal Service Review Determinations

And last, a separate document has been prepared (Exhibit #8) to set forth the required Municipal Service Review Determinations to be considered as to the adequacy of proposed public services, infrastructure and opportunity to share facilities. We firmly believe that the findings only support the annexation of Scotia to the City of Rio Dell.

#### Conclusion

Annexation is the preferential LAFCo alternative in the case of a community that is immediately adjacent to an existing City and that needs community services. Annexation would include the full range of public services, including law enforcement; the CSD proposal does not. And, the cost of providing those services will cost residents over 46% less than through the CSD. And, annexation would provide a better balance of land uses in the community with the addition of industrial and commercial uses.

In enacting the Cortese-Knox Local Government Reorganization Act, the Legislature set forth the intent, purpose and responsibilities of LAFCo. And in that law the Legislature declared "that a single governmental agency, rather than several limited purpose agencies, is in many cases better able to access and be accountable for community service needs and financial resources and, therefore, is the best mechanism for establishing community service priorities."

Sincerely,



Ron Henrickson,  
Rio Dell City Manager

cc: LAFCo Commissioners  
Merle Anderson, LAFCo Executive Officer, PMC  
Pierce Baymiller, President, Town of Scotia, LLC  
Neal Carnam, Managing Principal, Winzler & Kelly  
George Williamson, Principal Planner, Planwest Partners, Inc.

### LIST OF EXHIBITS

1. Tables 1, 2, and 3 comparing personnel cost, rental expense and start-up equipment cost related to proposed annexation vs. CSD formation.
2. Rio Dell Chief of Police, Graham Hill, inter-office memo to Interim City Manager Jim Stretch dated April 14, 2010 covering points made at the April 21, 2010 LAFCo study session.
3. Winzler & Kelly letter dated June 8, 2010 (4 attachments) to City Manager Henrickson.
4. Winzler & Kelly letter (1 attachment) to LAFCo dated April 5, 2010 for study session.
5. Table 8 of CSD Financial Assessment Report concerning five- year capital improvement plan.
6. Comparison Facts about Annexation to Rio Dell vs. CSD Formation dated May 2010.
7. Rio Dell Finance Director, Stephanie Beauchaine, letter to LAFCo dated June 8, 2010 clarifying comments made at April 21, 2010 LAFCo study session
8. Municipal Service Review Determinations on City letterhead dated June 8, 2010.
9. Map of proposed Rio Dell Sphere of Influence.