REGULAR MEETING AGENDA

Del Norte Local Agency Formation Commission Board of Supervisors Chambers 981 H Street, Suite 100, Crescent City, CA 95531 February 22, 2016 4:00 pm

- 1. Call to Order/Roll Call
 - A. Appointment of Chair and Vice Chair for 2016
- 2. Public Hearing Continued from January 25, 2016
 - A. Crescent City Water Service Extension to the Martin Ranch (APN 115-020-28) and Ocean Way Motel (APN 115-020-20) Properties (ATTACHMENT 2A)
- 3. Regular Business
 - A. Approval of January 25, 2016 Draft Minutes (ATTACHMENT 3A)
 - B. Del Norte LAFCo Policy & Procedures Update (ATTACHMENT 3B)
- 4. <u>Inquiries, Correspondence, Application Status and Referrals</u>
 - A. Staff The Executive Officer will provide a report of current projects, issues of interest, and pending legislation.
 - C. Commission On their own initiative, Commission members may make brief announcements or reports on their own activities. They may ask questions for clarification, make a referral to staff or request a business matter for a future agenda per Government Code Section 54954.2 (a).
 - D. Public Public comment on items of interest within LAFCo subject matter jurisdiction, and not otherwise appearing on the agenda. No action may be taken on any item not appearing on the agenda.
- 5. <u>Adjournment</u>

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AGENDA ITEM 2A

MEETING DATE: February 22, 2016

TO: Del Norte Local Agency Formation Commission

FROM: George Williamson AICP, Executive Officer

SUBJECT: City of Crescent City Water Service Extension to the Martin Ranch

(APN 115-020-28) and Ocean Way Motel (APN 115-020-20)

Properties

SUMMARY

The Commission will consider an application from the City of Crescent City to extend water service to the Elk Valley Rancheria's Martin Ranch (APN 115-020-28) and Ocean Way Motel (APN 115-020-20) properties. The subject parcels are located near the intersection of U.S. Highway 101 and Humboldt Road approximately one mile south of Crescent City, within the City's existing sphere of influence (SOI) (Attachment 1).

The Commission reviewed this application during a public hearing at the January 25, 2016 meeting, the hearing was continued to this February 22, 2016 meeting. This staff report contains additions to the January 25 staff report including new correspondence, state law analysis, Commission adopted policy compliance, and environmental review update.

RECOMMENDATION

This item has been agenized for consideration as part of a continued public hearing. The following procedures are recommended with respect to the Commission's consideration of this item:

- Receive verbal report from staff
- Open the public hearing and invite testimony.
- Discuss item and continue or close the hearing and if appropriate consider action on recommendation.

Staff has identified three options for Commission consideration with respect to the proposal:

- (1) Continue consideration of the item to the next regular meeting and provide direction to staff for additional information as needed.
- (2) Adopt the draft resolution identified as Attachment 3 approving the proposal with conditions along with any other changes requested by the Commission.
- (3) Disapprove the proposal.

BACKGROUND

The Martin Ranch and Ocean Way Motel properties are held in trust by the United States of America for the benefit of the Elk Valley Rancheria (Tribe). The Tribe has long planned to develop a casino and resort on the Martin Ranch property and has no current development

plans for the Ocean Way Motel property, which is currently vacant. On November 30, 2015 the LAFCo Commission approved a County Service Area (CSA) No. 1 SOI Amendment and sewer service extension to serve the subject properties. Both properties are located with the Crescent City SOI; Martin Ranch (APN 115-020-28) is also within the Bertsch-Ocean View CSD (BOVCSD) SOI, however the Ocean Way Motel property is not.

In April 2015 the City approved a MOU with the Tribe to provide water to the Martin Ranch by wheeling water through the BOVCSD pipes. In 2011 the Coastal Commission approved an Amendment to the County's Local Coastal Program (LCP) in order to allow public services (i.e. water and sewer) to the Martin Ranch and Ocean Way Motel parcels as they are currently located outside of the urban services boundary (DNC-MAJ-1-10). The policy amendment was an exception to provide public services only to the two identified parcels with no additional laterals to be provided to adjoining or nearby parcels to prevent growth inducement outside of the designated urban boundary.

Correspondence Received

LAFCO staff received two letters in response to agency referrals distributed for the proposal. A December 30, 2015 letter from the Elk Valley Rancheria supports the City's proposal. A January 19, 2016 letter from BOVCSD's legal counsel requested that the proposal be continued to allow the BOVCSD Board time to respond and comment on the application. An additional letter dated January 25, 2016 was submitted by BOVCSD legal counsel including a list of questions for the Commission. LAFCo staff responded to this letter (Attachment 2).

DISCUSSION & ANALYSIS

Reasons for Proposal

Since the City of Crescent City is the only water service provider with both the Martin Ranch and Ocean Way Motel properties in its SOI, the City wishes to provide water services to these properties. It has been the intention of the Tribe to connect to the public water system since the early stages of planning to re-locate the Elk Valley Casino to the Martin Ranch parcel.

Water System Infrastructure

The Martin Ranch is currently served through existing water infrastructure, located along Roy Avenue. The Ocean Way Motel has a well. Water pipes would need to be extended to the Ocean Way Motel along Humboldt Road or on the Tribe's Martin Ranch property in order to serve the Ocean Way Motel. The existing water system components consist of a 12-inch supply pipeline, a booster pump, one above ground steel reservoir, and a looped distribution system which consists mostly of 8-inch diameter pipe.

It is anticipated that at full build out the water connection and pipe size would be in the range of 2-inch to 6-inch diameter and would be connected at an appropriate location along existing lines in Roy Avenue. If necessary, the booster pump located along Elk Valley Road may require an expansion (as disclosed in the 2008 Environmental Impact Statement (EIS)). The major on-site water supply system components would consist of 3-inch to 4-inch pipeline connection, an on-site reservoir (in ground or at grade) with the capacity of 500,000 to 700,000 gallons, a booster pump for potable water and fire, electrical service to operate to on-site pump stations, and an emergency diesel generator for power outages. According to the Water Study attached to the EIS, it is not anticipated that significant system improvements would be necessary (EIS Appendix L).

It is anticipated that the resort project will utilize 27 Single-Family-Equivalent (SFE) units. It is LAFCo staff's understanding that the Tribe would receive water at a set flow rate and

manage on-site water supply and distribution via the on-site reservoir and pump station(s). Estimated average daily water demand of 60,000 gallons per day and estimated peak flow (for a short duration – less than one hour) of 150 gallons per minute was used in the 2010 Negative Declaration adopted by the County for LCP Amendment approval authorizing the extension of water and sewer service infrastructure to the Martin Ranch and Ocean Way Motel properties (DNC-MAJ-1-10). The City has documented that it has the capacity available to serve the proposed project and the service extension would not impact the City's ability to provide water services to existing or future development within the its service area.

Only off-site improvements related to the Tribe's development plan are under the County's purview, such as the extension of water lines to the property. The Tribe would pay applicable connection fees and regular monthly service fees and for any infrastructure upgrades necessary for extension to the Ocean Way Motel property.

State Law

Local Agency Formation Commissions (LAFCOs) are responsible under the Cortese- Knox-Hertzberg Local Government Reorganization Act of 2000 for regulating the formation and development of local governmental agencies and their municipal services. This includes approving or disapproving requests from cities and special districts to provide new or extended municipal services outside their jurisdictions under California Government Code (G.C.) Section 56133. LAFCOs are authorized to condition approval for outside service agreements as long as the terms do not directly regulate land uses.

G.C. Section 56133 requires cities and special districts to request and receive written approval from LAFCO before entering into agreements to provide new or extended services outside their jurisdictional boundaries. The code specifies that LAFCOs may authorize a city provide new or expanded services within its's sphere of influence in anticipation of a later change of organization.

The City has applied to Del Norte LAFCo in compliance with G.C. 56133, both APN 115-020-28 and APN 115-020-20 are within the City's sphere of influence and the City has been requested to provide documentation that the proposal is in anticipation of a future change of organization.

Commission Adopted Policy

Following are the Commission adopted Policies and Procedures (last updated in 2004) related to provision of services by contract.

Conditions of Approval: LAFCO may approve a request for out-of-agency services if the affected territory is within the agency's sphere of influence and is in anticipation of a later change of organization.

Procedures: Because LAFCO will only approve out-of-agency service agreements in anticipation of subsequent jurisdictional changes, applicants will be required to submit an annexation/detachment application, or other documentation demonstrating that the agreement is in anticipation of a subsequent jurisdictional change (e.g., irrevocable offer to annex).

In accordance with Del Norte LAFCO's adopted Policies and Procedures the City was requested to submit documentation demonstrating that the agreement is in anticipation of a future jurisdictional change.

Environmental Review

The proposed out of agency service approval implements a prior LCP Amendment authorizing the extension of services to the properties. The County prepared and adopted a Negative Declaration (SCH #2010032096) for the LCP text amendment to allow the extension of public water and sewer beyond the urban services boundary to serve the Tribe's proposed casino and resort on the Martin Ranch property. A thorough consideration of the on-site and off-site environmental impacts related to the Tribe's project was made in the Draft Environmental Impact Statement (EIS No. 20050396), the Final EIS (No. 20060394), and the federal government's Record of Decision dated January 4, 2008.

The prior staff report noted that no further environmental analysis would be required. However, it was brought to LAFCo's attention that the Ocean Way motel property was not included as part of the project at the time the County's Negative Declaration was adopted. Therefore, LAFCo staff has prepared the attached Addendum in accordance with CEQA Guidelines Section 15162 and 15164 (Attachment 3). The purpose of this Addendum is to evaluate whether the project as currently proposed for LAFCo approval would result in any new or substantially greater significant effects not identified in the 2010 IS/ND for the original Project.

The provision of water and sewer services to the Tribe's Ocean Way Motel property, would not cause new significant effects nor increase the level of environmental effect to substantial or significant. No change has occurred and no new information has become available with respect to circumstances surrounding the proposed project that would cause new or substantially more severe significant environmental effects than were identified in the 2010 IS/ND. Therefore, no further environmental review is required beyond the Addendum at this time.

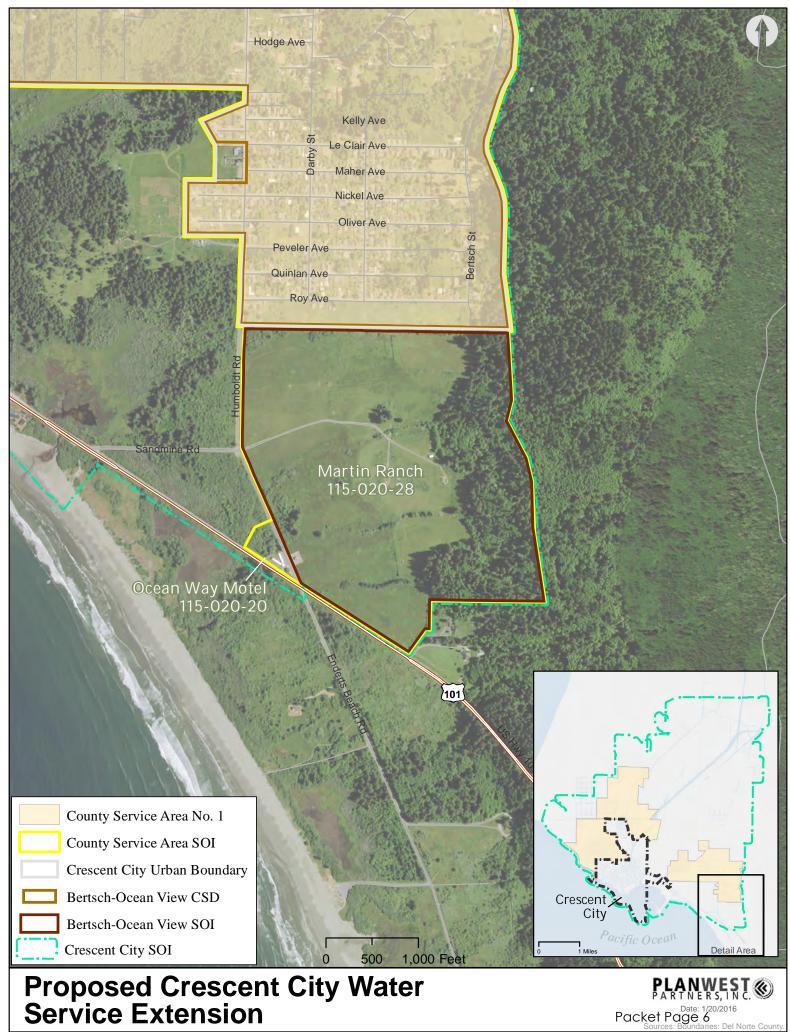
Attachments

Attachment 1: Proposed Crescent City Water Service Extension Location Map

Attachment 2: Correspondence to BOV CSD

Attachment 3: CEQA Addendum

Attachment 4: Draft Resolution 16-01 Attachment 5: Correspondence from EVR



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February 11, 2016 DRAFT

Michael J. Mazzei Attorney & Counselor at Law 1301 Northcrest Drive, Suite B Crescent City, CA 95531

Subject: Response to Bertsch-Ocean View CSD Comments on City of Crescent City's Application to Provide Water Services Outside Agency Boundaries to APN 115-020-28 and APN 115-020-20

Mr. Mazzei,

This is in response to the "Questions for Del Norte LAFCo" submitted with your January 25, 2016 letter. The guestions and responses are provided below.

1. Is the City's application complete without providing any input from the owner of the water distribution system through which the water service will flow?

The City's application to provide water service outside agency boundaries is considered complete. An agency referral requesting BOVCSD input was sent to the District on December 28, 2015. Written responses were received on January 19 and January 25 from BOVCSD representative.

2. Has the City complied with Government Code Section 56133 (a) if it has not obtained the consent of the BOVCSD for the delivery of water through the BOVCSD water distribution system?

The City has applied to Del Norte LAFCo in compliance with G.C. 56133 (a) which states "a city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county."

3. Does Del Norte LAFCo have authority to approve the City's application under Government Code Section 56133 (b)?

The Del Norte LAFCO Commission "may authorize a city or district provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization." Both APN 115-020-28 and APN 115-020-20 are within the City's sphere of influence. In accordance with Del Norte LAFCO's adopted Policies and Procedures (last updated in 2004) the City will be required to submit an annexation application or other documentation demonstrating that the agreement is in anticipation of a future jurisdictional change (e.g. irrevocable offer to annex).

4. Does Del Norte LAFCo have the authority to ignore the phrase "in anticipation of a later change of organization" stated in Government Code Section 56133 (b)?

It is not LAFCo's intent to ignore "in anticipation of a later change of organization." In accordance with Del Norte LAFCO's adopted Policies and Procedures (last updated in 2004) the City will be required to submit an annexation application or other documentation demonstrating that the agreement is in anticipation of a future jurisdictional change (e.g. irrevocable offer to annex).

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5. What is the nature of the connection to the Martin Ranch property?

The Tribe has long planned to develop a casino and resort on the Martin Ranch property and has no current development plans for the former Ocean Way Motel property. At this time, it is anticipated that the resort project will utilize 27 Single-Family-Equivalent (SFE) units. It is LAFCo staff's understanding that the Tribe would receive water at a set flow rate and manage on-site water supply and distribution via an on-site reservoir (in ground or at grade) with the capacity of 500,000 to 700,000 gallons, a booster pump for potable water and fire, electrical service to operate to on-site pump stations, and an emergency diesel generator for power outages.

6. Is the true purpose of the City's application to avoid the annexation process and the Local Coastal Plan amendment process?

According to the application, the reason for the proposal is that the City is the only water service provider with both Martin Ranch and the Ocean Way Motel properties in its sphere of influence and the City desires to provide water service to these properties.

7. Would approval of the City's application violate Government Code Section 54900?

Application approval would not change the City boundaries; therefore it appears that GC Section 54900 is not applicable to this proposal.

- 8. Would approval of the City's application violate Government Code Section 61100?
 GC Section 61100 states what services a district can provide within its boundaries all of the services listed including "(a) Supply water for any beneficial uses, in the same manner as a municipal water district, formed pursuant to the Municipal Water District Law of 1911, Division 20 (commencing with Section 71000) of the Water Code." GC Section 61101 states that "A district may provide the facilities and services authorized by Section 61100 outside its boundaries, subject to Section 56133." Therefore, approval of the City's application would not violate this code section.
- 9. Would approval of the City's application violate Government Code Section 61101?

GC Section 61101 states that a district may provide the facilities and services authorized by Section 61100 outside its boundaries, subject to Section 56133. Approval of the City's application would be in compliance with Section 56133 as stated in response to questions 3 and 4 above.

10. Has the City violated Government Code Section 54900?

No change in City boundary is proposed in this application, making GC Section 54900 not applicable.

11. What is the average daily water demand for the proposed development?

Estimated average daily water demand of 60,000 gallons per day was used in the 2010 Negative Declaration adopted by the County for LCP Amendment approval authorizing the extension of water and sewer service infrastructure to the Martin Ranch and Ocean Way Motel properties (DNC-MAJ-1-10).

12. What is the expected peak water demand for the proposed development?

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Estimated peak flow (for a short duration – less than one hour) of 150 gallons per minute was used in the 2010 Negative Declaration adopted by the County for LCP Amendment approval authorizing the extension of water and sewer service infrastructure to the Martin Ranch and Ocean Way Motel properties (DNC-MAJ-1-10).

13. Will there be a mechanism in place to limit flows by a known amount to the proposed development?

It is LAFCo staff's understanding that the Tribe would receive water at a set flow rate and manage water supply and distribution via an on-site reservoir (in ground or at grade) with the capacity of 500,000 to 700,000 gallons, a booster pump for potable water and fire, electrical service to operate to on-site pump stations, and an emergency diesel generator for power outages.

14. What is the proposed mechanism for the City to provide water to the proposed development if the City suffers a system failure?

The Tribe plans to manage water supply and distribution via an on-site reservoir (in ground or at grade) with the capacity of 500,000 to 700,000 gallons, a booster pump for potable water and fire, electrical service to operate to on-site pump stations, and an emergency diesel generator for power outages.

15. The BOVCSD operates on a pumping system that functions for only a portion of the day. What mechanism is in place to provide water continuously to the proposed development other than the BOVCSD's water reservoir?

See answer to 14 above.

16. What is the proposed connection point to the BOVCSD's water distribution infrastructure for demand and fire flows?

The connection point would be along Roy Avenue, the exact location should be requested from the City.

17. What is the source of water for fire flow protection?

The proposed on-site reservoir and pump station(s) would be used for fire protection.

18. What are the projected fire flows for the proposed development?

The projected fire flows should be requested from the City.

19. Has an engineering study been prepared by a registered professional California engineer to verify that BOVCSD's existing water distribution infrastructure has sufficient pressures and capacity to serve the proposed development and all existing BOVCSD residents based on California Water Standards guidelines?

The City has documented that it has the capacity available to serve the proposed project and the service extension would not impact the City's ability to provide water services to existing or future development within the service area (LCP Amend. DNC-MAJ-1-10). In addition, according to the water study attached to the casino project's Environmental Impact Statement, significant system improvements were not anticipated to be necessary (EIS Appendix L).

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20. What portion of the BOVCSD's water distribution infrastructure capacity will be taken by the proposed development project?

BOVCSD's engineer can request necessary information from the City to determine the portion of the distribution infrastructure that will be used by the proposed project.

If you have any questions regarding these responses, please contact LAFCo at (707) 825-9301 or execofficer@delnorte.lafco.ca.gov.

Sincerely,

George Williamson AICP

LAFCo Executive Officer

cc: Elizabeth Cable, LAFCo Legal Counsel (ecable@co.del-norte.ca.us)

Martha Rice, City Attorney (mrice@attyblack.com)

Bradley Downes, Elk Valley Rancheria General Counsel (bdownes@elk-valley.com)

CEQA INITIAL STUDY/NEGATIVE DECLARATION ADDENDUM

Del Norte County Coastal Land Use Plan Amendment to Extend Public Water and Sewer to the Elk Valley Rancheria's Proposed Resort and Casino (SCH #2010032096)

County of Del Norte Community Development Department 981 H Street Suite 110 Crescent City, CA 95531

Prepared by:

Del Norte Local Agency Formation Commission (LAFCo)

1125 16th Street, Suite 202 Arcata, CA 95521

February 2016

INTRODUCTION

On October 6, 2010 the Del Norte County Planning Commission adopted the Initial Study/Negative Declaration (IS/ND) (SCH #2010032096) for a County General Plan Coastal Element (LUP) text amendment. The LUP amendment allows the extension of public water and sewer beyond the Urban Services Boundary (USB) to serve the future site of Elk Valley Rancheria's casino and resort, also known as Martin Ranch (APN 115-020-28). The Martin Ranch property is held in trust for the Elk Valley Rancheria (Tribe).

Following the County's approval, the proposed LUP amendment was submitted to the Coastal Commission for certification. During that time the Tribe began the process of placing an adjacent two-acre parcel into trust, the former Ocean Way Motel (APN 115-020-20). The Coastal Commission approval (LCP Amend. DNC-MAJ-1-10), and the County's amended LUP, allows for the extension of public water and sewer services to both the Martin Ranch and Ocean Way Motel properties. For the LAFCo action, the only change to the project as evaluated in the 2010 IS/ND is the provision of public water and sewer services beyond the USB to the Ocean Way Motel property. The purpose of this Addendum is to evaluate whether the project as currently proposed would result in any new or substantially greater significant effects not identified in the 2010 IS/ND for the original Project.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FRAMEWORK

In accordance with CEQA Guidelines 15162(c) once a project has been approved, the lead agency's role in project approval is completed unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, changes to a project or its circumstances occur or new information becomes available a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project if any of the conditions described in subdivision 15162(a) occurs. Otherwise a determination should be made to prepare a subsequent negative declaration, an addendum, or no further documentation.

With respect to the proposed project, the County has approved the LUP text amendment and LAFCo would grant the next discretionary approval. As such, LAFCo has prepared this addendum in compliance with CEQA Guidelines as described below.

This addendum analyzes the project revisions as required under the CEQA Guidelines, Sections 15162 and 15164. Under CEQA Guidelines Section 15164, an addendum to an adopted negative declaration shall be prepared if only minor technical changes or additions are necessary or none of the following conditions calling for the preparation of a subsequent MND have occurred:

- (1) Substantial changes in the project which require major revisions to the MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes with respect to the circumstances under which the project is undertaken which require major revisions to the MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time of MND adoption, shows any of the following:
 - A) The project will have one or more significant effects not discussed in the ND,
 - B) The project will result in impacts substantially more severe than those disclosed in the ND,
 - C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponent declines to adopt the mitigation measure or alternative, or
 - D) Mitigation measures or alternatives that are considerably different from those analyzed in the ND would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.

The purpose of this Addendum is to evaluate the proposed provision of public water and sewer services to the Ocean Way Motel property as a modification to the 2010 IS/ND and to demonstrate that the proposed project does not trigger any of the conditions described above.

BACKGROUND

The Martin Ranch and Ocean Way Motel properties are held in trust by the United States of America for the benefit of the Elk Valley Rancheria. The Tribe has long planned to develop a casino and resort on the Martin Ranch property and has no current development plans for the Ocean Way Motel property. A thorough consideration of the on-site and off-site environmental impacts related to the Tribe's project was made through the Draft Environmental Impact Statement (EIS No. 20050396), the Final EIS (No. 20060394), and the federal government's Record of Decision dated January 4, 2008. Additionally, the County prepared and adopted a Negative Declaration (SCH #2010032096) for the LCP text amendment to allow the extension of public water and sewer beyond the urban services boundary to serve the Tribe's proposed casino and resort on the Martin Ranch property.

EVALUATION OF PROJECT REVISION

The 2010 IS/ND evaluated impacts related to the extension of public water and sewer to serve the Elk Valley Rancheria's proposed resort/casino on the Martin Ranch property. The proposed project would allow for the extension of water and sewer services to the Tribe's adjacent Ocean Way Motel Property as well. The former Ocean Way Motel has been vacant for many years and the Tribe plans to remove the existing structures from this property, but does not have any development plans for the site at this time. The Ocean Way Motel property is adjacent to Martin Ranch and would be provided water and sewer services through the Tribe's Martin Ranch property.

The County's approved text amendment language precludes growth inducement on nearby parcels by retaining the prohibition on connections to properties other than the Martin Ranch and Ocean Way Motel properties. In addition, the County and City provided information demonstrating that adequate reserve water and wastewater treatment services capacities exist so that the provision of such services to this development would not supplant or otherwise prevent service to previously authorized or planned-for growth in the service area.

In preparing this Addendum, all of the potential impacts identified on the CEQA "Environmental Checklist Form" were considered. For all impact areas, staffs review indicates that the proposed project modifications are consistent with the original project, and no new information has been put forth that would change the environmental analysis. Since the 2010 IS/ND evaluated potential effects from extending water and sewer service to the Martin Ranch property, and because the Ocean Way Motel property would connect directly through the Martin Ranch Property no potentially significant effects would result from the project modification and no mitigation measures would be required. The analyses and the conclusions in the 2010 IS/ND remain current and valid.

SUMMARY OF FINDINGS

In summary, this analysis concludes that none of the conditions described in Section 15162 of the CEQA Guidelines calling for preparation of a subsequent EIR or Negative Declaration have occurred, and thus an Addendum to the IS/ND is appropriate to satisfy CEQA requirements for the proposed project.

The provision of water and sewer services to the Tribe's Ocean Way Motel property, would not cause new significant effects nor increase the level of environmental effect to substantial or significant. No change has occurred and no new information has become available with respect to circumstances surrounding the proposed project that would cause new or substantially more severe significant environmental effects than were identified in the 2010 IS/ND. Therefore, no further environmental review is required beyond this Addendum at this time.

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RESOLUTION 16-01

AUTHORIZING THE CITY OF CRESCENT CITY TO PROVIDE WATER SERVICES OUTSIDE CITY BOUNDARIES TO APN 115-020-28 (MARTIN RANCH) & APN 115-020-20 (OCEAN WAY MOTEL)

WHEREAS, the Del Norte Local Agency Formation Commission (hereinafter referred to as "Commission") is responsible for authorizing cities and special districts to provide new or extended services by contract or agreement outside its jurisdictional boundaries in accordance with California Government Code Section 56133; and

WHEREAS, the Commission received an application from the City of Crescent City requesting to extend sewer services outside its jurisdictional boundaries to APNs 115-020-28 (Martin Ranch) and 115-020-20 (Ocean Way Motel); and

WHEREAS, the Commission reviewed and considered the Executive Officer's report and recommendation; and

WHEREAS, the Commission heard and fully considered all the evidence presented on the proposal at a public hearing held on January 25, 2016 and continued to February 22, 2016.

NOW, THEREFORE, BE IT RESOLVED as follows:

- 1. The County prepared and adopted a Negative Declaration (SCH #2010032096) for the LCP text amendment to allow the extension of public water and sewer beyond the urban services boundary to serve the Martin Ranch property. LAFCo prepared an Addendum in accordance with CEQA Guidelines Section 15162 and 15164. This analysis concludes that none of the conditions described in Section 15162 of the CEQA Guidelines calling for preparation of a subsequent EIR or Negative Declaration have occurred, and thus an Addendum to the IS/ND is appropriate to satisfy CEQA requirements for the proposed project. The records upon which these findings are made are located at the LAFCo offices 1125 16th Street, Suite 202 Arcata, CA 95521.
- The Commission has considered the factors determined to be relevant to this proposal including, but not limited to, application and supporting materials and as described in the staff report.
- 3. The Commission authorizes the City of Crescent City to provide water services outside its jurisdictional boundary to APNs 115-020-28 (Martin Ranch), and 115-020-20 (Ocean Way Motel), subject to the following conditions:
 - a. The property owner of the subject parcels, Elk Valley Rancheria (Tribe), must obtain a Coastal Grading Permit from the County of Del Norte for any off-site improvements related to water service extension.
 - b. The Tribe must pay water connection and service charges as determined by the City.

Resolution 16-01

c. All LAFCo fees must be paid in full prior to the extension of service authorization becoming effective.

PASSED AND ADOPTED at a meeting of the Del Norte Local Agency Formation Commission, State of California, on the 22th day of February 2016, by the following vote:

AYES: NOES: ABSENT: ABSTAIN:	Commissioners: Commissioners: Commissioners: Commissioners:		
Blake Inscore	, Chair		
Attest:			
George Willia	mson, Executive Office	er	

Resolution 16-01

Elk Valley Ranchería, Calífornía



2332 Howland Hill Road Crescent City, CA 95531

> Phone: 707.464.4680 Fax: 707.465.2638 www.elk-valley.com

February 15, 2016

VIA E-MAIL & POSTAL SERVICE

Del Norte Local Agency Formation Commission Attn: George Williamson 1125 16th Street, Suite 202 Arcata, California 95521

Re: Agency Referral; Crescent City Water Service Extension to Elk Valley Rancheria

California's Properties

Dear Mr. Williamson:

The Elk Valley Rancheria, California, a federally recognized Indian tribe, has reviewed the comments submitted by Michael Mazzei on behalf of Bertsch Ocean View Community Services District ("BOVCSD") to the Local Agency Formation Commission ("LAFCO") via letter dated January 25, 2016 regarding the above-referenced matter.

Please allow this letter to address the major points raised in Mr. Mazzei's letter.

Introduction; Summary of Argument

As an initial consideration, the City is not even required to seek LAFCO approval for the wheeling arrangement given that the City initially connected the property to water service in the 1980s and provided (and continues to provide) the water that ultimately serves the property, and Section 56133(e) "grandfathers" extraterritorial service provided prior to 2001. Despite the fact that Section 56133(e) authorizes the City to enter into the wheeling agreement without LAFCO approval, the City and Tribe seek LAFCO approval out of an abundance of caution that someone might contend that the City's service was new or extended despite that the fact that the BOVCSD is merely continuing to provide City water to the Martin Ranch.

In summary, LAFCO can determine that the water wheeling agreement is:

Exempt from LAFCO review pursuant to the provisions of Section 56133(e)(4),
 i.e., the "grandfather" provision;



George Williamson Re: Agency Referral; City Water Service Page 2 of 15

- Exempt from LAFCO review pursuant to the provisions of Section 56133(e)(1), i.e., the "public agency" provision;
- Authorized by and approved pursuant to Section 56133(a); or
- Authorized by and approved pursuant to Section 56133(b).

Any of the four (4) options would result in the water wheeling agreement becoming effective either as exempt from LAFCO review or as expressly reviewed and authorized by LAFCO.

Resort Project History

It is well documented and common community knowledge that the Elk Valley Rancheria, California, a federally recognized Indian tribe (the "Tribe") seeks to build a casino and resort on its Martin Ranch property located near the intersection of Interstate 101 and Humboldt Road. The casino and resort project (the "Project") has been the subject of several environmental reviews, including an Environmental Impact Statement pursuant to the National Environmental Policy Act.

The City originally made a water service connection to the Martin Ranch in the 1980s. The Tribe purchased the Martin Ranch in May 1998 and continues to utilize water service. In 2001, the Tribe announced its plans for the Project, to include the construction of a destination resort, golf course, and casino at the Martin Ranch.

On November 21, 2003, the federal government released a Notice of Intent to Prepare an Environmental Impact Statement ("EIS") for the Project. On December 15, 2003, the U.S. Department of the Interior, Bureau of Indian Affairs conducted a public scoping hearing regarding the EIS. In apparent response to the then-on-going environmental reviews, on May 20, 2004, the BOVCSD amended its water service and rates ordinance to impede the Tribe's Project by arbitrarily increasing fees and charges for the development. To our knowledge, the Tribe's project was the only "development" planned in or near the BOVCSD service area when BOVCSD adopted its new fee ordinance. It appeared that the then-proposed ordinance was intended either to directly penalize the Tribe for its planned Project, or to prevent implementation of the Project. The imposition of numerous fees upon "developers" and "utility users" for "new" and "facilities in existence at the time a charge is imposed" appeared not to be based upon financial necessity or the need for BOVCSD to recover the costs of providing utility services, but upon a desire to unfairly target the Tribe.

The Tribe expressed its concerns to the BOVCSD, but unfortunately BOVCSD chose not to address them. However, the Tribe proceeded with its intermittent discussions with BOVCSD.

As described in the Tribe's 2001 Memorandum of Understanding with Del Norte County, and in a April 2, 2004 letter from the City of Crescent City Public Works Director (see MWH

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America, Inc. 2004a; Appendix M), domestic water for the Project could be provided by the BOVCSD. The BOVCSD serves a small outlying area just east of Crescent City, including the Martin Ranch property and the Tribe's reservation. The District contracts with the City to provide potable water service. According to the MWH America study and the April 2, 2004, letter, there is sufficient water to supply the Project.

In January 2005, the Tribe sent a letter to David Weeks of the BOVCSD to request a meeting regarding the draft EIS, the Project, and water supply to the Project.

In September 2005, David Weeks sent a notice to BOVCSD water users notifying them that the Board had too many vacancies and that the BOVCSD might be required to dissolve.

On September 30, 2005, a Notice of Availability of the Draft EIS for the Project was published in the *Federal Register* and *Daily Triplicate*. The environmental review process was concluded in January 2008.

In March 2008, the Martin Ranch was acquired in trust status and deemed eligible for gaming.

In October 2008, Mr. Mazzei on behalf of the BOVCSD informed the Tribe that the BOVCSD intended to terminate service to the Tribe's Martin Ranch property because the Martin Ranch is located outside of the BOVCSD's service boundary. Discussions and letters continued during 2008 and 2009 including a meeting in August 2009 in which the BOVCSD again threatened to cut off service to the Martin Ranch property.

The BOVCSD, Tribe and City have held numerous meetings regarding water service to the Martin Ranch, and exchanged a number of letters on this subject, during the period from 2009 through 2015. During this period, in 2010, the County preliminarily approved a Local Coastal Plan ("LCP") amendment to authorize the extension of water and sewer service to the Martin Ranch. In 2011, the County and the California Coastal Commission agreed upon an amendment to include the Ocean Way Motel in the LCP amendment, which amendment was approved.

Water wheeling and direct service have been discussed by and between each of the parties without resolution since 2008 until the water wheeling agreement was concluded between the City and the Tribe in April 2015. Cities are specifically authorized to provide water services outside of their boundaries, but they cannot do so within boundaries of another city without the other city's consent. *See* Cal. Const., Art. XI, § 9.

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Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; Statutory Scheme

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the "Act") was enacted "to encourage 'planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space [and agricultural] lands within those patterns' [citation], and to discourage urban sprawl and encourage 'the orderly formation and development of local agencies based upon local conditions and circumstances." Sierra Club v. San Joaquin Local Agency Formation Com. (1999) 21 Cal.4th 489, 495.

A LAFCO is the administrative body within each county that oversees urban development. A LAFCO "has only those express (or necessarily implied) powers which are specifically granted to it by statute." *City of Ceres v. City of Modesto* (1969) 274 Cal.App.2d 545, 550. A LAFCO's powers are generally set forth in section 56375, including the power and duty in Section 56375(p) "[t]o authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133."

DISCUSSION

In order to apply Section 56133 and determine whether the City's request is subject to LAFCO review or one of the express exemptions provided therein, it is necessary to understand some of the history that resulted in the provision of water service to the Martin Ranch prior to January 1, 2001.

The City connected the Martin Ranch property to the water system in the 1980s. The Tribe purchased the Martin Ranch in May 1998. The Tribe continued (and continues) to utilize water service at the Martin Ranch. That service has legally continued since its inception and can continue legally despite BOVCSD's concerns.

The Martin Ranch property was connected by the City to the BOVCSD / City water system in the 1980s – prior to the 1991 agreement cited by the BOVCSD. In November 2008, BOVCSD's attorney informed the Tribe that the Martin Ranch was outside of the boundaries of the BOVCSD and that the BOVCSD intended to cutoff extraterritorial service to the Martin Ranch despite the existing water service connection that was actively used for over ten (10) years by the Tribe at that time and for at approximately 30 years at the time including prior owners.

On December 22, 2008, the BOVCSD's attorney reiterated this claim, arguing to the City's attorney that the "[t]he connection to this property [Martin Ranch] was originally installed by the City at the direction of the McNamara family without the BOVCSD's knowledge or permission."

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On August 17, 2009, the BOVCSD again asserted during a meeting with the Tribe that the Martin Ranch was served by an "illegal" hookup. The Tribe responded on August 19, 2009 with the following:

During the meeting, David Weeks expressed a position that Jack McNamara made an "illegal" hookup of the Martin Ranch property to the BOVCSD system. The Tribe finds the BOVCSD's position ironic for a number of reasons, including the fact that the BOVCSD / City of Crescent City has served the Martin Ranch property for over 11 years, has accepted payment for said service, and has only in the last year raised this matter despite the fact that, apparently, the BOVCSD has been aware of the hookup and corresponding service since at least the early 1980s, i.e., for almost 30 years.

In light of the BOVCSD's position as described by the BOVCSD's attorney in October 2008 and again by Mr. Weeks during the August 17, 2009 meeting, please clarify whether the BOVCSD provides service to the Martin Ranch or the City of Crescent City provides the existing water service.

The BOVCSD's attorney also expressed a legal opinion that continued service is "illegal" without formal annexation of the Martin Ranch property into the geographic boundaries or the sphere of influence of the BOVCSD.

Unfortunately, we disagree with the legal opinion offered by BOVCSD's attorney and with the position that the Martin Ranch service is "illegal." (Emphasis added)

The Tribe has <u>never received a response from the BOVCSD</u> to the request for clarification, above.

In short, the City provided *a service line* to the Martin Ranch in the 1980s.

The BOVCSD's most recent letter cites a provision of the 1991 Agreement discussing extension of a "main line" – not continuing or expanded service to an existing service line that has been in operation for nearly 40 years – in an attempt to confuse LAFCO and obtain a denial of the City's request. It bears emphasis that the City connected the Martin Ranch by means of a *service line*, not a main line extension.

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1. City-BOVCSD 1991 Agreement

In October 1991, the City and BOVCSD entered into a separate agreement regarding water services. The BOVCSD is referred to as the "Services District" in the 1991 Agreement. While the BOVCSD represented that the 1991 Agreement enacted a connection fee for all residential units connected to the BOVCSD's water system and requested the City to collect the connection fee from applicants for connection to the system, it bears emphasis that the Tribe is not an applicant under the 1991 Agreement. Rather, the Tribe is a long-standing water user with its Martin Ranch property connected by the City many years prior to the 1991 Agreement.

Again, the Tribe is not an applicant for *new* service, as the Martin Ranch was connected in the 1980s.

BOVCSD's attempt to create ambiguity or otherwise confuse the issue misses the mark. The City is not extending a main line and has requested LAFCO to approve water wheeling to an existing service line connection to Martin Ranch.

B. The 2002 Letter discusses Main Line Extensions; Martin Ranch is Served via a Service Line

Here, the cited provision of the 1991 Agreement regarding extension of a main line is generally inapplicable. The Tribe is an existing water user utilizing a service line connection that was made during the 1980s. The Tribe is an existing customer and the property has been served since the 1980s. It is not a new customer. The Tribe merely seeks to continue to utilize its City-installed service line connection to obtain water from the City through a wheeling agreement, which agreement and wheeling service are not only permitted by State law, but encouraged.

2. Continuing Service to the Martin Ranch is Expressly Authorized by Statute

BOVCSD continues to push the same tired arguments since 2008, claiming that the Martin Ranch connection is/was illegal. After 35+ years of water service to the Martin Ranch, the BOVCSD's position suffers from excessive time delay (i.e., laches) and unclean hands.

BOVCSD's demand for annexation to the BOVCSD or disconnection is inconsistent with California law and Coastal Commission preference. To make matters worse, the BOVCSD, while aware of the law, continues to misrepresent not only the law, but the options available. Hence, the Tribe and City after years of delay have cooperatively moved forward consistent with the law and Coastal Commission preference.

BOVCSD is a community services district governed by the Community Services District Law, Government Code section 61000, *et seq*. As a district of limited powers under California law, it may only exercise those powers expressly authorized by the Legislature or necessarily

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implied from expressly authorized powers. See, e.g., Turlock Irrigation District v. Hetrick, 71 Cal.App.4th 948, 952 (1999).

BOVCSD has the legal authority to serve the Martin Ranch—either after annexation or as a property outside BOVCSD—under the statutes governing community services districts. Government Code section 61100(a) provides that a community services district may, among other powers, provide water service within its jurisdictional boundaries, as follows:

Within its boundaries, a district may do any of the following:

(a) Supply water for any beneficial uses, in the same manner as a municipal water district, formed pursuant to the Municipal Water District Law of 1911, Division 20... In the case of any conflict between that division and this division, the provision of this division shall prevail. ... (Emphasis added.)

In addition to its powers under Section 61100, community services districts may lawfully provide water service outside their boundaries, either pursuant to Sections 61101 or 56133. BOVCSD has refused to move forward cooperatively with the Tribe under the "grandfather" provision of Section 56133.

As a result, the City and Tribe have moved forward with a wheeling agreement because of the BOVCSD's recalcitrance. The City is willing and able to fill the lacuna the BOVCSD will not.

3. LAFCO is Authorized to Deem the City's Application Exempt or Approve the City's Application

The Tribe and City simply want to facilitate the provision of an adequate and reliable water source to the Martin Ranch. Eight-plus (8+) years of discussions with the BOVCSD regarding water service to the Martin Ranch has only yielded continued threats of shutoff of service and claims of inability to serve the Martin Ranch absent annexation and payment of unjustified amounts of money to the BOVCSD. Good public policy requires that the expectation of water users to adequate and reliable water supply be satisfied.

A. Express Exception to LAFCO Approval for Extraterritorial Water Service; Pre-2001 Water Service.

Government Code § 56133 provides authority for LAFCO to take the action requested by the City or exempt it from LAFCO's purview.

Section 56133 provides in pertinent part:

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- (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.
- (b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization.

- (e) This section does not apply to any of the following:
- (1) Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

(4) An extended service that a city or district was providing on or before January 1, 2001.

Government Code 56133(e) provides exemptions to the general provisions discussed above. If determined applicable, either or both of the exemptions discussed below would exempt from LAFCO review the wheeling agreement. The exemptions address: a) extension of service that was provided on or before January 1, 2001; and 2) agreements made between two public agencies.

> 1. The Martin Ranch was Served by "a City or District" Prior to January 1, 2001; § 56133(e)(4)

Section 56133(e)(4) provides that an agreement to provide "an extended service that a city or district was providing on or before January 1, 2001" is exempt from review by LAFCO.

The Martin Ranch property is connected to the water system and has been since the 1980s. See e.g., LAFCO Meeting Minutes, September 21, 2009. Further, BOVCSD has argued that the Martin Ranch connection is a "City" connection. Finally, it is common knowledge that all water for customers of the BOVCSD is supplied by the City. The Tribe has owned the Martin George Williamson Re: Agency Referral; City Water Service Page 9 of 15

Ranch since May 1998, i.e., prior to January 1, 2001, and utilized water service continually since that time.

It is undisputed that the Martin Ranch has been served by "a city or district" since a date prior to January 1, 2001. This exemption specifically utilizes "a" and not "the" prior to "city or district", which is extremely important. "A city or district" means that the pre and post January 1, 2001 service provider is not required to be the same entity, i.e., it can be a city or district. Had the Legislature used the word "the" to modify the phrase "city or district" the meaning would be modified such that only the city or district that was providing the service prior to January 1, 2001 would be eligible to provide the service post January 1, 2001 pursuant to the "grandfather" provision. Further, this exemption does not distinguish between service level increases, land use changes and conflicts, or other land use issues such as development density and intensity increases – only whether the services were extended by "a city or district" on or before January 1, 2001. There is no doubt that water service to the Martin Ranch was property was extended in the 1980s by "a city or district."

It is reasonable to conclude that the 2001 "grandfather" provision in Government Code Section 56133(e) is applicable as service was extended prior to 1991 by "a city or district." Therefore, the City's request is exempt from LAFCO purview. *See* Government Code 56133(e)(4).

2. The Tribe and City are Public Agencies Exempt from LAFCO Review; § 56133(e)(1)

Generally, the Act allows a local agency to provide "new or extended" services by agreement outside its boundaries only with LAFCO's approval. However, this requirement does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

The City is undoubtedly a public agency under California law. The Elk Valley Rancheria, California is a federally recognized Indian tribe. It is a sovereign tribal nation with inherent governmental authority. In recognition of that governmental authority, the Elk Valley Rancheria, California by and through its governing body, the Elk Valley Tribal Council is considered a public agency pursuant to California Government Code § 6529. The City and Tribe entered into an out of area services agreement, e.g., wheeling agreement, as an alternative to BOVCSD service. BOVCSD is a public service provider of water.

Since at least 2004, the BOVCSD has contemplated providing water service to the resort development to be located on Martin Ranch. Said resort development was the subject of numerous federal, state, and Tribal environmental reviews. BOVCSD and the City have

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expressed that they have the capacity and capability to provide the contemplated amount of water necessary for the resort project. *See* April 2, 2004 Letter from City to MWH. In that letter, the City concluded that it could provide a sufficient amount of water for the full Project and that the BOVCSD infrastructure could deliver the water necessary for the Project.

The City and Tribe have agreed to provide and receive, respectively, water at a level of service that is consistent with the level of service contemplated to be provided by the BOVCSD as detailed in the various federal environmental reports, including the water study. *See* Appendix M to Final EIS.

Here, the Tribe anticipates that BOVCSD will argue that the Tribe is not a public agency despite its designation as such under Government Code § 6529. The Act defines "public agency" as: "the state or any state agency, board, or commission, any city, county, and city and county, special district, joint powers authority, or other political subdivision." Gov't Code § 56070. However, the Act also provides that its definitions apply "[u]nless the provision or context otherwise requires." Gov't Code § 56010.

The exemption at Section 56133(e)(1) provides:

This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service and where the level of service is provided consistent with the level of service contemplated by the existing service provider.

Accordingly, it is reasonable for LAFCO to conclude that Section 56133(e)(1) requires a broader definition of "public agency" to include federally recognized Indian tribes, such as the Tribe, than is stated in Section 56070 for other provisions of the Act.

Further, nothing in the Act states that a "public agency" cannot also be a customer or service recipient. The Tribe is both a "public agency" and the customer in this instance. Notably, the San Diego County LAFCO made a similar preliminary determination in August 2015, which was finalized in December 2015. Since 1967, the City of Imperial Beach has extended sewer service to property within the City of Coronado that is owned by the United States Government (Department of the Navy) on the Naval Base Coronado Silver Strand Training Complex - South (NBC SSTC-S). On August 7, 2015, the San Diego LAFCO's Executive Officer issued a Preliminary Determination concluding that the continued extension of sewer service by Imperial Beach to the Navy is exempt from LAFCO purview pursuant to Government Code Section 56133(e). In that matter, the San Diego County LAFCO determined that the agreement was exempt from

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review by LAFCO. See August 7, 2015 Preliminary Determination; and December 7, 2015 final action.

Hence, it is reasonable to conclude that the City's request is exempt from LAFCO purview as it represents an agreement between two public agencies. *See* Government Code 56133(e)(1).

B. LAFCO is Expressly Authorized to Approve the City's Application

1. § 56133(a)

Here, the City has requested written approval from LAFCO to provide "new or extended services by contract or agreement outside its jurisdictional boundary." Govt. C. § 56133(a). As discussed above, the City connected the Martin Ranch to a water service line in the 1980s. The City provides the water that is ultimately provided to the Martin Ranch. Thus, there is effectively no change in the originator of the water service or the recipient. "New or extended" is not defined in the Act. It is reasonable to consider "new or extended" in terms of geographical area / territory. Here, water service has been authorized and provided to a specified territory, i.e., the Martin Ranch, prior to January 1, 2001. The City has submitted a complete application. Extended service by the City, which has effectively been on-going since the 1980s, should be approved pursuant to Section 56133(a).

2. § 56133(b)

LAFCO may authorize a city or district to provide "new or extended services outside its jurisdictional boundary but within its sphere of influence" in anticipation of a later change of organization, e.g., annexation. *Id.*, (b).

Subsection (b), however, does not require that annexation occur simultaneously with approval as evidenced by the very words of the statute to wit: "anticipation of a later change" or the form of the anticipated later change. *Id.* Further, if annexation is not presently possible for some reason, e.g., Coastal Commission opposition, that current condition should not prohibit the approval of the City's request.

Here, the City's sphere of influence includes the Martin Ranch and Ocean Way Motel properties. As LAFCO is aware, the Coastal Commission recently opposed annexation of the two properties into County Service Area Number 1 and stated its position that out of area service agreements are preferred consistent with the LCP and Coastal Commission preference. Therefore, it is reasonable to conclude that annexation is not currently feasible, although the Coastal Commission may in the future make a different determination with respect to the proposed annexation.

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Nothing in the Act requires a concurrent annexation application. Since a concurrent application for annexation was not filed due to anticipated Coastal Commission opposition, the Tribe is willing to enter into a Memorandum of Understanding consenting to annexation ("Consent MOU") of the Martin Ranch and Ocean Way Motel properties into the City should annexation become feasible in the future.

Based upon the foregoing, LAFCO approval is either: 1) appropriate and consistent with the Act; or 2) the proposed wheeling (out of service area) agreement is exempt from review by LAFCO.

4. Wheeling is Encouraged by California Statute

California law encourages and facilitates the transfer of water, including the physical transportation of water from a seller to a buyer through the facilities of an intermediate third party (also known as "water wheeling"). Water Code section 109(a) states the Legislative intent to encourage the voluntary transfer of water and water rights:

The Legislature hereby finds and declares that the growing water needs of the state require the use of water in an efficient manner and that the efficient use of water requires certainty in the definition of property rights to the use of water and transferability of such rights. It is hereby declared to be the established policy of the state to facilitate the voluntary transfer of water and water rights where consistent with the public welfare of the place of export and the place of import.

(Emphasis added.)

In 1986, the Legislature enacted Water Code section 1810, et seq., to facilitate the joint use of capacity and facilities for water wheeling. Subject to interfering with the rights of existing water users in a facility, or adversely affecting water quality, Section 1810 provides that "neither the state, nor any regional or local public agency may deny a bona fide transferor of water the use of a water conveyance facility which has unused capacity, for the period of time for which that capacity is available..."

Water Code section 1810, et seq. provides independent authority for any water agency in the state to "wheel" water through the available capacity of another agency's facilities, subject only to the payment of a fair compensation and the use of such capacity in a manner that neither affects water quality nor the water delivery or use rights of customers or contractors of the agency owning the facilities. In particular, the legislation does not require either a showing of "necessity" to use the facilities, or evidence that water wheeling is the only alternative feasible for providing water to the water transferee. Rather (and in order to prevent water agencies from preventing the use of their facilities for water wheeling) this law places the burden on the owner

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of the facilities proposed to be used for water wheeling to demonstrate that water wheeling is infeasible through its facilities.

Water Code section 1813 provides that BOVCSD "shall act in a reasonable manner consistent with the requirements of law to facilitate the voluntary sale, lease or exchange of water and shall supplement its determinations by written findings." This statute places the burden upon BOVCSD to justify why it would not facilitate a transfer of water through its facilities, rather than reserving to that agency unbridled discretion to choose whether or not to allow its facilities to be used for the transfer of water to the Tribe lands. In other words, BOVCSD cannot simply refuse to allow water wheeling through its facilities.

Therefore, the BOVCSD's request to delay any action pending BOVCSD's consent to the water wheeling agreement between the Tribe and the City is inconsistent with the law. Further, as demonstrated by the BOVCSD's letter, BOVCSD has been delaying the procurement of a consistent, cost-effective supply of water to the Martin Ranch since 2008 by any means possible, including failure to cooperatively explore water wheeling. It is simply time for the BOVCSD's games to stop.

LAFCO should not accept BOVCSD's invitation to further delay the Tribe's efforts at economic development.

5. Annexation is Not Presently Possible and is Not Legally Required; Out of Service Area Agreements are Preferred by the Coastal Commission

In May 2015, the Tribe applied for annexation into the County Service Area, No. 1 (the "CSA") for sewer service. Upon distribution of notice of the annexation request, the California Coastal Commission informed LAFCO and the County of Del Norte that annexation would be inconsistent with the California Coastal Commission's position and that a change in the CSA's Sphere of Influence ("SOI") as well as use of an out of area service agreement would be preferable.

In LAFCO's Municipal Service Review to change the CSA's SOI, the LAFCO stated:

The CSA No. 1 proposes to provide sewer services by way of an Out of Agency Service Agreement to the Elk Valley Rancheria's Martin Ranch (APN 115-020-28) and Ocean Way Motel (APN 115-020-20) properties. In order to extend sewer services outside district boundaries, an SOI amendment (expansion) is required. As such, this municipal service review has been prepared in conjunction with the proposed sphere amendment.

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An annexation is not proposed at this time as it would require the County to amend its urban/rural boundary designation in its Local Coastal Program based on recent comments provided by California Coastal Commission staff. The County amended its Local Coastal Program to allow an exception for these properties to be connected to the public sewer system while remaining outside of the designated urban boundary. From the Coastal Commission staff's viewpoint, an Out of Agency Service Agreement is preferred over an annexation of the CSA No. 1 boundary as it is consistent with their analysis of the County's policy exception. (Emphasis added).

There is no compelling reason to believe that the Coastal Commission's position would be any different here. The proposed service would be to an existing user, which property was connected for service by the City consistent with the contract in effect at the time, and within the City's existing, approved SOI. Likewise, the wheeling agreement is effectively an out of area service agreement. Thus, LAFCO should approve the arrangement consistent with its precedent and Coastal Commission preference.

6. Inclusion of the Ocean Way Motel is Consistent with the Del Norte County LCP Amendment No. DNC-MAJ-1-10

The BOVCSD is wrong, again, when it claims that the Ocean Way Motel property was not included in the LCP amendment addressing the extension of public water and sewer to the Tribe's Martin Ranch and Ocean Way Motel properties. The Tribe believes the language of the County's 2011 approved modification (shown below as modified) to the LCP amendment that was also approved by the California Coastal Commission in June 2011¹ is clear and express in its intent to expressly include the Ocean Way Motel.

The extension of public water and public sewer services outside the Crescent City Urban Area to serve the Elk Valley Rancheria resort/casino project on the Martin Ranch property (APN 115-020-28.) and the adjoining two-acre parcel that was the former site of the Ocean Way Motel (APN 115-020-20.) The proposed text amendment This exception specifically ties confines the public utility extension to only those activities proposed on the Martin Ranch property (APN 115-020-28) and the former site of the Ocean Way Motel (APN 115-020-20) with no lateral connections

¹ Matter F10a, California Coastal Commission, June 17, 2011; County of Del Norte LCP Amendment No. DNC-MAJ-1-10 (Extensions of Urban Services)

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granted to adjacent lands. (Redline revisions in form approved by Coastal Commission and County).

BOVCSD's representations of inconsistency are misinformed at best or intended to mislead LAFCO at worst. In any event, BOVCSD simply provides another reason to disregard their comments and analysis.

Finally, LAFCO should be aware that the Tribe currently plans to demolish the existing structures, but has no development plans for the Ocean Way Motel property at this time.

7. BOVCSD's Concerns are Properly Addressed to the Tribe

The Tribe is aware of BOVCSD's concerns as enumerated in the BOVCSD's list of twenty questions to LAFCO. The Tribe has prepared its responses to the BOVCSD's questions. See enclosed.

Likewise, the Tribe is aware of BOVCSD's concerns regarding the BOVCSD's potential role, if any, in providing water to the Tribe's Project. However, the BOVCSD since 2001 when the Project was announced has failed to substantively address how to make the Project viable. Rather, the BOVCSD has ignored the law and has attempted to erect barriers to Tribal and community wide economic development. California statutes provide the remedy for the BOVCSD, which is to cooperatively work with the Tribe and the City, as appropriate. BOVCSD's stark refusal to do so to date should not result in LAFCO declining to take action to approve the City's request or to deem said request exempt from LAFCO review.

Conclusion

The Tribe requests that Del Norte LAFCO approve the City's application to provide water services outside the City's boundaries to the Tribal properties, or, in the alternate deem the agreement exempt from LAFCO review. Thank you for the opportunity to provide additional comments and your favorable consideration of them.

Sincerely,

Bradley G. Bledsoe Downes

Brisman A Reday James

General Counsel

Enclosure

cc: City Attorney, City of Crescent City

Tribe's Responses to BOVCSD's Questions for the Del Norte Local Agency Formation Commission

- 1. Is the City's application complete without providing any input from the owner of the water distribution system through with the water service will flow? Yes, the Cortese-Knox-Hertzberg Act does not require input or approval from BOVCSD in order for an application for extra-territorial service to be complete. Further, BOVCSD has had numerous opportunities since 2008 to provide substantive input on the issue of the Tribe receiving water service from the City. Instead, BOVCSD has flatly refused to even meet with the City and the Tribe to substantively discuss water wheeling. The last such refusal occurred in March 2015.
- 2. Has the City complied with Government Code Section 56133(a) if it has not obtained the consent of the BOVCSD for the delivery of water through the BOVCSD water distribution system? Yes. BOVCSD's consent is not required under the statute. Water wheeling is encouraged by State law.
- 3. Does Del Norte LAFCO have authority to approve the City's application under Government Code 56133(b)? Yes
- 4. Does Del Norte LAFCO have the authority to ignore the phrase "in anticipation of a later change in organization" stated in Government Code Section 56133(b)? The City's application does not seek to have LAFCO ignore that language in Section 56133(b). By including the Martin Ranch Property within the City's sphere of influence, LAFCO has functionally determined that the Martin Ranch Property will eventually be included in "the probable future boundaries and service area of the [City]...," (see definition of "sphere of influence" in Government Code Section 56076). Further, LAFCO may request a Consent MOU similar to that offered by the Tribe in its letter dated February 15, 2016.
- 5. What is the nature of the connection to the Martin Ranch property? Service line.
- 6. Is the true purpose of the City's application to avoid the annexation process and the Local Coastal Plan amendment process? No. The purpose is to provide water to the Tribe's Martin Ranch and Ocean Way Motel properties consistent with the LCP amendment previously approved in 2011 by the County of Del Norte and the California Coastal Commission.
- 7. Would approval of the City's application violate Government Code Section 54900? No, this application does not seek a change in the boundaries of the City or BOVCSD, which is the subject of Section 54900.
- 8. Would approval of the City's application violate Government Code Section 61100? No, that statute provides general authority to a community services district to perform certain functions, but this application does not seek to have BOVCSD perform any functions relating to water service.
- 9. Would approval of the City's application violate Government Code Section 61101? No, that statute provides general authority for a community services district to perform certain

functions outside its boundaries, but this application does not seek to have BOVCSD perform any functions relating to water service to the Martin Ranch Property.

- 10. Has the City violated Government Code Section 54900? No, that statute addresses the transfer of tax levying authority in connection with the change in the boundaries of a city or district. However, this application does not seek to change any local agency's boundaries.
- 11. What is the average daily water demand for the proposed development? At full build out, the Tribe estimates that it will utilize approximately 59,000 gpd of potable water. The Tribe understands that the SFE for such usage is approximately 150 SFE, with the initial phase utilizing approximately 27 SFEs. The BOVCSD has been aware of this information for the full scope of the Project since 2004, and BOVCSD infrastructure has been sufficient to provide water to the Martin Ranch for this Project since that date. The Water Supply Study, which also contained this information, was provided to the BOVCSD by separate letter in 2009. Neither the scope or water demand from the Project, nor BOVCSD's capacity to serve the Project, has changed since 2004.

As described in the MWH study attached to the Environmental Impact Study approved by the federal government, the Tribe anticipates that the following will be required:

- 3" or 4" pipeline connection at the property line;
- 3" or 4" PVC pipeline from connection to on-site storage reservoir;
- 500,000 gallon to 700,000 gallon buried on-site storage reservoir;
- 200 gpm potable booster pump station (10 hp) and 2,000 gpm fire booster pump station (100 hp);
- Electrical service to operate on-site pump stations connected load 125 hp; and
- Emergency diesel generator for power outages.
- 12. What is the expected peak water demand for the proposed development? The expected peak water demand for the project is 150,000 gpd or 105 gallons per minute (gpm) at full build out. The BOVCSD has been aware of this information for the full scope of the Project since 2004, and as of that date BOVCSD's infrastructure was sufficient to meet this expected peak demand. The Project peak water demand information was also provided to BOVCSD when it received the Water Supply Study by separate letter in 2009. Neither the expected peak demand for the Project, nor BOVCSD's capacity to meet that expected peak

demand, has changed since 2004 To that end, the Tribe submitted the following information to the BOVCSD in August and September 2009:

- a. Exact location of the service connection to the project;
 - i. The Tribe's August 19, 2009 letter identified the exact location, i.e., "the existing service connection [to the Martin Ranch] at Roy Avenue would be the appropriate location for the attachment and would simply be an increase in size of the connection." See also MWH Study p. 2-9, p. 3-8.
- b. Estimated peak flow at the service connection;
 - i. As discussed in the MWH study, the peak flow can be assumed to be 150,000 gpd or 105 gallons per minute (gpm). See MWH Study p. 2-2. See also, Table 2-1. While the Tribe does not believe that the average daily use will met said amount, the Tribe proposes that the BOVCSD's engineer utilize said figures for review and response to the Tribe's request.
- c. Estimated maximum daily flow at the service connection;
 - i. As discussed in the MWH study, the peak flow can be assumed to be 150,000 gpd or 105 gallons per minute (gpm). See MWH Study p. 2-2. See also, Table 2-1. While the Tribe does not believe that the average daily use will met said amount, the Tribe proposes that the BOVCSD's engineer utilize said figures for review and response to the Tribe's request.
- d. Estimated average daily flow at the service connection.
 - i. The Tribe's August 19, 2009 letter described the average daily flow at the service connection as 59,000 gpd. However, should the BOVCSD wish to utilize the MWH Study, the peak flow can be assumed to be 150,000 gpd or 105 gallons per minute (gpm) at full build out. See MWH Study p. 2-2. See also, Table 2-1. While the Tribe does not believe that the average daily use will meet said amount, the Tribe proposes that the BOVCSD's engineer utilize said figures for review and response to the Tribe's request. The Tribe anticipates phasing the Project with the initial phase utilizing approximately 27 SFEs.
- 13. Will there be a mechanism in place to limit the flows by a known amount to the proposed development? No, such a mechanism is not necessary for this Project.

- 14. What is the proposed mechanism for the City to provide water to the proposed development if the City suffers a system failure? See response 11, above, regarding use of tanks, booster pumps, electrical service, and emergency generators. If there is a system failure, all parties will act on that matter much the same as if there was a system failure involving the BOVCSD's customer. The BOVCSD has been aware of the Water Supply Study since 2004. It was previously provided to the BOVCSD by separate letter in 2009. Nothing has changed. In 2004, BOVCSD infrastructure was sufficient to provide water to the Martin Ranch for the Project. Since 2004, the City has repeatedly voiced its ability and willingness to provide water to the Project.
- 15. The BOVCSD operates on a pumping system that functions for only a portion of the day. What mechanism is in place to provide water continuously to the proposed development other than the BOVCSD's water reservoir? See response 14 above and Water Supply Study.
- 16. What is the proposed connection point to the BOVCSD's water distribution infrastructure for demand and fire flows? The Tribe and City anticipate that the existing connection at Roy Avenue would be the appropriate location for the attachment. See Water Supply Study.
- 17. What is the source of water for fire flow protection? See Water Supply Study. Combination of water tanks, on-site agricultural water wells, and fire flow, if necessary. As discussed in the water study, the Tribe anticipates utilizing:
 - 500,000 gallon to 700,000 gallon buried on-site storage reservoir;
 - 200 gpm potable booster pump station (10 hp) and 2,000 gpm fire booster pump station (100 hp);
 - Electrical service to operate on-site pump stations connected load 125 hp;
 and
 - Emergency diesel generator for power outages.
- 18. What are the projected fire flows for the proposed development? See Water Supply Study. As discussed therein at Pages 2-2 and 2-3, the "required emergency storage would be 150,000 gallons to 300,000 gallons at full build out. As noted in the Water Study and above, the Tribe anticipates installing 500,000 gallon to 700,000 gallon buried on-site storage reservoir for the full resort. The goal since 2004 has been to have three hours of fire flow or a sufficient amount to comply with the applicable building codes, as appropriate. A combination of water tanks, on-site agricultural water wells, and fire flow, would be available, if necessary.
- 19. Has an engineering study been prepared by a registered professional California engineer to verify that the BOVCSD's existing water distribution infrastructure has sufficient pressures and

capacity to serve the proposed development and all existing BOVCSD residents based on guidelines of the California Water Standards? MWH prepared the Water Flow Study, which analyzed the BOVCSD water distribution system and concluded that the BOVCSD system had sufficient pressure and capacity to provide both its existing customers and water to the City to serve this Project. Notably, the 2004 MWH study that the Tribe cites and to which the BOVCSD's question refers was prepared and signed by a qualified, professionally licensed California engineer – Peter Kreft #C031856. It contains the methodology and basis of determination in great detail. Of course, it is subject to refinement through discussion with the BOVCSD's engineer and the Tribe's engineer, as appropriate. See MWH Study pp. 2-1 – 2.9.

20. What portion of the BOVCSD's water distribution infrastructure capacity will be taken by the development project? Less than 70%.



REGULAR MEETING MINUTES

Del Norte Local Agency Formation Commission January 25, 2016 4:00 pm

Members present: Chairman Blake Inscore, Martha McClure, Kathryn Murray

Members absent: Sparky Countess, Roger Gitlin, Gerry Hemmingsen

Others present: Executive Officer George Williamson, County Counsel Elizabeth Cable, and Nicole Burshem, PS Business Services, Darren Short, Steve Paynter, Martha Rice, Michael Mazzei

1. Call to Order/Roll Call

Chair Inscore called the meeting to order at 4:25 p.m.

Appointment of Chair and Vice Chair for 2016

Discussion was held in regards to the appointment of Chair and Vice Chair for 2016. Chairman Inscore asked for a consensus to move this to next regular meeting. It was consensus of the board to continue this matter at the next regular meeting.

2. Public Hearings

A. Crescent City Water Service Extension to the Martin Ranch (APN 115-020-28) and Ocean Way Motel (APN 115-020-20) Properties (ATTACHMENT 2A)

Discussion was held in regards to the Crescent City Water Service Extension to the Martin Ranch and Ocean Way Motel Properties. Mr. Williamson commented this is a discretionary action. The City of Crescent City submitted an application to extend water services. The analysis was completed, we received a memorandum from the Tribe, and the correspondence has been presented to the Board today. Mr. Williamson noted the environmental review is in the staff report. The original proposal was for an annexation, but the Coastal Commission advised we don't consider an annexation due to it being a boundary change. Mr. Williamson recommended opening public hearing and have a discussion. Mr. Williamson noted the Rancheria does not support a continuance and wants to see some action taken. Commissioner Murray asked if we received the letter from the Rancheria last week. Mr. Williamson commented he distributed another letter from EVR at this meeting. Chair Inscore opened up the public hearing. Martha Rice stated she is here to answer any questions. Ms. Rice commented the City is in full support of the application and

doesn't think a continuance is needed. Ms. Rice noted all the arguments are presented in the packet and we are here today to approve the application for the extension of water services. Michael Mazzei presented the board with a letter and a small version of a map. Mr. Mazzei pointed out to the board the infrastructure of the pipes is owned and is the responsibility of the Bertch-Ocean View Community Services District (BOVCSD). The City of Crescent City's role and access to the water distribution system is through a contract for basic maintenance and billing services. Mr. Mazzei commented under Government Code Section 56133(a) allows a City or District to provide new or extended services by contract or agreement outside its jurisdictional boundaries. In the application there was only agreement with the City and the Rancheria. Mr. Mazzei presented a list of questions the BOVCSD wants answers to. Mr. Mazzei stated there has been discussion with the Rancheria and the concept of water wheeling was brought up in 2008. The District felt the established orderly process of annexation was appropriate. Mr. Mazzei reported over the past eight years the City has brought this concept forward and the BOVCSD has repeatedly said they were not interested. The BOVCSD does not feel LAFCO has the authority to approve something like this. Mr. Mazzei noted BOVCSD would like the Rancheria to go through an annexation process. Mr. Mazzei commented the BOVCSD would like to see what the project will look like. Commissioner McClure asked what is the capacity of the 12 inch pipe. Mr. Paynter commented it is an 8-12 inch line. Commissioner McClure asked if the improvements were paid for by public funds. Mr. Mazzei commented they aren't outside grant assistance. Commissioner McClure asked if they are annexed into the City system; is it possible to join the City by joining through the Disticts lines. Mr. Mazzei stated that is part of the problem; the District doesn't know what the information is. Chairman Inscore stated if the BOVCSD couldn't identify their capacity with the information; could the BOVCSD make a decision anyways. Mr. Paynter commented the information of the new system would be made up into a model to help evaluate the impact of the system. Commissioner McClure asked what the fees are. Mr. Mazzei commented the District was not interested in the fee, but in the management of the system. Commissioner McClure asked if the Rancheria has been in communication with the District in regards to the changes. Mr. Mazzei commented the Rancheria was engaging the City without the Districts input. Chairman Inscore commented Michael Young provided the District with an opinion about the water system and specifically addressed wheeling as an option. Mr. Mazzei commented he was working with the City at the time. Mr. Mazzei read from one of the letters presented in the packet. Commissioner McClure asked if a

project could be approved with special conditions. Mr. Mazzei commented there could be additional conditions and negotiations. Ms. Rice commented it is her understanding the financial conditions was not acceptable to the Tribe. Ms. Rice noted Martin Ranch has been receiving water services since before the 80's. What this application allows is to serve a larger area, but continue service. Ms. Rice stated the Rancheria would be putting in their pumps to make sure the water is maintained. Ms. Rice asked why the District wasn't as interested in this project over the past eight years. Commissioner Murray asked for the historical knowledge between the City and Ocean view. Ms. Rice commented Mr. Black has been working on this agreement for four years and received a correspondence the BOVCSD wasn't interested in the wheeling agreement. Commissioner McClure asked why the Rancheria couldn't take their pumps and place them. Ms. Rice commented it was an issue with the increase in the amount of water. Commissioner McClure asked if there was a penalty of increasing or decreasing. Ms. Rice stated she was not aware of one. Mr. Mazzei commented the District was not aware of the water service and were only made aware through the wheeling negotiation. Mr. Mazzei stated the District wants to be able to manage our system. Commissioner Murray stated she was aware of the negotiations made and is a little insulted when Mr. Mazzei keeps saying the City owns the water. The City doesn't own the water, but owns the water service and if we didn't send the water to Bertch-Oceanview you wouldn't have it. This is a very complex situation and this whole thing has been embedded through the agencies. Mr. Mazzei gave a timeline history of the project. Chairman Inscore commented the District knew the direction this agreement was going and there was time for a case to be established. Mr. Mazzei commented the application is bizarre. Chairman Inscore commented the Board has been aware of the concept and two BOVCSD District Board members came to speak with him. Chairman Inscore asked if annexation would not change impact to the system itself; would there be any material difference to the system itself. Mr. Paynter commented he hasn't done the study yet, so he does not know the answer at this time. Chairman Inscore asked in regards to the 2010-2011-structure fee. Mr. Mazzei noted it was for connection fees. Chairman Inscore noted a model was made than. Mr. Paynter stated the District doesn't know the size of the development. Commissioner McClure commented she feels this will end up a wheeling agreement. The District will still have the authority to make an agreement and have it remain viable. Commissioner McClure commented she is in support of this argument presented today. Commissioner Murray asked if the City passed an ordinance to make an agreement with the Tribe at one of the City's meetings; was

there notice posted in the paper. Ms. Rice commented she has not seen them. Chairman Inscore asked Mr. Williamson if the water connection and service changes limit any services related only to the City. Mr. Williamson commented it would not be exclusive it requires transaction between the two entities. Chairman Inscore asked if there is anything that precludes that agreement. Chairman Inscore commented this resolution is solely for this action related to the City services extension not intended to override their final say. Mr. Mazzei commented we would appreciate additional time and there are some conditions that could be in place to pass legal muster. Chairman Inscore asked if Mr. Williamson had a final thought. Mr. Williamson commented he needs an official motion to continue this.

Commissioner McClure asked would it be to the advantage to continue this. Mr. Williamson stated he did not realize the full extent of the time here and all the issues.

On a motion by Commissioner McClure, seconded by Commissioner Murray, and unanimously carried on a polled vote, the commission approved the continuance of the matter until the next regular scheduled meeting on February 22, 2016.

3. <u>Regular Business</u>

A. Approval of November 30, 2015 Draft Minutes (ATTACHMENT 3A)

On a motion by Commissioner Murray, seconded by Commissioner McClure, and unanimously carried, the commission approved the minutes from November 30, 2015, as presented.

B. 2016 Meeting Dates (ATTACHMENT 3B)Discussion was held in regards to the 2016 meeting dates.

C. Budget Transfer Request (ATTACHMENT 3C)

Discussion was held in regards to the budget transfer request. Mr. Williamson commented the matter has been resolved and recommends a refund to the Rancheria for \$956.00.

On a motion by Commissioner Murray, seconded by Commissioner McClure, and unanimously carried on a polled vote, the commission approved and adopted the Budget Transfer Request to the Rancheria in the amount of \$956.00.

4. <u>Inquiries, Correspondence, Application Status and Referrals</u>

A. Staff - The Executive Officer will provide a report of current projects, issues of interest, and pending legislation.

- Gasquet CSD MSR & SOI In progress- Mr. Williamson commented Gasquet is making good progress. There has been Good cooperation from CSD and will be conducting a hearing.
- Klamath FPD MSR & SOI In progress- Mr. Williamson commented this is to keep you updated, but we are working and making a lot of effort towards the recruit project. Mr. Williamson commented we paid to have a facilitator come and develop approved material for training the new recruits. Mr. Williamson stated there was a indicator that we would get some recruitment and interest. Mr. Williamson noted they were hoping the Tribe would support training through their staff. Mr. Williamson reported the project was unsuccessful. He is going to bring the MSR back to the commission in March and one of the options is the zero sphere of influence. Commissioner Murray asked if we were going to partner with CALFIRE. Mr. Williamson commented we can do that, but not through this district. One-way to approach this is to bring the MSR back with a zero sphere and immediately look at options of the Amador project. Commissioner Murray asked if the Sheriff or that district supervisor spoke with them. Mr. Williamson commented he has kept them in the loop and the Sheriff has not a lot of information about what is going on there. Commissioner McClure suggested having emergency training information. Chairman Inscore commented it looked like we had some traction and now we have nothing. Chairman Inscore commented he is disappointed there isn't a lot of participation with everybody.
- New Del Norte LAFCo Website & Staff Emails (ATTACHMENT 4A)-Mr. Williamson commented this commission has been available to take advantage to do free posting on CAL-LAFCO website and staff emails. We have taken that as an opportunity to build your own independent websites. We will do a transition in email.
- B. Commission On their own initiative, Commission members may make brief announcements or reports on their own activities. They may ask questions for clarification, make a referral to staff or request a business matter for a future agenda per Government Code Section 54954.2 (a). The following Commissioner(s) reported on: None
- D. Public Public comment on items of interest within LAFCo subject matter jurisdiction, and not otherwise appearing on the agenda. No action may be taken on any item not appearing on the agenda.
 - The following person addressed the Commission: Darrin asked in regards to liability towards a Klamath Fire. Mr. Williamson commented someone would have to litigate and he has been working diligently

with this. Mr. Williamson noted he doesn't expect any liability to get this done.

4. Adjournment

There being no further business to come before the Commission, the Vice-Chairman adjourned the meeting at 4:00 p.m. until the next regularly scheduled meeting on February 22, 2016.

Respectfully submitted,

Nicole L. Burshem, Recording Secretary

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AGENDA ITEM 3B

MEETING DATE: February 22, 2016

TO: Del Norte Local Agency Formation Commission

FROM: George Williamson AICP, Executive Officer

SUBJECT: Del Norte LAFCo Policy and Procedures Update

DISCUSSION

Del Norte LAFCo Policies & Procedures were last updated in 2004. As such, the entire document should be reviewed up updated to reflect current statutory standards and processes. There are also references to fees and charge rates that require updating. The Commission could form a Committee to work with staff to update the Policies and Procedures, or staff could bring proposed updates back to the entire Commission.