

## EXHIBIT C-5

### STATEMENT OF POSITION OF THE DEBTORS

*The text of this Exhibit to the Joint Disclosure Statement has been prepared by the Debtors with reference to the Debtors Plan and Alternative Plans. All statements and representations herein are the sole responsibility of the Debtors. The other Plan Proponents do not necessarily agree or disagree with any of the statements or representations herein, and expressly reserve all rights to contest any such statements or representations, if appropriate.*

*The defined terms used in this Exhibit have the meanings set forth in the Debtors Plan.*

Alone among the Plans described in this Joint Disclosure Statement, the Debtors Plan provides for the payment in full of all claims. At the same time, the structure of the Debtors Plan addresses the creditors' different views on valuation by permitting them to dilute existing equity and participate in a potentially enormous upside.

The parties in interest in this case differ sharply in their assessment of the value of the Debtors' assets. Their estimates of the value of Scopac's timberlands alone vary from a low of \$375 million (creditors' estimate) to \$1.4 billion (Debtors' estimate). Nowhere is the disagreement sharper than in the valuation of the proposed Preserve Project, though the divergence of views of the valuation even of the core commercial timberlands also is significant. What is more, regardless of the valuation of the Debtors' assets, the challenge facing any proponent of a reorganization plan in this case is the disparity between the long-term value of the assets and the near-term constraints on cash-flow. These constraints have resulted from at least three causes. First, the Debtors' operations are subject to severe regulatory pressure, which is being addressed in numerous pending lawsuits in non-bankruptcy forums that, realistically, cannot be concluded before a chapter 11 plan is confirmed. (See, for instance, the discussion of the Headwaters Litigation in Section 3.2(a) of the Joint Disclosure Statement, which the Debtors believe could substantially benefit their estates.) Second, operating in chapter 11 subjects a business to inherent disadvantages, including, for instance, the extraordinary administrative costs of bankruptcy litigation. In this case, the Debtors' estates have shouldered the burden not only of their own counsel and advisors but those of three different secured lenders, which has placed an enormous burden on cash-flow for the last year.<sup>1</sup> Third, market pressures have impaired the near-term prices available for the Debtors' timber products at a time when the volume of production is impaired by regulatory obstacles.

Certain parties in interest in these cases believe that MAXXAM should be forced to dilute its existing equity, based on their belief that the Debtors' asset valuations are unrealistically high. In particular, they assert that the value of the Preserve Project is unduly "speculative." Since the initial proposal of the project in the fall of 2007, however, the Debtors have made significant progress in addressing the concerns first expressed by local county officials and regulators. They also have modified some aspects of the proposal in response to concerns. The Debtors firmly believe that the Preserve Project is feasible and will contribute significant value to their estates.

MAXXAM and the Debtors reject the pessimism of large secured creditors with a strategic interest in assigning low values to the Debtors' assets for bankruptcy litigation purposes. In recognition, however, of the need to resolve these cases expeditiously without further litigation costs, MAXXAM has voluntarily agreed to a significant dilution of its equity for the benefit of creditors. The Debtors Plan presents an opportunity to avoid the expense and delay of unnecessary litigation by fostering a consensual arrangement

In light of the foregoing, MAXXAM and the Debtors believe that the plans proposed by other parties cannot and should not be confirmed by the Bankruptcy Court, and that all parties-in-interest in this case should support the Debtors Plan and, as back-up measures, the Palco Alternative Plan and the Scopac Alternative Plan.

---

<sup>1</sup> Secured lenders are entitled to payment of their fees in bankruptcy only to the extent that the value of their collateral exceeds their debt. The lenders' position in accepting payment of their fees from the estate is, therefore, inconsistent with the secured lenders' insistence for purposes of plan confirmation that the Debtors' estates are insolvent.

### **The Liquidation Proposed by the Indenture Trustee Is a Poor Substitute for the Debtors Plan.**

The Indenture Trustee for the Prepetition Timber Noteholders has expressed a desire to pursue a competing chapter 11 plan in these cases. The Indenture Trustee's proposal consists essentially of a forced sale of Scopac property within six months, which the Indenture Trustee's own valuation expert admits would yield a price insufficient to pay the Scopac secured debt in full. In other words, unsecured creditors would receive only access to a sharply limited cash fund that is considerably smaller than the total unsecured claims on file, plus some relatively illusory rights to share in the proceeds of potential litigation. Additionally, the Indenture Trustee's proposed sale "free and clear of all liens" under section 363 of the Bankruptcy Code would undermine the existing environmental safeguards related to the Timberlands.

Moreover, the Indenture Trustee's plan completely fails to address the problems of the Palco Debtors. It offers no payments to Palco unsecured creditors, and provides for a treatment of Scopac's assets that would impair separate reorganization efforts on behalf of Palco. It will result, therefore, in the loss of hundreds of local jobs after a very short period, as well as the loss of a customer for a number of local merchants.

Although the Indenture Trustee's plan depends at least in part on its intention to derive proceeds from litigation now pending in the name of the Debtors, the Debtors question whether the Indenture Trustee can or will prosecute this litigation successfully. The Debtors and their principals and counsel have devoted significant time and resources to this complex litigation, which would be difficult if not impossible for a third party to assume and complete. In placing a low value on Scopac's total assets for the purpose of arguing that Scopac is insolvent (a legal and factual argument on which the Indenture Trustee must prevail in order for its Plan to meet the standards for confirmation under the Bankruptcy Code), the Indenture Trustee never has given any credit to the value of the Debtors' litigation claims against third parties.

The Debtors believe that a forced sale of their assets in an unrealistically abbreviated timeframe would severely depress the value of their assets (see Liquidation Analysis attached as Exhibit E), but that a rational sale of the unique Ancient Redwood Groves and the Redwood Preserve Development over an adequate period of time, as described above, will yield proceeds sufficient to pay all secured and unsecured creditors in full, save the jobs of hundreds of employees, and successfully reorganize a company that has been operating since 1863.

### **Likewise, the Low-Value Plan Proposed by Marathon Is a Poor Substitute for the Debtors Plan.**

As in the case of the Indenture Trustee Plan, the MRC/Marathon Plan fails to compensate all constituencies in full, as required by the Bankruptcy Code. Instead, the MRC/Marathon Plan places an unrealistically low value on the Debtors' assets that the Debtors believe cannot be supported by the evidence. Only the Debtors Plan seems likely fully to preserve the going concern value of the Debtors' existing businesses for the benefit of all constituencies in the case rather than for the parochial interests of each competing plan proponent.

### **Only the Debtors' Plans Ensure Compliance with All Applicable Environmental Regulations.**

The Debtors Plan contemplates the sale of the Ancient Redwood Groves and the pursuit of the Redwood Preserve Development, all in accordance with and in compliance with applicable non-bankruptcy law requirements, terms, conditions, permits, plans, approvals, restrictions and covenants. In other words, the Debtors and Reorganized Debtors will implement the Debtors Plan, including the Preserve Project, by obtaining all non-bankruptcy law approvals and permits for the transactions contemplated by the Debtors Plan as if no bankruptcy case had been filed. Moreover, the Debtors and Reorganized Debtors will satisfy, complete, perform, and comply with all Environmental Obligations as if no chapter 11 bankruptcy cases had been filed. Thus, the Debtors' bankruptcy cases will have no effect on the existing environmental and regulatory authority and scheme. None of the other competing plan proponents have unambiguously undertaken to ensure that their plans will have no adverse impact on the operation of the Debtors' properties consistently with environmental obligations. In particular, like MRC and Marathon, the Debtors believe that the Indenture Trustee's proposed liquidation of Scopac would possibly put the HCP associated with the Headwaters Agreement at risk, and the Debtors join in Marathon's request that the Indenture Trustee modify its Plan to clarify a number of enforcement issues identified by regulators.

**If the Indenture Trustee and Marathon Fail to Prove Their Unrealistically Low Asset Valuation Estimates, the Debtors' Plans Will Be the Only Options Remaining to Forestall a Liquidation and Waste of Value.**

The Plans proposed by the Indenture Trustee and MRC/Marathon both depend absolutely on the premise that the Debtors' assets are worth less their obligations, rendering the Debtors insolvent. If the Court does not uphold this position after an evidentiary trial, neither the Indenture Trustee Plan nor the MRC/Marathon Plan can be confirmed under law. As noted above, the position that the Debtors are insolvent is inconsistent with the secured lenders' acceptance of millions of dollars in reimbursement of legal fees in these chapter 11 cases. The Debtors also believe this position is completely inconsistent with the evidence that will be produced at the confirmation trial. If the Court sustains the Debtors' proof rather than the evidence offered by the Indenture Trustee and MRC/Marathon, their Plans will be unconfirmable. The only Plan remaining that will be eligible for confirmation will be the Plans proposed by the Debtors.

**ACCORDINGLY, REGARDLESS OF THE DECISION MADE BY EACH CREDITOR ON THE OTHER PLANS, THE DEBTORS STRONGLY URGE THEM TO CAST BALLOTS IN FAVOR OF THE DEBTORS PLANS AND THE DEBTOR'S ALTERNATIVE PLANS AS WELL, IN ORDER TO ENSURE THAT AT LEAST ONE CONFIRMABLE ALTERNATIVE IS AVAILABLE UPON PROOF OF THE DEBTORS' SOLVENCY.**