



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

South Central Region • Region 3 • 1701 South 24th Avenue, Yakima, WA 98902-5720
Telephone: (509) 575-2740 • Fax: (509) 575-2474

April 30, 2024

Phil Hoge
Yakima County Public Services
128 N 2nd St
Fourth Floor/Courthouse
Yakima, WA 98901

RE: Notice of Environmental Review, Notice of Application and Notice of Future Public Hearing LRN2024—00004/SEPA2018-00006

Dear Phil Hoge:

Thank you for the opportunity to comment on the proposed amendment to the Biennial Comprehensive Plan Map Amendment, by Miocene Resources, LLC. The Determination of Non-Significance letter and associated documents, including the SEPA checklist, continue to misrepresent the Washington Department of Fish and Wildlife's (WDFW) interests. WDFW owns and manages the land in question on behalf of the people of the State of Washington (Parcel #161527-11001). Under our mandate and obligation, WDFW must manage our lands as per our legislative mandate (RCW 77.04.012 and Title 220 WAC et. seq. for example). The primary purpose of which is to preserve, protect, perpetuate and manage fish and wildlife and their habitats. Public use of department lands may include fishing, hunting, fish and wildlife viewing and other outdoor recreation opportunities when compatible with healthy and diverse fish and wildlife populations (WAC 220-101-010).

Additionally, while WDFW acknowledges that Miocene Resources, LLC, now owns the mineral rights to the lands in question, the legal ownership of the right to quarry any rock (separately from the mineral rights ownership) remains in question. WDFW asserts that a mineral rights reservation does not include rock, sand, and gravel in the State of Washington. Indeed, on its own property, HBQ, Inc., and HBQ Land Company (collectively "HBQ")¹ do not recognize the state's mineral rights reservation when it quarries and sells rock on the land adjacent to WDFW. This issue is the subject of a lawsuit that WDFW has suspended, subject to a settlement agreement with HBQ. The operator of the adjacent rock quarry, HBQ, has trespassed and removed resources from the WDFW land in question, even prior to acquiring mineral right interests. While WDFW is currently pursuing implementation of said settlement agreement, the

¹ David Williamson a governing person in both Miocene Resources, LLC, and HBQ, Inc. Together with HBQ Land Company, David Williamson and/or members of the Williamson family operate and own (or principally own) all three entities.

progress continues to be slow and challenging. Regardless, the current situation is that WDFW owns the lands in question, and the parties may or may not succeed in the contemplated land exchange to transfer some or all portions of the lands in question to HBQ ownership.

When adopted by the Yakima County Board of County Commissioners in 2018, WDFW indicated support for the Yakima County Planning Department's proposed development agreement that would give Miocene Resources five years to obtain ownership of the property in question before the change in mineral overlay would occur. WDFW continues to support the proposal with an additional stipulation that the mineral overlay only changes on the land acquired by Miocene Resources (186 acres or less). At this time, it is unclear how many acres Miocene Resources may acquire if the land exchange is successful. Quarrying of rock or other resource extraction is not compatible with WDFW's land ownership. Furthermore, changes in land use designation should not occur without the support of the landowner.

The environmental documents prepared by Miocene Resources, LLC, do not indicate that WDFW is the landowner. In fact, the only reference in the development agreement that WDFW owns the land in question is in the Yakima County Planning Department's recommendation. As the landowner, WDFW can only support this proposal if the development agreement is included. This would give Miocene Resources five years to obtain ownership of the subject property before changes to the mineral overlay occur.

In addition to the ownership of the land and the right to quarry rock itself, we have additional concerns about the mineral rezoning as it pertains to the impact to fish, wildlife, and habitat values and expected mitigation. The supplemental section for non-project actions states that in filling out the environmental checklist, applicants should, *"...be aware of the extent of the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented."* The continuous and long-term disturbance to wildlife associated with rock extraction and crushing are incompatible activities with priority wildlife habitats. Adverse impacts associated with a quarry are very different from episodic temporal effects of timber harvest and rock extraction for building forest roads that have historically occurred. Clearly, the noise, dust, lights, blasting, and equipment operation inherent with planned rock extraction, crushing, and processing activities will substantively affect wildlife nesting, migration, and use on adjacent lands, yet the project proponent has indicated that no noise or actions disturbing wildlife will occur.

As we indicated in 2018 letters, the land subject to the mineral resource overlay is designated by Yakima County as a "Shrubsteppe - Priority Habitat" and an Upland Wildlife Habitat Conservation Area. It functions as bighorn sheep summer and winter range, provides habitat for other shrubsteppe obligate species, and serves as a migration corridor for deer and elk. Conversion of the parcel to rock product extraction and crushing is inconsistent with both Yakima County's Critical Areas Ordinance and WDFW land use and management policies, without appropriate compensatory mitigation. A land use conversion would require an amount of habitat mitigation that is at least equal to the expected functional and areal losses of habitat.

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To date the project proponent has not acknowledged any impacts to wildlife associated with proposed activities nor provided any compensatory mitigation plans to address expected impacts.

We thank you for this opportunity to comment and are happy to follow up with further discussion on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Livingston". The signature is written in a cursive, flowing style.

Mike Livingston
Region 3 Director