	COMPREHENSIVE PLAN MAP AMENDMENT	
	CASE NUMBERS: LRN2024-00004/SEP2018-00006	
	STAFF REPORT DRAFTED BY: Phil Hoge	
	July 10, 2024	
	Staff Recommendation	

Applicant:	Dave Williamson, Miocene Resource LLC		
Representative:	Bill Hordan, Hordan Planning Services		
Request:	Type of Amendment:	Comprehensive Plan Map Amendment	
	Land Use Designation	From:	Rural Remote/ELDP
		To:	Rural Remote/ELDP (Mineral Resource Overlay)
	Zoning	From:	R/ELDP
		To:	R/ELDP
Parcel No(s):	161527-11001		
Parcel Size:	Approximately 590 acres, of which 186 acres are proposed to be designated MRO.		
Location:	North of State Highway 410 (SR 410), approximately two miles west of the State Highway 410 and State Highway 12 intersection, and approximately six miles west of the town of Naches.		

A. SUMMARY OF RECOMMENDATIONS

Staff recommends **Approval** of the requested comprehensive plan amendment to apply the Mineral Resource Overlay (MRO) subject to the terms of a concurrent development agreement and consideration of testimony from neighbors and interested parties.

The terms of the development agreement (see Appendix E) are: (1) Yakima County will require Miocene Resource, LLC to first secure the County's approval to designate a Mineral Resource Overlay on the 186-acre portion of the Subject Parcel as proposed by the applicant; (2) Miocene Resource, LLC will execute and record a deed for the Subject Property confirming their ownership interest; (3) It is understood by Miocene Resource, LLC and the County that the Mineral Resource Overlay will be limited to just the 186 acres; (4) This agreement will be in effect for a period of 5 years from the effective date of the adopted ordinance and becomes null and void thereafter; and (5) No extensions of time for performance will be granted.

B. SUMMARY OF REQUEST

The applicant requests: a change in **Horizon 2040's** Future Land Use Map to apply the Mineral Resource Overlay on a 186-acre portion of the approximately 590-acre parcel while retaining the underlying land use designation and zoning (see Appendix A, B, and C for maps.) The applicant is looking to expand the current Horseshoe Bend Quarry mining operations easterly onto this adjoining property.

C. SUBJECT PROPERTY HISTORY

Miocene Resource, LLC (Miocene) claims to own¹ the mineral rights to Parcel No. 161527-11001 (Subject Parcel). The Washington Department of Fish and Wildlife (WDFW) claims to own² the land and acknowledges that Miocene owns the parcel's mineral rights, but asserts that 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 and wrote that this issue is subject to a lawsuit that WDFW has suspended, subject to a settlement agreement with HBQ, Inc.

The two parties are in a land swap negotiation for a 186-acre (Subject Property) portion of the Subject Parcel in exchange for a Horseshoe Bend Quarry (HBQ) Land Company, LLC parcel (see Memorandum of Understanding in Appendix F).

The entire Subject Parcel was designated Semi-Arid by Yakima County's 1977 Comprehensive Plan and was zoned General Rural (GR) prior to adoption of Yakima County's Comprehensive Plan in 1997. In 1997 Yakima County adopted its GMA-compliant comprehensive plan that designated the subject parcel Rural Remote/Extremely Limited Development Potential (RR/ELDP); and in February 2000 the subject parcel was re-zoned from General Rural (GR) to R/ELDP to be consistent with and to implement the Comprehensive Plan. In May 2015, the Subject Parcel's R/ELDP zoning was retained by the new YCC Title 19 - Unified Land Development Code. In June 2017, the Subject Parcel's **Plan 2015** designation of RR/ELDP was retained with **Horizon 2040's** adoption.

D. CURRENT COMP PLAN DESIGNATIONS, ZONING AND LAND USE

The current Yakima County Comprehensive Plan - **Horizon 2040** designations, zoning, and land uses for the subject property and adjoining parcels are indicated in table below:

Location	Zoning	Comp Plan	Acres	# of Parcels	Land Use
Subject Property	R/ELDP	RR/ELDP	186	<1	Mining, Mud Lake Road, Type 4 streams, upland wildlife habitat, geohazards, vacant, and undeveloped.
Subject Parcel (including Subject Property)	R/ELDP	RR/ELDP	590	1	Mining, Mud Lake Road, Type 4 streams, Type 5 streams, upland wildlife habitat, geohazards, vacant, and undeveloped.
North of Subject Parcel	FW	FR	640	1	Type 4 stream, upland wildlife habitat, geohazards, potential wetlands, vacant, and undeveloped.
South of Subject Parcel	R/ELDP	RR/ELDP	114	3	SR 410, Type 1 stream and & shorelines, channel migration zone, floodplain, potential

¹ David Williamson was conveyed mineral rights from OfficeMax Inc (formerly known as Boise Cascade Corporation), by quit claim deed recorded December 8, 2016.

² WDFW was conveyed timber rights from Western Pacific Timber, LLC, by statutory warranty deed recorded June 6, 2008.

					wetlands, upland wildlife habitat, geohazards, vacant, and undeveloped.
East of subject parcel	R/ELDP	RR/ELDP	640	1	Type 4 streams, Type 5 streams, potential wetlands, upland wildlife habitat, geohazards, vacant, and undeveloped.
West of subject parcel	R/ELDP	RR/ELDP	84	2	Mining operation, single family residence, Mud Lake Road, upland wildlife habitat, geohazards, vacant, and undeveloped.
Northeast of subject parcel	FW	FR	640	1	Type 4 streams, Type 5 streams, potential wetlands, upland wildlife habitat, vacant, and undeveloped.
Northwest of subject parcel	R/ELDP	RR/ELDP	634	1	Mud Lake, Mud Lake Road, SR 410, Type 1 stream and & shorelines, channel migration zone, floodplain, floodway, potential wetlands, upland wildlife habitat, geohazards, vacant, and undeveloped.
Southeast of subject parcel	R/ELDP	RR/ELDP	63	1	Potential wetlands, upland wildlife habitat, geohazards, vacant, and undeveloped.
Southwest of subject parcel	R/ELDP	RR/ELDP	27	1	SR 410, Type 1 stream and & shorelines, channel migration zone, floodplain, potential wetlands, Type 4 streams, upland wildlife habitat, geohazards, vacant, and undeveloped.

E. INTENT OF PLAN DESIGNATIONS AND ZONES (CURRENT AND PROPOSED)

- **Current Land Use Designation – Rural Remote/Extremely Limited Development Potential - RR/ELDP: Horizon 2040 Land Use Element – 5.9.6 Rural Land Use Categories**

Purpose

The intent of the *Remote Rural /Extremely Limited Development Potential* land use category is to implement Growth Management Act Planning Goals directed toward reducing sprawl, protecting the environment, and retention of open spaces. **Horizon 2040** recognizes and maintains remote rural and extremely limited development potential area development at a level consistent with environmental constraints, carrying capacity of the land and service availability. This land use category is intended to be applied in areas which are suitable for low development densities (e.g., one residence per quarter quarter section), due to a combination of physical or locational factors: The cost of extending or maintaining roads and services to these areas is often prohibitive, given inaccessibility and challenging geographical features, such as: natural hazard potential (excessive or unstable slopes, soil constraints, topographic or flooding characteristics, wildfire potential); or remote location (outside of expected rural fire service area, lack of all-weather access, depth to groundwater). These areas may also include public values covered by Statute (e.g., protection of shorelines or critical areas features such as sensitive fish and wildlife habitats).

1 • **Current Zoning – Remote/Extremely Limited Development Potential - R/ELDP:**
2 **19.11.030 Rural Districts (R/ELDP-40)**
3

4 (1) Legislative Intent. The rural districts are intended to serve as a buffer between urban lands
5 and resource lands, provide non-resource areas for future urban expansion, limit the costs of
6 providing services to remote or underdeveloped areas, and retain the rural/agrarian character of
7 the County while offering a variety of lifestyle choices for the residents of Yakima County.
8

9 (a) The Remote/Extremely Limited Development Potential (R/ELDP-40) zoning district is
10 intended to recognize areas and allow development consistent with service availability and
11 environmental constraints in remote areas and other places with extremely limited development
12 potential.
13

14 • **Proposed Land Use Designation – Mineral Resource Overlay:**
15 **Horizon 2040 Land Use Element – 5.10.5 Mineral Resource Areas Land Use Category**
16

17 **Purpose**

18 The intent of Yakima County’s Mineral Resource Overlay land use category is to implement the
19 Growth Management Act planning goal related to maintaining and enhancing natural resource-
20 based industries, which includes commercially viable mineral resource industries. This category is
21 intended to identify, preserve and protect the mineral resource land base which is intended to be
22 used for, or offers the greatest potential for, the continued production of aggregate products such
23 as concrete or asphalt, while allowing the underlying land use to provide interim land use
24 direction until such time that mineral extraction is permitted. The Mineral Resource Overlay land
25 use category carries out this goal by establishing a Mining zone, which identifies review criteria,
26 allowed uses, lot sizes, standards of operations and provisions for revisions.
27

28 Yakima County’s economic well-being depends upon the availability of mineral resource products
29 specifically sand, gravel and bedrock materials. To keep pace with the market demand it is
30 important for the residents and the economy of Yakima County that at least a fifty-year supply of
31 mineral resource areas be identified and protected with the Mineral Resource Overlay
32 designation.
33

34 **General Description**

35 Mineral resource lands are those lands primarily devoted to or important for the long-term
36 commercial production of mineral products. Areas designated as mineral resource lands comprise
37 the Mineral Resource Overlay. The Mineral Resource Overlay is a land use designation that
38 overlays an existing land use designation. The overlay designation provides protection from the
39 encroachment of competing land uses by applying a buffer that places restrictions on adjacent
40 properties. The existing or underlying land use designation is intended to remain in effect until
41 such time that the area is rezoned to Mining in anticipation of pending mining operations. At the
42 conclusion of all mining related operations the Mineral Resource Overlay designation is removed
43 and the property rezoned through the annual comprehensive plan amendment process. The
44 existing or underlying land use designation shall determine the appropriate zone.
45

46 • **Proposed Zoning – N/A:**

47 *No zoning change is proposed.*

1
2 **F. PLAN MAP AMENDMENT APPROVAL CRITERIA**
3

4 The approval criteria set forth in YCC 16B.10.095 shall be considered in any review and approval of
5 amendments to Yakima County Comprehensive Plan Future Land Use Map. The application does not
6 propose a concurrent rezone, so YCC 16B.10.090 (Major Rezones) does not apply.
7

8 • Consistency with 16B.10.095 Approval Criteria:

9 (1) The following criteria shall be considered in any review and approval of amendments to
10 Yakima County Comprehensive Plan Future Land Use Map:
11

12 (a) The proposed amendment is consistent with the Growth Management Act and
13 requirements, the Yakima County Comprehensive Plan and applicable sub-area plans,
14 applicable city comprehensive plans, applicable capital facilities plans and official
15 population growth forecasts and allocations;
16

- 17 ○ GMA Consistency - This major rezone is consistent with nine of the thirteen GMA
18 Planning goals, RCW 36.70A.020, without any order of priority.
19

20 RCW 36.70A.020 (1) Urban Growth. Encourage development in urban areas where
21 adequate public facilities and services exist or can be provided in an efficient manner.
22

23 Staff Findings: Does not apply. The proposal is not in an urban area.
24

25 RCW 36.70A.020 (2) Reduce sprawl. Reduce the inappropriate conversion of
26 undeveloped land into sprawling, low-density development.
27

28 Staff Findings: Does not apply. The proposal is in a rural remote area where zoning
29 allows for one unit per 40 acres and compatible with existing adjoining uses.
30

31 RCW 36.70A.020 (3) Transportation. Encourage efficient multimodal transportation
32 systems that are based on regional priorities and coordinated with county and city
33 comprehensive plans.
34

35 Staff Findings: Does not apply. Multimodal transportation is not being proposed
36 or required for this comp plan amendment.
37

38 RCW 36.70A.020 (4) Housing. Encourage the availability of affordable housing to all
39 economic segments of the population of this state, promote a variety of residential
40 densities and housing types, and encourage preservation of existing housing stock.
41

42 Staff Findings: Does not apply. The applicant is not proposing housing.
43

44 RCW 36.70A.020 (5) Economic development. Encourage economic development
45 throughout the state that is consistent with adopted comprehensive plans, promote
46 economic opportunity for all citizens of this state, especially for unemployed and for
47 disadvantaged persons, promote the retention and expansion of existing businesses
48 and recruitment of new businesses, recognize regional differences impacting

1 economic development opportunities, and encourage growth in areas experiencing
2 insufficient economic growth, all within the capacities of the state's natural resources,
3 public services, and public facilities.
4

5 *Staff Findings: The proposal is consistent with this GMA goal because it recognizes*
6 *the importance of promoting continued economic opportunity by allowing for the*
7 *potential future expansion of Horseshoe Bend Quarry. Horseshoe Bend Quarry*
8 *provides aggregate to customers both private and public in the upper portion of*
9 *the Yakima Valley. Having more viable aggregate supplies ensures an availability*
10 *of resources to meet existing and projected demands.*
11

12 RCW 36.70A.020 (6) Property rights. Private property shall not be taken for public
13 use without just compensation having been made. The property rights of landowners
14 shall be protected from arbitrary and discriminatory actions.
15

16 *Staff Findings: The proposal is consistent with this GMA goal because it recognizes*
17 *the rights of property owners by protecting them from arbitrary and*
18 *discriminatory actions. Miocene Resource, LLC is seeking to protect its mineral*
19 *rights by requesting a Mineral Resource Overlay on a 186-acre portion or a portion*
20 *thereof of an approximate 590-acre parcel. The applicant is in negotiations with*
21 *the Washington Department of Fish and Wildlife to do a land swap³ of the Subject*
22 *Property for an undeveloped 149.76-acre parcel that is owned by HBQ Land*
23 *Company, LLC. This parcel is located on the other side of State Route 410 and the*
24 *Naches River, which lie to the west of the current mining operation.*
25

26 RCW 36.70A.020 (7) Permits. Applications for both state and local government
27 permits should be processed in a timely and fair manner to ensure predictability.
28

29 *Staff Findings: The proposal is consistent with this GMA goal, because if approved,*
30 *it will allow the applicant to apply for an expansion of the existing mine as a Type*
31 *2 use, where it would be impossible for the mine to get a land use permit to expand*
32 *without the Mineral Resource Overlay.*
33

34 RCW 36.70A.020 (8) Natural resource industries. Maintain and enhance natural
35 resource-based industries, including productive timber, agricultural, and fisheries
36 industries. Encourage the conservation of productive forestlands and productive
37 agricultural lands, and discourage incompatible uses.
38

39 *Staff Findings: The proposal is consistent with this GMA goal to maintain and*
40 *enhance mining as a natural resource industry. This remote site is surrounded by*
41 *large undeveloped properties, owned by governmental agencies, which limits*
42 *development of incompatible land uses.*
43

44 RCW 36.70A.020 (9) Open space and recreation. Retain open space, enhance
45 recreational opportunities, conserve fish and wildlife habitat, increase access to
46 natural resource lands and water, and develop parks and recreation facilities.

³ The proposed land swap is described in the Memorandum of Understanding in Appendix F of this staff report.

1
2 *Staff Findings: The proposal is consistent with this GMA goal because it helps*
3 *facilitate the proposed land swap with WDFW. The land swap would give WDFW*
4 *frontage property on the west side of the Naches River, which is also considered*
5 *a highly important habitat corridor for the Oak Creek Wildlife area.*
6

7 RCW 36.70A.020 (10) Environment. Protect the environment and enhance the state's
8 high quality of life, including air and water quality, and the availability of water.
9

10 *Staff Findings: The proposal is consistent with this GMA goal because the*
11 *proposed land swap will preserve the land by the river to protect habitat, wildlife,*
12 *and shoreline. The future expansion of the mine will further HBQ's support in*
13 *providing viable aggregates to meet state and local demands for road*
14 *improvements and maintenance, thus improving the quality of life for recreational*
15 *activities and commerce.*
16

17 RCW 36.70A.020 (11) Citizen participation and coordination. Encourage the
18 involvement of citizens in the planning process and ensure coordination between
19 communities and jurisdictions to reconcile conflicts.
20

21 *Staff Findings: The proposal is consistent with this GMA goal and facilitated*
22 *through the County's planning process to provide opportunities for the public*
23 *participation, comments, and legislative review to ensure coordination and*
24 *conflict resolution.*
25

26 RCW 36.70A.020 (12) Public facilities and services. Ensure that those public facilities
27 and services necessary to support development shall be adequate to serve the
28 development at the time the development is available for occupancy and use without
29 decreasing current service levels below locally established minimum standards.
30

31 *Staff Findings: The proposal is consistent with this GMA goal and will not decrease*
32 *the current service levels below locally established minimum standards. Public*
33 *services and facilities necessary to establish a mineral resource site on the*
34 *property are adequate for the intended use.*
35

36 RCW 36.70A.020 (13) Historic Preservation. Identify and encourage the preservation
37 of lands, sites, and structures, that have historical or archaeological significance.
38

39 *Staff Findings: The proposal is consistent with this GMA goal. No historic or*
40 *cultural resource comments were received during the comment period ending*
41 *May 1, 2024, from the Notice of Environmental Review, Notice of Application, and*
42 *Notice of Future Hearing for this proposal. If the proposal is approved, if and when*
43 *the applicant applies for a mining permit, land use review, notice, and SEPA will*
44 *allow for further comments to address this subject, if applicable.*
45

- 46 ○ **Horizon 2040** Consistency - This comprehensive plan amendment to add the Mineral
47 Resource Overlay is consistent with the Land Use Element – Mineral Resource Areas

goals and policies (LU-ER-MR) of the Yakima County Comprehensive Plan goal and policies, without any order of priority.

GOAL LU-ER-MR 1: Identify and protect long term supplies of commercial aggregate and other mineral resources for economic development.

POLICIES:

LU-ER-MR 1.1: Designate sufficient mineral resource lands of long-term significance to ensure a fifty-year supply of aggregates, sand, gravels and rock based on the mineral resource designation mapping criteria located in the Land Use Element of **Horizon 2040**.

LU-ER-MR 1.3: Maintain at least a ten-year supply of zoned Mineral Resources.

LU-ER-MR 1.5: Consider map amendment designation and rezoning of appropriate high priority parcel(s) to the Mineral Resource Overlay and Mining Zoning District at each plan update or as otherwise permitted.

LU-ER-MR 1.6: Encourage rezoning of other designated sites listed within the inventories at landowner/operator request to maintain the minimum ten-year supply of available, zoned resources. Allow landowners to apply for the Mineral Resource Overlay designation during the annual comprehensive plan update cycle.

*Staff Findings: The proposal is consistent with the above **Horizon 2040** Goal and Policies related to Mineral Resources Areas. The site is currently identified on the Department of Natural Resources (DNR) "Rock Aggregate Resource Lands Inventory Map for Yakima County" (see Appendix D). The applicant is applying during a regular comprehensive plan amendment cycle, and the application is being reviewed for its consistency with **Horizon 2040**.*

○ Sub-Area Plan Consistency

Staff Findings: There is no applicable sub-area plan that affects this proposal.

○ City Comp Plan Consistency

Staff Findings: There is no applicable city comp plan that affects this proposal.

○ Capital Facilities Plan Consistency

Staff Findings: The County's 2024-2029 Capital Improvement Plan (CIP) presents the funding plan for investments in County facilities (buildings), utilities, water resources (flood control, stormwater), and solid waste. It includes acquisition, new construction, modernization, and rehabilitation strategies of the County. The County's 2024-2029 Transportation Improvement Program (TIP) identifies the funding plan for investments in the County's transportation system. A review of the CIP & TIP finds no inconsistencies with the request.

- Yakima County Population Projections and Allocation Consistency

Staff Findings: The application of an MRO for the expansion an existing mine does not affect population projections and allocations.

- (b) The site is more consistent with the mapping criteria for the proposed map designation than it is with the criteria for the existing map designation;

Proposed Land Use Designation Mapping Criteria Analysis (<i>italics</i> below indicates the language from Horizon 2040 , Land Use Element):	
Mapping Criteria: <i>The actual location (area of deposition) of the mineral resource is the primary factor in determining the future location of a mining site. Other factors that influence the location of a mineral resource area include: quality of the resource, volume of the resource, access suitability, the compatibility with existing or planned land uses, and the proximity to existing or planned market areas. The following designation/mapping criteria are based on Chapter 365-190-070 of the Washington Administrative Code – Minimum Guidelines to Classify Agriculture, Forest and Mineral Resource Lands.</i>	
<u>Mineral Resource Areas Mapping Criteria</u>	<u>Staff analysis (Does the site meet each criterion?):</u>
<p>1. <u>Quality of the Mineral Resource:</u> <i>The quality and type of mineral resource at the potential site shall meet any of the following requirements.</i></p> <p>a. <i>The quality and type of the mineral resource must meet current and/or future project and/or project specifications.</i></p> <p>b. <i>The quality and type of mineral resource must satisfy the market's current and/or future demands.</i></p>	<p>The Subject Property meets this criterion. According to DNR's "Rock Aggregate Resource Lands Inventory Map for Yakima County, WA," there is high quality bedrock mapped on the parcel (see Appendix D).</p> <p>The quality and type of the mineral resource is of high quality. The Horseshoe Bend Quarry has been in operation since 1993 mining a 45-acre parcel. However, the mine is nearing its life expectancy and property lines. The applicant has identified that geologic hazards, limited products and quality of minerals from all the other upper Yakima County mines have put a strain on the mining industry. According to the application's Narrative #4, the life expectancy of the Horseshoe Bend Quarry is projected to last</p>

<p>c. <i>The potential site must be within the DNR identified mineral resource lands.</i></p> <p>Intent Statement – <i>Due to Yakima County’s shortage of high-quality concrete grade aggregates those mineral resources should be utilized for crushed gravel and concrete aggregate purposes only to best and highest priority use.</i></p>	<p>for another 5 years. The applicant also identifies satisfying its current and future market to include White Pass and Chinook Pass with the mine’s location for the upper Yakima Valley. This expansion of the existing Horseshoe Bend Quarry will help meet current and future mineral demands.</p> <p>The Subject Property is located within DNR’s inventory map (see Appendix D).</p> <p>The Subject Property does not contain high-quality concrete grade aggregates; and therefore could contribute aggregate materials that would help to meet this intent statement.</p>
<p>2. <u>Volume of the Resource:</u> <i>The volume of available mineral resource at the potential site shall meet the following requirements.</i></p> <p>a. <i>The volume of available mineral resource at the potential site, on single or contiguous parcels, should be feasibly marketable by a mining operation to supply the surrounding market demands.</i></p> <p>b. <i>The volume of available mineral resource at the potential site should be of sufficient volume to meet the following minimum requirements;</i></p> <p>i. <i>Thickness of sand, gravel or bedrock deposits that exceed 25 feet or 7.5 meters.</i></p> <p>ii. <i>The “stripping ratio” (ratio of overburden to resource) is less than one to three 1:3.</i></p> <p>Intent Statement – <i>Each potential mineral resource site must be able to sustain a commercial mining operation with the available resource on the site.</i></p>	<p>The applicant projects that the Subject Property will provide an aggregate supply beyond the 10-year range marketable to the upper Yakima Valley (see Application).</p> <p>According to DNR’s inventory map, the “thickness of deposits” meets this criterion (see Appendix D).</p> <p>According to DNR’s inventory map, the “stripping ratio” meets this criterion (see Appendix D).</p> <p>The Subject Property meets this intent statement based on the above criteria.</p>

<p>3. <u>Access Suitability:</u> <i>The potential mineral resource site must have access or potential access to public and/or private roads that are suitable for truck traffic and/or are capable of supporting the level of expected traffic.</i></p> <p>Intent Statement – <i>It is very important that there is access to adequate public and/or private roads to potentially lower the traffic related impacts to both the surrounding neighbors and the environment.</i></p>	<p>The access to the site is from SR 410. According to the Department of Transportation, SR 410 is a class 2 access managed highway with a posted speed limit of 55 miles per hour.</p> <p>The main entrance to the site is located on the western edge of the Horseshoe Bend Quarry. The commercial approach is well designed with a turnout area adjacent to the highway for large semi-trucks to enter and leave the site safely.</p> <p>The Subject Property meets this intent statement based on the above criterion.</p>
<p>4. <i>Compatibility with Present or Planned Land Use Patterns in the Area General land use issues in the resource area to consider;</i></p> <p>a. <i>Surrounding parcel sizes and surrounding uses;</i></p> <p>b. <i>Subdivision or zoning for urban or small lots;</i></p> <p>i. <i>Designated mineral lands should not be located adjacent to any zoning district boundary that has a minimum lot size greater than 1 dwelling units per 5 acres, where doing so would</i></p>	<p>As indicated in Section D: CURRENT COMP PLAN DESIGNATIONS, ZONING AND LAND USE of this staff report and as displayed in Appendix B, the Subject Property is surrounded by large parcels, owned by governmental agencies, to the north and southwest zoned Forest Watershed (FW), to the east, south, and west zoned R/ELDP, to include a Mineral Resource Overlay on the Horseshoe Bend Quarry. The nearest residence is approximately 1 mile away northwest of the Subject Property.</p> <p>(i) The Subject Property is not adjacent to any zoning district boundary that has a minimum lot size greater than 1 dwelling unit per 5 acres. The minimum lot size in the adjacent FW zone is 80 acres; and the minimum lot size in the adjacent R/ELDP zone is 40 acres.</p>

<p><i>create a non-conforming setback distance.</i></p> <p><i>ii. Designated mineral resource lands should not be located in any zoning district that has a minimum lot size of 1 dwelling unit per 5 acres.</i></p> <p><i>c. Sites located in or adjacent to UGA boundaries;</i></p> <p><i>i. Mineral resource lands should not be designated in existing Urban Growth Areas.</i></p> <p><i>d. Proximity to essential public facilities (i.e. dams, bridges, etc.);</i></p> <p><i>e. Sites located within inconsistent zoning districts;</i></p> <p><i>f. Sites located within publicly owned lands;</i></p> <p><i>g. Sites located within other natural resource designated areas.</i></p> <p><i>The potential site must be able to mitigate impacts on and/or to adjacent existing land uses.</i></p> <p><i>Intent Statement – The Growth Management Act specifically addresses the fact that natural resource lands must be protected from encroachment of incompatible land uses. It is also important to take into consideration those areas</i></p>	<p>(ii) The Subject Property is not adjacent to any zoning district boundary that has a minimum lot size of 1 dwelling unit per 5 acres. The minimum lot size in the adjacent FW zone is 80 acres; and the minimum lot size in the adjacent R/ELDP zone is 40 acres.</p> <p>The Subject Property is not located in or adjacent to UGA boundaries.</p> <p>The access to the Subject Property is from SR 410. The proposed use and remote location of the site will not impact any other essential public facilities.</p> <p>The Subject Property is not located within inconsistent zoning districts.</p> <p>The Subject Property is located within publicly owned land by the Washington Department of Fish and Wildlife.</p> <p>The Subject Property is not located within a natural resource designated area.</p> <p>A 500' Mineral Resource setback will be imposed on neighboring properties, protecting them from potential future mining uses. There are no parcels adjacent to the proposed overlay that cannot accommodate the 500' setback. Mining zone setbacks for mining operations can be found in YCC Table 19.11.020-1 and YCC 19.18.310(4)(f).</p> <p>The Subject Property meets this intent statement based on the above criteria. All care using Best Management Practices (BMPs) would be considered if/when applications for mining operations are submitted.</p>
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<p><i>already characterized by urban or small-lot growth. All care must be taken to lessen all potential mining related impacts using BMPs [Best Management Practices].</i></p>	
<p><i>5. Proximity to Existing and Planned Market Areas;</i> <i>The site must be located within an economically feasible radius from existing and planned market areas.</i></p> <p><i>Intent Statement</i> – <i>It is very important that Yakima County maintain a sufficient amount of designated mineral resource sites close to existing and planned market areas to ensure low cost and available supplies of construction aggregate.</i></p>	<p>The applicant has stated that its mineral resource market is the upper Yakima Valley to include White Pass and Chinook Pass (see Application). The site also has proximity to markets in the Town of Naches, which is 6 miles away, and to the City of Yakima, which is 20 miles away.</p> <p>The Subject Property meets this intent statement based on the above criterion.</p>

Staff Findings: *The proposed site meets the mineral resource areas mapping criteria.*

- (c) The map amendment or site is suitable for the proposed designation and there is a lack of appropriately designated alternative sites within the vicinity;

Staff Findings: *The designation of the overlay onto this site would allow current operations to continue into a contiguous parcel and is the only permitted mine site along Hwy 410.*

- (d) For a map amendment, substantial evidence or a special study has been furnished that compels a finding that the proposed designation is more consistent with comprehensive plan policies than the current designation;

Staff Findings: *The special study provided by the Department of Natural Resources is the “Rock Aggregate Resource Lands Inventory Map for Yakima County, Washington” (see Appendix D). As displayed, the Subject Parcel is identified as a high quality aggregate area and reviewed under the following criteria as a mineral resource area significant for long-term aggregate needs: (1) the thickness of the sand and gravel or bedrock deposit must exceed 25 ft.; (2) the area of the deposit at the surface must exceed 5 acres; and (3) the ‘stripping ratio’ (ratio of overburden to gravel or overburden to bedrock must be less than one to three (1:3).*

In addition, according to the “Soil Survey of Yakima County Area, Washington,” the proposed site consists of Clint very stony loam, 15-45 percent slopes; Clint-Rubble land complex, 8-75 percent slopes; Logy Cobbly silt loam, 0-5 percent slopes; McDaniel very stony loam, 5-30 percent slopes, and McDaniel very stony

1 loam, 30-65 percent slopes. These soils consist of high quality mineral resources
2 used in the mining industry.
3

4 (e) To change a resource designation, the map amendment must be found to do one of the
5 following:

- 6 (i) Respond to a substantial change in conditions beyond the property owner's control
7 applicable to the area within which the subject property lies; or
8 (ii) Better implement applicable comprehensive plan policies than the current map
9 designation; or
10 (iii) Correct an obvious mapping error; or
11 (iv) Address an identified deficiency in the plan. In the case of Resource Lands, the
12 applicable de-designation criteria in the mapping criteria portion of the Land Use
13 Element of the Yakima County Comprehensive Plan – **Horizon 2040** shall be followed.
14 If the result of the analysis shows that the applicable de-designation criteria has been
15 met, then it will be considered conclusive evidence that one of the four criteria in
16 paragraph (e) has been met. The de-designation criteria are not intended for and shall
17 not be applicable when resource lands are proposed for re-designation to another
18 Economic Resource land use designation;
19

20 Staff Findings: This request meets the condition in (1). Due to continued market
21 demand for mineral resources from the existing Horseshoe Bend Quarry, its
22 available resources have declined from a 10 year to 5-year supply, earlier than
23 predicted. This represents a substantial change in conditions beyond the property
24 owner's control of the quarry site.
25

26 (f) A full range of necessary public facilities and services can be adequately provided in an
27 efficient and timely manner to serve the proposed designation. Such services may include
28 water, sewage, storm drainage, transportation, fire protection and schools;
29

30 Staff Findings: The primary public facilities and service needs for mining and
31 mining-related activities are access to transportation and proximity to markets.
32 This remote site has direct access to State Route 410 by easement and proximity
33 close to markets. An overhead electrical power line is located on the property
34 (Pacific Power). The rural site lies within Fire District #14 and is served by the
35 County Sheriff's Office. The existing on-site septic and water systems will provide
36 for the current mining operations. There is no sewage disposal system, water
37 supply system, or irrigation proposed for this comp plan amendment.
38

39 (g) The proposed policy plan map amendment will not prematurely cause the need for nor
40 increase the pressure for additional policy plan map amendments in the surrounding
41 area.
42

43 Staff Findings: The amendment will likely not cause a premature need for nor
44 increase the pressure for additional policy plan map amendments in the
45 surrounding area since the Mineral Resource Overlay is a specialized designation
46 and requires meeting mapping criteria. Mineral Resource setbacks, as required in
47 YCC 19.18.205(2)(a)(iv), will not significantly impact the neighboring parcels and
48 surrounding parcels are large enough to easily accommodate setbacks.

1
2 (2) The following criteria shall be considered in any review and approval of changes to Urban
3 Growth Area (UGA) boundaries:

4
5 (a) Land Supply:

6
7 (i) The amount of buildable land suitable for residential and local commercial
8 development within the incorporated and the unincorporated portions of the Urban
9 Growth Areas will accommodate the adopted population allocation and density
10 targets;

11
12 (ii) The amount of buildable land suitable for purposes other than residential and local
13 commercial development within the incorporated and the unincorporated portions
14 of the Urban Growth Areas will accommodate the adopted forecasted urban
15 development density targets within the succeeding twenty-year period;

16
17 (iii) The Planning Division will use the definition of buildable land in YCC 16B.02.045, the
18 criteria established in RCW 36.70A.110 and .130 and applicable criteria in the
19 Comprehensive Plan and development regulations;

20
21 (iv) The Urban Growth Area boundary incorporates the amount of land determined to be
22 appropriate by the County to support the population density targets;

23
24 (b) Utilities and services:

25
26 (i) The provision of urban services for the Urban Growth Area is prescribed, and funding
27 responsibilities delineated, in conformity with the comprehensive plan, including
28 applicable capital facilities, utilities, and transportation elements, of the municipality;

29
30 (ii) Designated Ag. resource lands, except for mineral resource lands that will be
31 reclaimed for urban uses, may not be included within the UGA unless it is shown that
32 there are no practicable alternatives and the lands meet the de-designation criteria
33 set forth in the comprehensive plan.

34
35 Staff Findings: NOT APPLICABLE

36
37 (3) Land added to or removed from Urban Growth Areas shall be given appropriate policy plan
38 map designation and zoning by Yakima County, consistent with adopted comprehensive
39 plan(s).

40
41 Staff Findings: NOT APPLICABLE

42
43 (4) Cumulative impacts of all plan amendments, including those approved since the original
44 adoption of the plan, shall be considered in the evaluation of proposed plan amendments.

45
46 Staff Findings: The cumulative impacts will be addressed as part of the overall SEPA
47 environmental review process for the 2024 Biennial Comprehensive Plan Amendments.
48

(5) Plan policy and other text amendments including capital facilities plans must be consistent with the GMA, SMA, CWPP, other comprehensive plan goals and policies, and, where applicable, city comprehensive plans and adopted inter-local agreements.

Staff Findings: NOT APPLICABLE

(6) Prior to forwarding a proposed development regulation text amendment to the Planning Commission for its docketing consideration, the Administrative Official must make a determination that the proposed amendment is consistent with the GMA, CWPP, other comprehensive plan goals and policies, and, where applicable, city comprehensive plans and adopted inter-local agreements.

Staff Findings: NOT APPLICABLE

Staff Conclusion: The request to add the Mineral Resource Overlay plan designation to the Subject Property meets the approval criteria outlined in YCC 16B.10.095 as discussed in this staff report. When reviewed against the mapping criteria of both the existing and proposed land use designation, the Subject Property is suited for the Mineral Resource Overlay land use designation. Therefore, staff recommends approval of the requested comprehensive plan amendment to apply the Mineral Resource Overlay (MRO), subject to the terms of a concurrent development agreement and consideration of testimony from neighbors and interested parties.

G. Allowable Uses

The applicant is requesting a change in the Future Land Use Map on the subject property to apply the Mineral Resource Overlay on top of the current underlying designation and zoning. A concurrent rezone to Mining (MIN) is not proposed; however, the addition of the MRO plan designation changes how Title 19 would permit several mining-related uses, as shown in the table below:

- Type 2 uses are “usually permitted” and are decided by the Planning Official;
- Type 3 uses are “usually not permitted” and are decided by the Hearing Examiner.

ALLOWABLE LAND USES (excerpted from YCC Title 19's Table 19.14-1)	R/ELDP Zoning w/o MRO	R/ELDP Zoning with MRO
Permitting of the following mining-related uses are affected by the absence or the presence of the MRO:		
Mineral batching (Long-Term)	Not Permitted	Not Permitted
Mineral batching (Temporary)	3	2
Mineral processing, mining site/operation (Long-term)	Not Permitted	2
Mineral processing, mining site/operation (Temporary)	3	2
Recycled asphalt or concrete, stockpiling or storage of, (when accessory to an approved mining site/operation)	Not Permitted	2

Staff Conclusion: The Mineral Resource Overlay is consistent with the current R/ELDP zoning district. Land uses that are not allowed in this zone without the overlay, are Mineral processing, mining site/operation (Long-term) and Recycled asphalt or concrete, stockpiling or storage of, (when accessory to an approved mining site/operation). The overlay will also reduce the review type for Mineral batching (Temporary) and Mineral processing, mining site/operation (Temporary) from a Type 3 to a Type 2.

H. Discussion of Environmental Analysis (SEPA)

Staff has completed an assessment of the potential environmental impacts associated with the proposed plan amendment and proposes mitigation, where appropriate.

- **LRN2024-00004/SEP2018-00006: Williamson/Miocene Resource, LLC.** The applicant requests to amend the Yakima County Comprehensive Plan (**Horizon 2040**) Future Land Use Map and apply the Mineral Resource Overlay on a 186-acre portion of an approximately 590-acre parcel. No changes are proposed to the underlying R/ELDP zoning district or the RR/ELDP plan designation.

The Environmental Checklist submitted by the applicant discloses no direct adverse environmental impacts associated with the proposal. However, if approved, the increased number of possible uses and greater development potential allowed on the property could create probable significant adverse environmental impacts. When future applications are submitted,

1 further environmental review will likely be required of most projects. At that time, the mitigation
2 measures outlined below are likely to be required to avoid probable significant adverse
3 environmental impacts.
4

5 **Earth:** Yakima County's geographic information system indicates that the property contains
6 multiple over-steepened slopes, landslide risks, Type 4 streams and drainages.
7

8 *Staff Findings: The proposed Mineral Resource Overlay would increase the development*
9 *potential of the property. If the proposed map amendment is approved, and the applicant*
10 *applies for an expansion of the mine, SEPA review will be required. The environmental*
11 *review for future permits may require the applicant to conduct a geologic hazard report*
12 *as provided in 16C.03.18(4), Critical Areas Report Requirements for relocating stream as*
13 *provided in 16C.03.17, with the use of Best Available Science, and other agency*
14 *requirements will need to be satisfied.*

15 **Plants & Animals:** The property is currently undeveloped, shrub-steppe rangeland. Yakima County
16 has mapped the approximate location and extent of Upland Wildlife Habitat Conservation Area
17 (UWHCA), which are areas where endangered, threatened, and sensitive species may have a
18 primary association.
19

20 *Staff Findings: A habitat assessment may be required during future project level review*
21 *to determine the presence or absence of endangered, threatened, and sensitive species or*
22 *whether areas in which such species have a primary association that exist in that location.*
23 *If the habitat assessment determines that such species or habitat areas are present on-*
24 *site and are likely to be impacted by the development proposal, then a critical areas*
25 *standard development permit will be required.*

26 **Transportation:** Mud Lake Road passes through the subject property, allowing access between SR
27 410 and the lands above the subject property. Department of Natural Resources (DNR) submitted
28 comments explaining that they hold easement over this road and use it for land management and
29 administrative activities, including timber haul, fire control, and access to a communication site.
30 The applicant is proposing a reroute of Mud Lake Road to accommodate mining operations, but
31 the proposed route does not appear to be feasible to DNR (see DNR's letter in Appendix I).
32

33 *Staff Findings: When, a mining operation is applied for, a rerouting of Mud Lake Road*
34 *that is acceptable to DNR will be required.*
35

36 I. CONCLUSIONS 37

- 38 1. The comprehensive plan amendment meets the approval criteria of YCC 16B.10.095 for a plan
39 map amendment. It is consistent with the Growth Management Act (RCW36.70A) and with the
40 goals and policies of the Yakima County Comprehensive Plan – **Horizon 2040**.
41
- 42 2. No probable significant environmental impacts have been identified to result from approval of
43 the applicant's request. However, there is a potential for environmental impacts resulting from
44 future applications for project development on the site.
45

1 **J. YAKIMA COUNTY PLANNING STAFF RECOMMENDATION**

2
3 The Yakima County Planning Division recommends **Approval** of the **Horizon 2040** map amendment as
4 proposed by the applicant to apply the Mineral Resource Overlay on 186 acres of an approximately
5 590-acre parcel, subject to the terms of a development agreement (see draft in Appendix E), and
6 consideration of testimony from neighbors and interested parties.
7

8 **K. YAKIMA COUNTY PLANNING COMMISSION RECOMMENDATION**

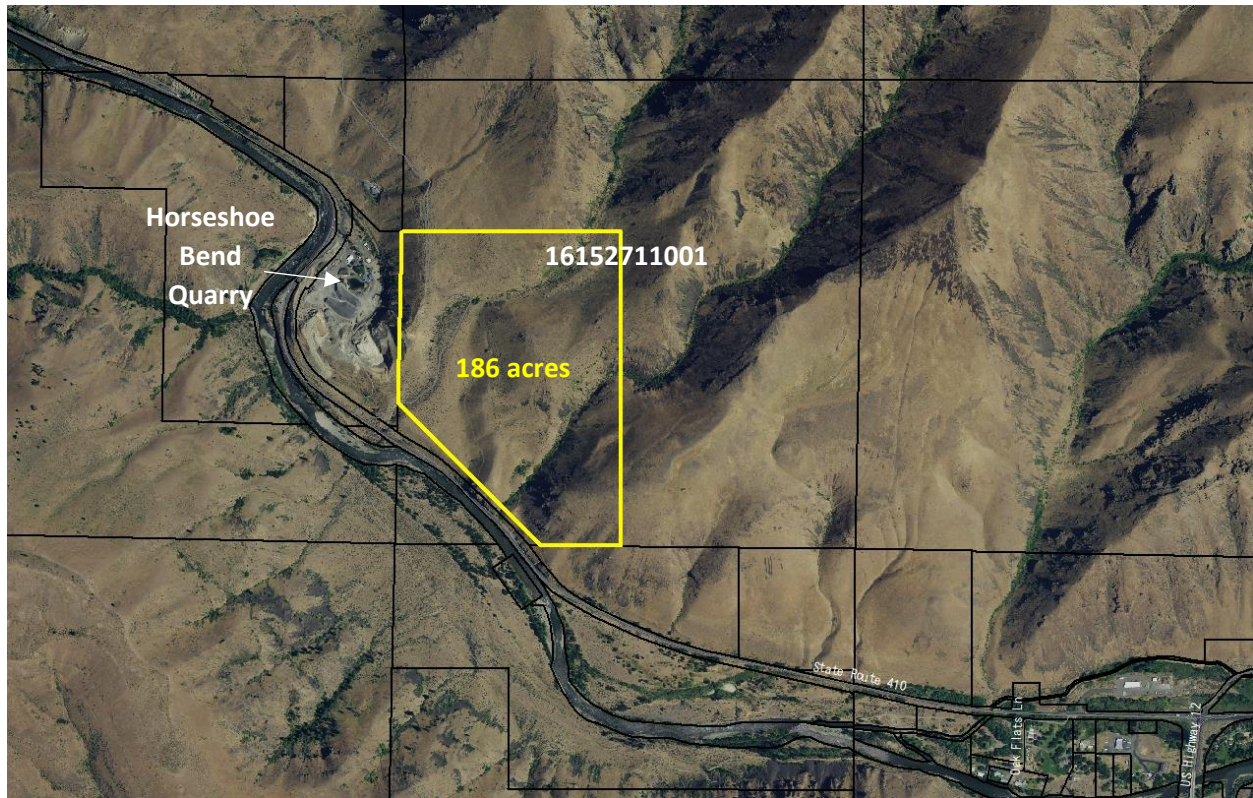
9
10 (To be completed after the Planning Commission's public hearing and deliberations.)
11
12
13
14

15 ###
16
17

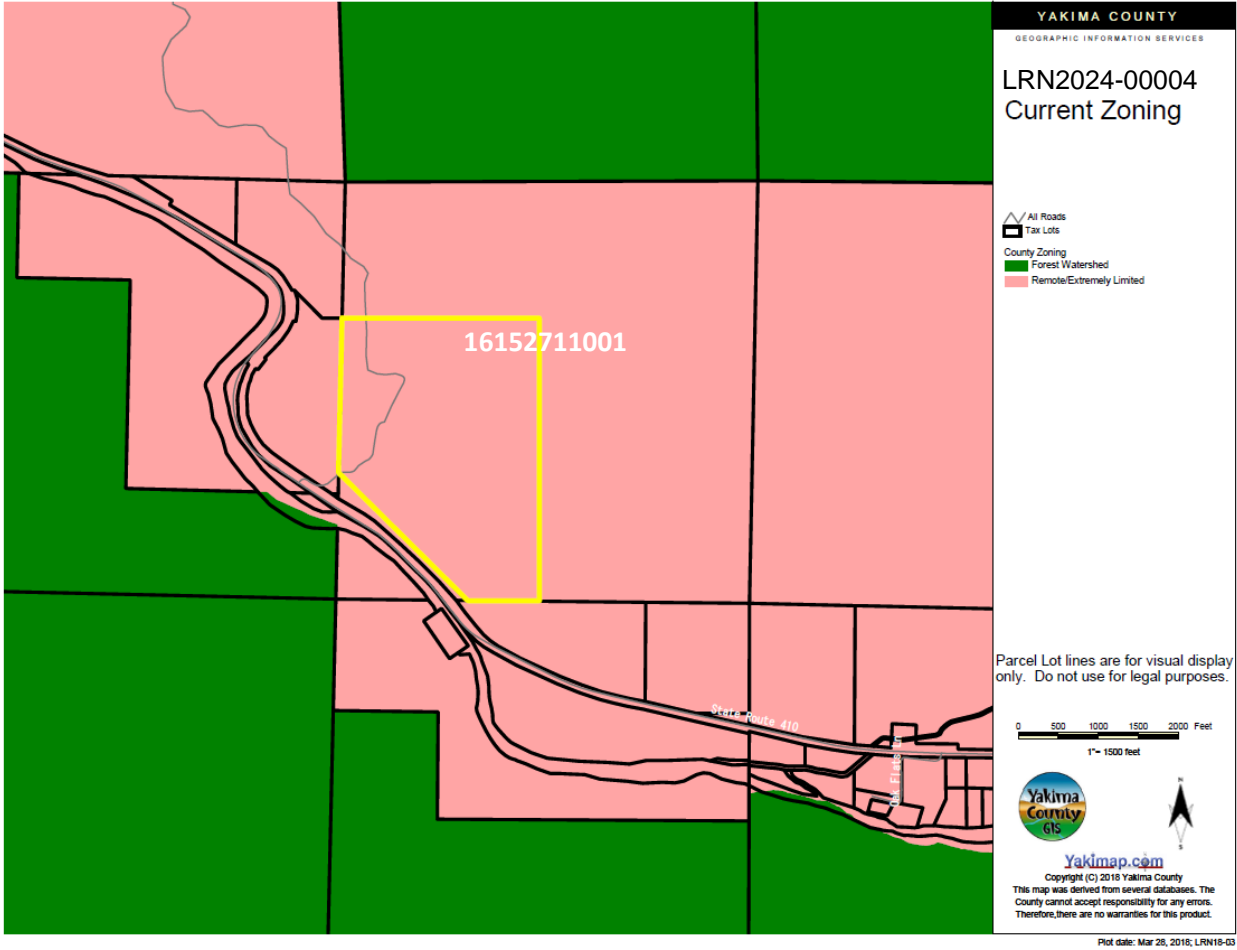
18 **Attachments:**

19
20 Appendix A – Map of Subject Area
21 Appendix B – Map of Current Zoning
22 Appendix C – Map of Proposed Mineral Resource Overlay Designation
23 Appendix D – Section of Subject Property from DNR's *"Rock Aggregate Resource Lands Inventory Map*
24 *for Yakima County, WA"*
25 Appendix E – Draft Development Agreement between Miocene Resource, LLC and Yakima County
26 Appendix F – WDFW, Williamson, and Miocene Memorandum of Understanding
27 Appendix G – Department of Ecology Comments (4-23-24 email)
28 Appendix H – Department of Fish and Wildlife Comments (4-30-24 letter)
29 Appendix I – Department of Natural Resources Comments (5-1-24 email, 5-28-24 letter, 6-7-24 letter)

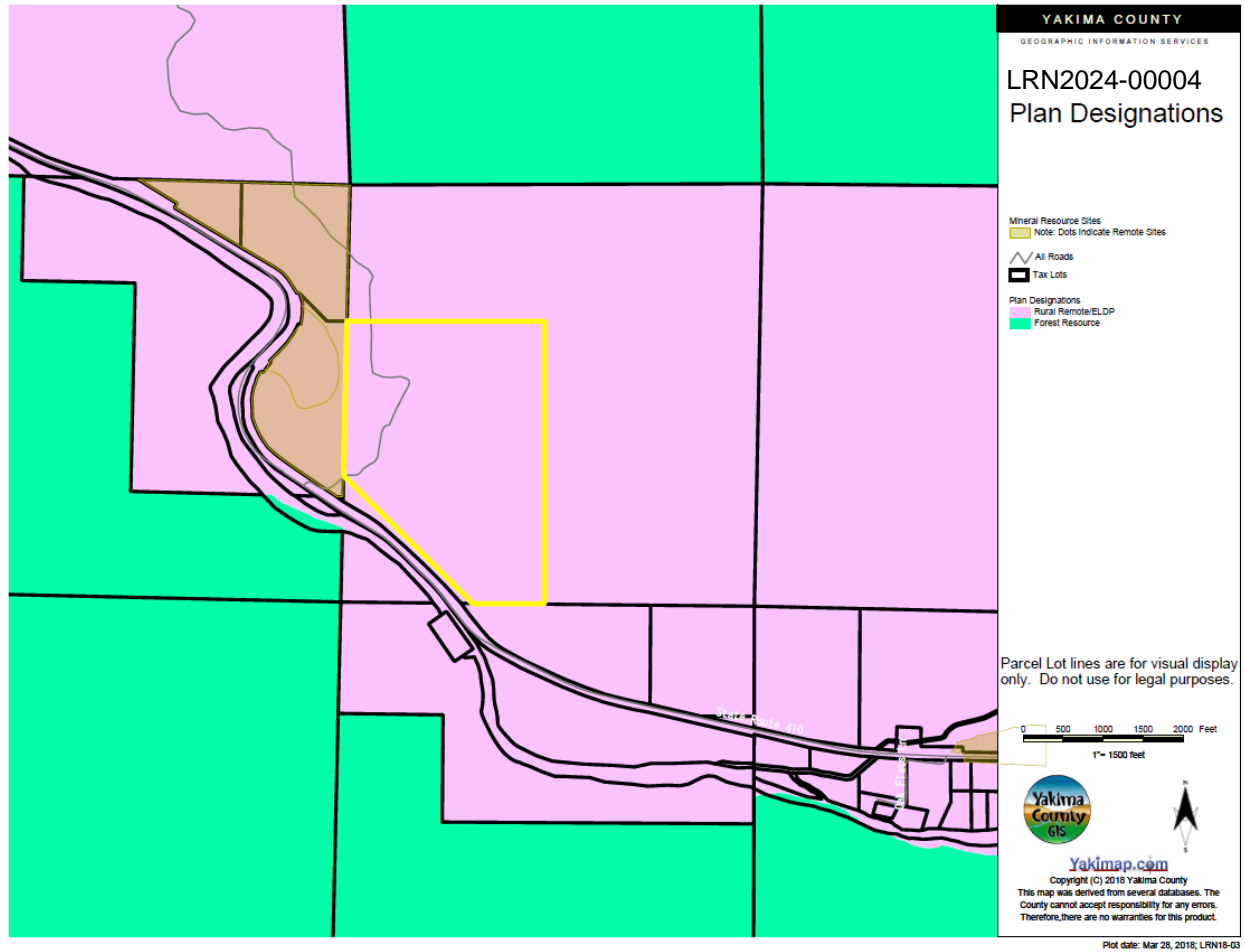
APPENDIX A
Map of Subject Area



APPENDIX B
Current Zoning

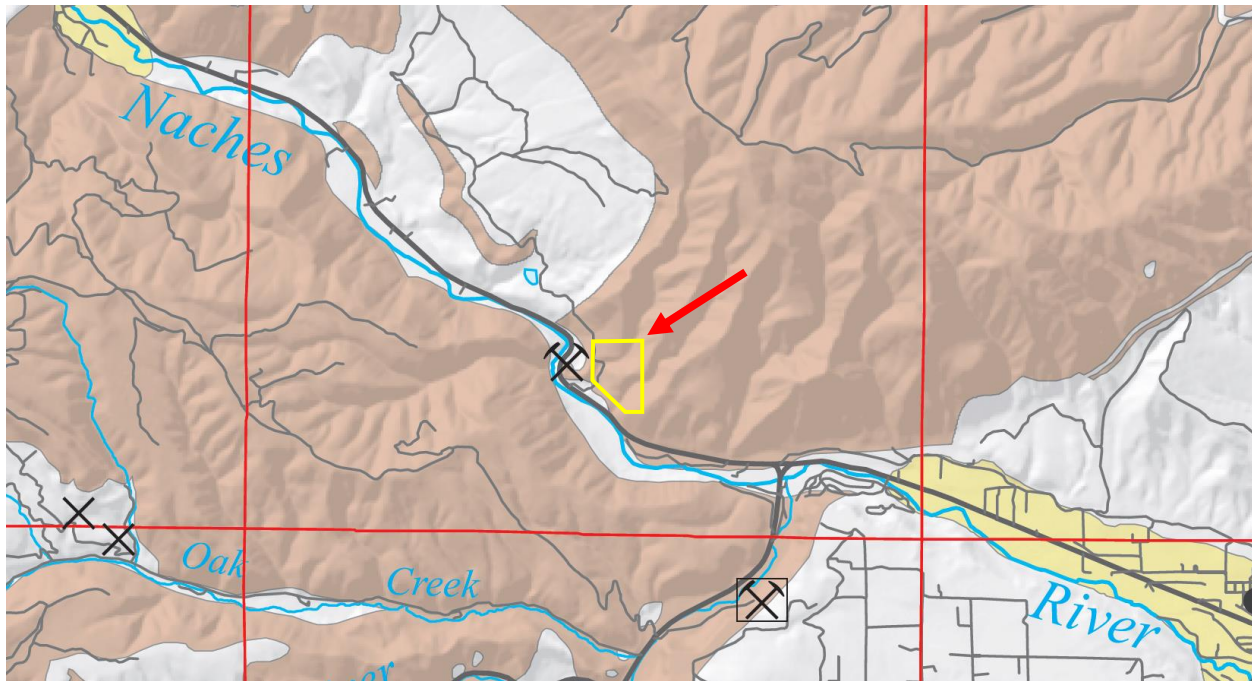


APPENDIX C
Proposed Mineral Resource Overlay Designation



APPENDIX D

Section of Subject Property from “Rock Aggregate Resource Lands Inventory Map for Yakima County, WA”



EXPLANATION

Resource		Definition
IDENTIFIED	Gravel	Identified resources are gravel or bedrock aggregate for which distribution, grade, and quality can be confidently estimated from specific geologic evidence, limited sampling, and laboratory analysis. Identified resources may include economic, marginally economic, and subeconomic components that reflect various degrees of geologic certainty. We map an identified resource where available data appear to satisfy all of the elements of our threshold criteria.
	Bedrock	Hypothetical resources are aggregate resources postulated to exist on the basis of general geologic information and aggregate test data and production history. We map hypothetical resources where available data appear to satisfy most of the elements of our threshold criteria.
SPECULATIVE	Bedrock	Speculative resources are aggregate resources for which geologic and production information is sparse and where rock types have not been evaluated for their aggregate potential. Nevertheless, inferences can be made from existing geologic mapping and data to suggest that these rock units may have the potential for meeting the threshold criteria established for this study and possibly contain future aggregate resources.

✕ Bedrock or sand and gravel mine with an active surface mine reclamation permit (information current as of 2000)

☒ Bedrock or sand and gravel mine with a terminated surface mine reclamation permit (information current as of 2000)

✕ Small bedrock quarry explored or used by the USDA Forest Service

--- Administrative boundary, for example, a wilderness area or the Yakama Indian Reservation

Aggregate Resource Criteria

This study has identified sand and gravel resources and bedrock resources that will be significant for the long-term aggregate needs of the county. Our aggregate resource delineation uses a slightly modified version of the threshold criteria developed by Loen and others (2001). These criteria are:

- The thickness of the sand and gravel or bedrock deposit must exceed 25 ft.
- The area of the deposit exposed at the surface must exceed 5 acres. This differs from the 160-acre threshold established by Loen and others (2001) because, in our experience, local jurisdictions consider designation as mineral resource lands for parcels as small as 5 acres.
- The ‘stripping ratio’ (ratio of overburden to gravel or overburden to bedrock) must be less than one to three (1:3).

APPENDIX E

After Filing Return to:
Yakima County Public Services Department
128 N. Second Street, Fourth Floor
Yakima, WA 98901
Attention: Planning Manager

DEVELOPMENT AGREEMENT BETWEEN MIOCENE RESOURCE, LLC and YAKIMA COUNTY

Parties:	Miocene Resource, LLC and Yakima County, a municipal corporation
Abbreviated Legal Description:	ALL EX BEG AT SW COR OF SEC, TH N 1650 FT, TH SE'LY 2335 FT, TH W 1650 FT TO BEG.
Additional Legal Description:	As described in attached Exhibit A "Subject Property"
Assessor's Property Tax Parcel Account Numbers:	161527-11001

DEVELOPMENT AGREEMENT BETWEEN MIOCENE RESOURCE, LLC and YAKIMA COUNTY

THIS DEVELOPMENT AGREEMENT ("Agreement"), is entered into between YAKIMA COUNTY, a municipal corporation duly organized and existing under the laws of the State of Washington, and MIOCENE RESOURCE, LLC, a Washington limited liability corporation, the owner of the mineral rights described herein ("Subject Property"), and is specifically conditioned on the amendment of the Official Yakima County Comprehensive Plan – *Horizon 2040* with respect to Subject Property.

I. Description of Property

1.1 The subject property subject to this Agreement ("Subject Property") is legally described in Exhibit A and its location is depicted on the map in Exhibit B, both of which are attached and incorporated in this agreement. It lies on the north side of State Route 410,

approximately two miles west of the State Route 410 and State Route 12 intersection, and approximately six miles west of the town of Naches. It consists of a 186-acre portion that is part of an approximate 610-acre parcel.

1.2 Fee title to the Subject Property is currently held by the Washington State Fish and Wildlife Department; but the separate mineral rights are owned by Miocene Resource, LLC. Yakima County policies require that a site-specific amendment to the resource element of the county's comprehensive plan amendment be authorized by all parties holding an ownership interest in the Subject Property.

II. Purposes

This Agreement is entered into based on the following understanding of the parties:

2.1 That Miocene Resource, LLC will first secure county approval to apply a Mineral Resource Overlay on the subject 186-acre portion of the subject parcel, which is part of an approximate 610-acre total parcel;

2.2 Miocene Resource, LLC will execute and record a deed for the Subject Property confirming their ownership interest in the Subject Property;

2.3 It is understood by both parties that the Mineral Resource Overlay will be limited to just the 186 acres as proposed by the applicant;

2.4 This Agreement will only be in effect for a period of 5 years from the effective date of the adopted Ordinance XX-2018 and becomes null and void thereafter; and

2.5 No extensions of time for performance will be granted.

III. Applicability

3.1 The provisions and obligations contained in Ordinance XX-2018 and operating as a condition for county approval of this agreement is incorporated into this Agreement as Exhibit C and any future development on the Subject Property, will be subject to the conditions described in Resolution No. ____-2018.

IV. General Provisions

4.1 This Agreement may be amended only upon mutual agreement of the parties following public review and comment period and the procedures for a major rezone provided in YCC 19.36.040 and 16B.10.090.

4.2 This Agreement shall be recorded with the Yakima County Auditor promptly after execution and shall constitute a covenant running with Subject Property that shall be binding on the heirs, successors, and assigns of the parties.

4.3 Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Agreement. Only a majority vote of a quorum of the Yakima County Board of County Commissioners has the authority to waive any term or condition of this Agreement on behalf of the County

4.4 If any term of this Agreement is held invalid by any court, the remainder of the Agreement remains valid and in full force and effect.

4.5 This Agreement shall be governed by the laws of the State of Washington. Any action, suit, or judicial proceeding for the enforcement of this Agreement shall be brought in the Superior Court for the State of Washington in Yakima County, Washington.

4.6 This agreement contains all terms and conditions agreed upon by the parties. No change or addition to this Agreement shall be valid or binding upon either party unless such change or addition is in writing and executed by both parties.

IN WITNESS WHEREOF, this Agreement has been entered into between the parties on the date last signed below.

List of Exhibits:

Exhibit A – Legal Description of Subject Property

Exhibit B – Map of Subject Property

Exhibit C – Ordinance XX-2018

(Miocene Resource, LLC & LRN2018-00003/SEP2018-00006)

DONE this _____ day of _____ 2018

BOARD OF YAKIMA COUNTY COMMISSIONERS

Ron Anderson, Chairman

Michael D. Leita, Commissioner

Attest: Rachel Michael
Clerk of the Board

J. Rand Elliott, Commissioner
*Constituting the Board of County Commissioners
for Yakima County, Washington*

Approved as to form:

Deputy Prosecuting Attorney

Dave Williamson, individually and as director and agent of
Miocene Resource, LLC

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

On this ____ day of _____, 2018, before me, a Notary Public in and for the State of Washington, personally appeared Ron Anderson, Michael D. Leita, and J. Rand Elliott, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged it as the Board of Commissioners of County of Yakima to be the free and voluntary act of said County for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC in and for the State of Washington, residing at _____

My appointment expires _____

Print Name _____

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

On this ____ day of _____, 2018, before me, a Notary Public in and for the State of Washington, personally appeared _____

_____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed this instrument, on oath stated that he/she/they executed the instrument as a voluntary act for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC in and for the State of Washington, residing at _____

My appointment expires _____

Print Name _____

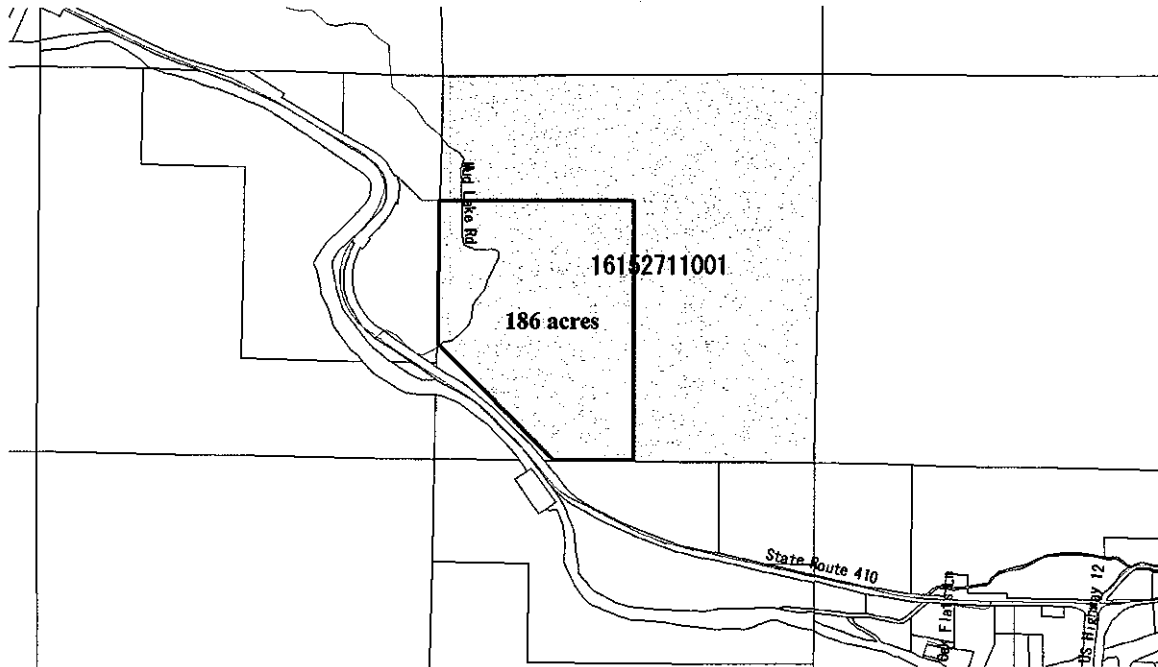
Legal Description of Subject Property

Yakima County Assessor's Parcel No. 161527-11001 (186-acre portion):

THAT PORTION OF SECTION 27, TOWNSHIP 15 NORTH, RANGE 16 EAST, W.M., DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE WEST BOUNDARY SAID SECTION 1726.98 FEET FROM THE NORTHWEST CORNER, THEN EAST 2460 FEET, MORE OR LESS, TO THE NORTH-SOUTH CENTERLINE SAID SECTION, THEN SOUTH, ALONG SAID CENTERLINE, 3580 FEET, MORE OR LESS, TO THE SOUTH QUARTER CORNER SAID SECTION, THEN WEST, ALONG THE SOUTH BOUNDARY, 990 FEET, MORE OR LESS, TO A POINT 1650 FEET EAST OF THE SOUTHWEST CORNER, THEN NORTHWESTERLY, 2335 FEET, MORE OR LESS, TO A POINT ON THE WEST BOUNDARY SAID SECTION 1650 FEET NORTH OF SAID SOUTHWEST CORNER, THEN NORTH 1930.94 FEET TO THE POINT OF BEGINNING.

Exhibit B

Map of Subject Property



Ordinance XX-2018

APPENDIX F

Public Services (v)

MAY 15 2018

After Signature Return To:
Washington Department of Fish and Wildlife
Real Estate Services
600 Capitol Way North
Olympia, WA 98501-1091
Attn: Elyse Kane
File No.: 110147

Vern Matt Don Lynn
Harold Lisa Carmen

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into by and between **The State of Washington, Department of Fish and Wildlife**, 600 Capital Way North, Olympia, WA 98501 (hereinafter "WDFW"), **HBQ Land Company, LLC**, a Washington limited liability corporation, 528 W. Broadway, Moses Lake, WA 98837 (hereinafter "HBQ Land Co."), **HBQ, Inc.**, a Washington corporation, 3001 State Route 410, Naches, WA 98937 (hereinafter "HBQ"), **Miocene Resources, LLC**, 528 W. Broadway Avenue, Moses Lake, WA 98837, and **David Ray Williamson**, an individual, whose address is 3003 State Route 410, Naches, WA 98937. This MOU is effective on the date it bears the signatures of all parties, below.

This MOU is in furtherance of the Settlement Agreement entered into by the parties on July 17, 2017, and is intended to set forth the process by which the parties will effectuate that Settlement Agreement. This MOU is not intended to modify in any way the terms of the Settlement Agreement. To the extent any term of this MOU is found by a court to be in conflict with the Settlement Agreement, the Settlement Agreement controls.

RECITALS

I. WDFW is the owner of record of certain real property identified as Yakima County Assessor's Parcel No. 161527-11001 in Section 27, Township 15 North, Range 16 East W.M., Yakima County, which is located northeasterly of State Route 410 (hereinafter "the WDFW Parcel"). It is managed as part of the Oak Creek Wildlife Area for wildlife habitat and public recreation. The County Assessor identifies this parcel as a six hundred eight point seventy-five (608.75) acre parcel. It is depicted on Exhibit 1 hereto.

II. WDFW's purchase of the WDFW Parcel was funded through a federal contract (Pittman-Robertson No. W-2-L-10) from the U.S. Fish and Wildlife Service ("USFWS") in 1951. It was subsequently included in a federal contract (Land & Water Conservation Fund No. 53-00235) administered by the National Park Service ("NPS"), and was included in a state contract (Bonds No. 74-606) administered by the Washington Recreation and Conservation Office ("RCO").

III. HBQ Land Co. is the owner of record of three parcels in Section 28, Township 15 North, Range 16 East W.M., Yakima County, the largest of which is identified as Yakima County Assessor's Parcel No. 161528-12002. This parcel is split by State Route 410 and the Naches River. The portion of the parcel located southwesterly of State Route 410 is subject to this MOU and is approximately one

hundred forty-eight point twelve (148.12) acres in area (hereinafter "**the HBQ Land Co. Exchange Parcel**"). The precise acreage of the HBQ Land Co. Exchange Parcel may be determined as part of the appraisal process described below. (The portion of APN 161528-12002 lying northerly of State Route 410 is not part of this MOU or the contemplated land exchange.) HBQ Land Co. is also the owner of record of two parcels lying easterly of State Route 410 in Section 28: a forty point thirteen (40.13) acre parcel identified as Yakima County APN 16152811002 and a forty-four point thirty-five (44.35) acre parcel identified as Yakima County APN 16152814001 (collectively, "**the HBQ Land Co. Easement Parcels**"). The HBQ Land Co. Exchange Parcel and the HBQ Land Co. Easement Parcels are identified by Assessor's Parcel Number on Exhibit 1 hereto.

IV. HBQ is a wholesale and retail quarry business located in Naches, Washington. David Ray Williamson was the owner of record of certain Mineral Rights as conveyed to him by instrument recorded December 8, 2016, under Yakima County Auditor's File Number 7930609 (hereinafter "**the Mineral Rights**"). Such mineral interests are now held by Miocene Resources, LLC, having been transferred to Miocene Resources, LLC, by David Ray Williamson by instrument recorded April 15, 2017, under Yakima County Auditor's File Number 7941635. David Ray Williamson hereby represents and warrants that he is authorized to approve the transfer of the Mineral Rights on behalf of Miocene Resources, LLC.

V. In 2016, WDFW filed two separate lawsuits involving interests of HBQ and Williamson: (a) a complaint for damages in Yakima County Superior Court (No. 16-2-00334-39) against HBQ Land Co., HBQ, and others for the unauthorized removal of rock from the WDFW Parcel; and (b) a Complaint for Declaratory Judgment against OfficeMax Incorporated and HBQ as successor-in-interest in Yakima County Superior Court (No. 16-2-02439-39) (hereinafter collectively "**the Litigation**"). On July 17, 2017, the parties entered mediation to resolve the Litigation, which resulted in a Settlement Agreement that required all of the following to occur:

(A) Part A of the Settlement Agreement addressed resolution of the Litigation:

- a. The parties agreed to settle all claims;
- b. WDFW agreed to convey a **Release** of all claims in the Litigation;
- c. HBQ and David Ray Williamson agreed to quit claim to WDFW all of the **Mineral Rights** with the exception of those mineral rights related to the portion of the WDFW Parcel transferred to HBQ in the land exchange;
- d. HBQ and HBQ Land Co. agreed to convey an **Administrative Easement** to WDFW across the HBQ Land Co. Easement Parcels for ingress and egress to WDFW property at Mud Lake;
- e. HBQ agreed to contribute five thousand dollars (\$5,000) in **Aggregate Material** and deliver it to a parking area adjacent to SR 410 for the Mud Lake walking path; and
- f. HBQ agreed to pay five thousand dollars (\$5,000) cash to WDFW.

(B) Part B of the Settlement Agreement addressed an agreement to pursue an equal-value land exchange between HBQ and WDFW involving the HBQ Land Co. Exchange Parcel and a portion of the WDFW Parcel:

- a. The HBQ Land Co. Exchange Parcel is described above in Recital III;
- b. The WDFW Parcel described above in Recital I will be adjusted in size so that its fair market value will equal the fair market value of the HBQ Land Co. Exchange Parcel; and
- c. Mining and use activity on any property that WDFW conveys is required to assure continuance of the Mud Lake access via the Administrative Easement referenced above;

however, the landowner may relocate said easement at its cost on the condition that access remains comparable.

VI. The parties desire to fully accomplish the terms of the Settlement Agreement while recognizing that WDFW's ability to exchange land is subject to federal and state laws. WDFW is required to manage the WDFW Parcel forever as public land for wildlife habitat and public recreation. However, in a limited number of cases, WDFW has received approval from USFWS, NPS, and RCO to sell certain parcels when WDFW has proposed an equal-value exchange for appropriate replacement lands. The federal and state requirements are summarized on Exhibit 2 hereto. In addition, state law requires WDFW to justify proposed land exchanges as "consistent with public interest" as approved by the Washington Fish and Wildlife Commission, the Attorney General of the State of Washington, and the Office of the Governor of the State of Washington. The parties' exchange of land is contingent on successfully achieving all of these approvals.

NOW, THEREFORE, HBQ Land Co., HBQ, David Ray Williamson, and Miocene Resources, LLC (collectively "HBQ") and WDFW, by executing this instrument, do mutually covenant and agree to pursue in good faith and with all reasonable diligence all of the tasks required to accomplish the provisions of the Settlement Agreement, as follows:

1. Term. The term of this MOU is two (2) years, including forty-five (45) days to complete Part A of the Settlement Agreement (as defined in Section 5, below). HBQ and WDFW shall fully and completely cooperate in processing and completing all aspects of this MOU within the term of this MOU. It is the mutual intent of the parties to complete Parts A and B through Escrow in a timely manner. The two (2) year term of this MOU and the forty-five (45) day period to complete Part A of the Settlement Agreement may be extended by mutual written agreement of the parties.
2. Escrow. The successful conclusion of this MOU is a Closing through Escrow. The exchange and delivery of documents, payments, and property described in Parts A and B of the Settlement Agreement will occur through Escrow on one Closing Date. The Escrow Agent will be selected by mutual agreement of HBQ and WDFW. The Escrow and recording fees (or fees for the cancellation thereof) will be paid by HBQ and WDFW in equal shares.
3. Closing and Closing Date. The Closing is conditioned on required federal, state, and county approvals and delivery of all documents and funds to Escrow. The Closing Date is the day on which the Escrow Agent records all of the deeds and other documents in Yakima County and disburses all payments. No party will have possession or use of any parcel to be conveyed to it until the deeds and easement are recorded.
4. Termination. This MOU will terminate if the parties in the exercise of good faith obligations hereunder have not completed Part A of the Settlement Agreement Section 5 within forty-five (45) calendar days of full execution of this MOU, provided the MOU may be extended by mutual written agreement of the parties or where the completion has not been accomplished despite the exercise of good faith and best efforts. Thereafter, this MOU will terminate if the parties have not reached the Closing Date within two (2) years of full execution of this MOU, subject to extension by mutual written agreement of the parties. At Termination, the rights, obligations, and responsibilities of each party under this MOU are extinguished without necessity of further action.

At Termination, any cancellation fees for Escrow will be deducted by the Escrow Agent from the funds that HBQ and WDFW have deposited, in equal shares, and then the documents and the remainder of the funds shall be returned to the party of origin.

5. Part A of the Settlement Agreement. Within forty-five (45) calendar days of the date that this MOU is fully executed, the parties will deposit into Escrow the following documents and funds, which will be held in Escrow until Closing or Termination:

- a. WDFW will prepare and deposit into Escrow the Release of all claims in the Litigation;
- b. David Ray Williamson, on behalf of Miocene Resources, LLC, will prepare and deposit into Escrow the quit claim deed of Mineral Rights subject to WDFW review and approval;
- c. WDFW will prepare and deposit into Escrow the Administrative Easement for ingress to and egress from WDFW property at Mud Lake over the HBQ Land Co. Easement Parcels subject to HBQ review and approval;
- d. HBQ will prepare and deliver into Escrow a contract for the delivery of Aggregate Material as described above in Recital V(A); and
- e. HBQ will deposit into Escrow the sum of five thousand dollars (\$5,000) to be paid to WDFW at Closing.

6. Part B of the Settlement Agreement. HBQ and WDFW shall immediately commence the steps to bring Part B to Closing. In this Section 6, HBQ Land Co., HBQ, and David Ray Williamson will be referred to collectively as "HBQ." The steps to bring Part B of the Settlement Agreement to Closing are the following:

a. Appraisal of Properties.

(1) WDFW will select a Review Appraiser and in consultation with him/her will develop a scope of work for appraisals of both properties in the land exchange. The scope of work will be in accordance with the Uniform Appraisal Standards for Federal Land Acquisition ("UASFLA") to allow for an equal fair market value land exchange. WDFW will provide the scope of work for the appraisals to HBQ within twenty (20) working days of execution of this agreement for review and approval. HBQ will provide a response within ten (10) working days. The Review Appraiser will also be performing the review of the completed appraisals. The Review Appraiser will provide to WDFW and HBQ his/her estimate of fees and costs for consulting on the scope of work and for reviewing the appraisals.

(2) Following HBQ's approval of the scope of work for the appraisals, WDFW will solicit bids for the appraisals from individuals included on the agency's list of approved appraisers. WDFW will provide qualified and approved bids to HBQ within twenty (20) days of the date bids are due to WDFW. From these bids, HBQ will select an Appraiser with whom WDFW will contract according to federal and state rules.

(3) Following selection of the Appraiser, HBQ will deposit into Escrow the amount of the estimated fees and costs of the Appraiser and Review Appraiser. If the final costs of the appraisal and review exceed the deposited amount, HBQ shall deposit the additional amount

into Escrow. If the costs of the appraisal and review are less than the amount deposited by HBQ, HBQ shall be refunded any remainder at Closing.

(4) Following HBQ's deposit into Escrow of the estimated fees and costs for the Appraisals and Review Appraisals, WDFW will contract with the Appraiser and Review Appraiser and issue Notices to Proceed. Appraiser shall agree to provide final appraisal within ninety (90) days of contract execution. HBQ and WDFW will grant the Appraiser and Review Appraiser permission to enter upon the exchange properties for purposes of preparing the required appraisals and review appraisals. HBQ and WDFW shall expeditiously and in good faith do all things necessary to facilitate the appraiser's completion of such appraisals.

(5) Upon completion of the appraisals, the Review Appraiser shall complete the reviews of the appraisals within fifteen (15) days.

(6) Within thirty (30) days of receipt of the appraisal review, WDFW shall submit the appraisal and the review to USFWS, NPS, and RCO, requesting a preliminary indication of whether the replacement land meets the value portion of their respective replacement rules.

(7) Upon receipt of a positive response from USFWS, NPS, and RCO with regard to subsection (6), above, the parties shall commence preparation of the federally required services and products, as described in subsection f., below.

- b. Value of the Estate. During the term of this MOU, HBQ and WDFW will not do or suffer any act that would diminish the value of their respective property and the Mineral Rights. During the term of this MOU, HBQ and WDFW will not incur any lien or encumbrance against their respective properties and the Mineral Rights, and will not grant any easement, lease, or other agreement that would diminish the estate.
- c. Hazardous Substances. HBQ and WDFW hereby give mutual assurances that neither HBQ nor WDFW know of the release of any hazardous substances on their respective property. Furthermore, HBQ and WDFW warrant that neither has disposed or discharged any hazardous substances on their respective property.
- d. Title Policy for the HBQ Land Co. Exchange Parcel. WDFW will secure a title insurance policy to insure that the title to HBQ Land Co. Exchange Parcel will be conveyed to WDFW free and clear of all encumbrances and reservations of record, except as otherwise approved by WDFW, USFWS, NPS, and RCO. HBQ will pay for the policy at Closing and will deposit the payment into Escrow in advance of Closing. HBQ will pay the policy cancellation fee if this MOU terminates.
- e. Federal Approvals. WDFW will have the lead in recommending and presenting the land exchange proposal to USFWS and NPS for approval. The federal requirements for requesting a land exchange are summarized on Exhibit 2 hereto. The parties understand that meeting these requirements does not guarantee federal approval, but the parties will use all best efforts to achieve the federal approvals.
- f. Federally Required Services and Products. The services and products described in federal requirement numbers 2, 4, and 5 (on Exhibit 2)—The Cultural Resources Survey, the Appraisals and Review Appraisals, and the Environmental Site Assessment ("ESA")—will be

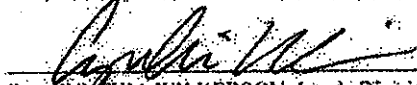
performed, at HBQ's sole cost, by contractors selected by WDFW and approved by HBQ. WDFW shall provide a list of approved contractors together with cost estimate for such services. The contractors will not begin work until HBQ deposits into Escrow the estimated fees for each of these services and products as established by bids obtained by WDFW. WDFW will then contract for the services and products. HBQ and WDFW hereby grant permission to WDFW and its agents and contractors to enter upon the HBQ Land Co. Exchange Parcel and WDFW Property to prepare the necessary documents in accordance with federal requirements summarized on Exhibit 2. With respect to federal requirement numbers 1, 3, 6, 7, 8, 9, and 10 (on Exhibit 2), WDFW will bear the cost of preparing the documents and conducting the public and intergovernmental reviews.

- g. State Approvals. If approval for a land exchange is given by USFWS and NPS, WDFW will prepare and present the materials necessary for final review and approval by the state RCO, Fish and Wildlife Commission, Office of the Attorney General, and Office of the Governor.
- h. Parcel Segregations. If the approvals above are obtained, parcel segregations and/or boundary line adjustments approved by Yakima County will be needed. HBQ and WDFW shall cooperate and complete the work necessary for the County approvals in advance of Closing. Parcel segregations shall be at HBQ's sole cost.
- i. Deeds. If all of the necessary federal, state, and county approvals are obtained, WDFW will prepare the deeds and Escrow instructions and submit them to the Escrow Agent. Title to the WDFW Parcel would be conveyed by Governor's Quit Claim Deed. Title to the HBQ Land Co. Exchange Parcel would be conveyed by Statutory Warranty Deed. Title to the Mineral Rights would be conveyed by Quit Claim Deed.
- j. Ten days prior to closing, HBQ and WDFW will each deposit into Escrow fifty percent (50%) of the estimated Escrow and recording fees for the entire Closing.
- k. Property Taxes and Assessments. All property taxes and assessments due, owing, or levied for the year in which the properties are exchanged between HBQ and WDFW will be prorated between HBQ and WDFW as of the date of transfer of title. HBQ and WDFW will each deposit into Escrow, in advance of Closing, its respective proration.
- l. Excise Tax. The real estate excise tax on the conveyance of the HBQ Land Co. Exchange Parcel to WDFW is the sole responsibility of HBQ. HBQ will deposit into Escrow in advance of Closing the amount due. The conveyance of WDFW's property to HBQ is exempt from real estate excise tax under WAC 458-61A-205(2).
- m. Excise Tax on Mineral Rights. If excise tax is due on the conveyance of the Mineral Rights, it is the sole responsibility of HBQ and will be deposited by HBQ into Escrow in advance of Closing.
- n. Compensating Taxes for Conveyances of the HBQ Land Co. Exchange Parcel and Mineral Rights. If compensating tax is due on the conveyance of the HBQ Land Co. Exchange Parcel or on the conveyance of the Mineral Rights, it is the sole responsibility of HBQ and will be deposited by HBQ into Escrow in advance of Closing.

- o. Compensating Taxes for Conveyance of WDFW Parcel. If compensating tax is due on the conveyance of WDFW property, it is the sole responsibility of WDFW and will be deposited by WDFW into Escrow in advance of Closing.
- p. HBQ's Agents. HBQ will indemnify, defend, and hold harmless WDFW from and against any claim or demand made by any attorney, real estate broker, or agent claiming to have dealt with or consulted with HBQ in connection with the HBQ Land Co. Exchange Parcel or in connection with the Mineral Rights. If HBQ has entered into a contract with a real estate broker or any other person, any resulting commission or fee will be the sole responsibility of HBQ and will be discharged at Closing.
- q. WDFW's Agents. To the extent allowed by law, WDFW will indemnify, defend, and hold harmless HBQ from and against any claim or demand made by any attorney, real estate broker, or agent claiming to have dealt with or consulted with WDFW in connection with WDFW's Property or in connection with the Mineral Rights. If WDFW has entered into a contract with a real estate broker or any other person, any resulting commission or fee will be the sole responsibility of WDFW and will be discharged at Closing.
- r. Jurisdiction and Venue. In the event of a lawsuit involving this MOU, jurisdiction and venue will be proper only in the State of Washington, Yakima County Superior Court. This MOU will be construed, interpreted, and enforced pursuant to the laws of the State of Washington.
- s. Entire Agreement. This instrument, together with the Settlement Agreement, contains the entire agreement between the parties, and no statement, promise, representation, inducement, or agreement made by any party or its agents or employees that is not contained in this instrument will be valid, binding, or enforceable. By signature below, each person executing this MOU represents that he or she is the authorized signatory for his or her respective party.

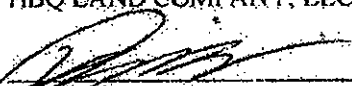
IN WITNESS WHEREOF, the parties hereto mutually have agreed upon the terms and conditions of this instrument and have caused it to be executed on this day as below subscribed.

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE

By: 
CYNTHIA WILKERSON, Lands Division Manager

4/2/18
Date

HBQ LAND COMPANY, LLC

By: 
DAVID RAY WILLIAMSON, Manager

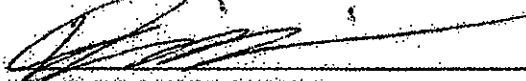
3/7/18
Date

HBQ, Inc.

By: 
DAVID RAY WILLIAMSON, President

3/7/18
Date

MIOCENE RESOURCES, LLC

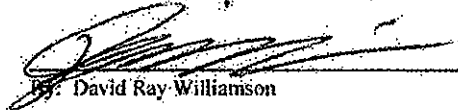


By: DAVID RAY WILLIAMSON, Member

3/7/18

Date

DAVID RAY WILLIAMSON, as to his separate property



By: David Ray Williamson

3/7/18

Date

Exhibit 1: Map of the parcels

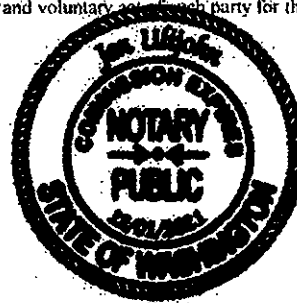
Exhibit 2: NPS and RCO requirements for an exchange of land

STATE OF WASHINGTON)
) ss.
County of Thurston)

I certify that I know or have satisfactory evidence that Cynthia Wilkerson is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Lands Division Manager of the Washington Department of Fish and Wildlife to be the free and voluntary act of each party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this one day of April, 2018.

David Wilkerson
Notary Public in and for the State of Washington,
residing at Olympia, WA
My appointment expires 2/11/21

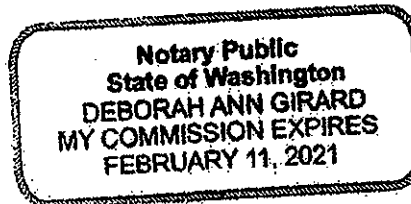


STATE OF WASHINGTON)
) ss.
County of Yakima)

I certify that I know or have satisfactory evidence that David Ray Williamson is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as Manager of HBQ Land Company, LLC, as President of HBQ, Inc., and as a Member of MIOCENE RESOURCES, LLC, to be the free and voluntary act of such parties for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 7 day of March, 2018.

Deborah A. Girard
Notary Public in and for the State of Washington,
residing at Yakima
My appointment expires 2/11/2021



STATE OF WASHINGTON)
) ss.
County of Yakima)

I certify that I know or have satisfactory evidence that David Ray Williamson is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated this 7 day of March, 2018.

Deborah A. Girard
Notary Public in and for the State of Washington,
residing at Yakima
My appointment expires 2/11/2021

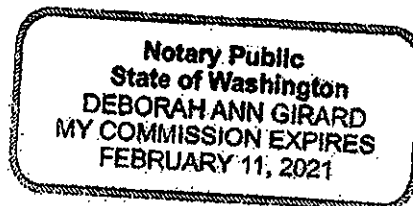


EXHIBIT 1 to MOU

**HBQ Land Co.
Exchange Parcel**

**WDFW Exchange Parcel
161527-11001**

Section 28

Section 27

Twp. 15 North, Range 16 EWM

161528-
12002

161528-
11002

161528-
12002

161528-
14001

Mud Lake

Mud Lake

EXHIBIT 2 to MOU

Project Sponsor Submittal Requirements to RCO for LWCF Conversions¹

For LWCF conversion requests, RCO makes a formal recommendation to the National Park Service on whether to approve the conversion request. The NPS is the final approval authority. Their federal action is to decide whether to remove federal protection from the conversion property and move it to the replacement property.

1. Cover Letter to RCO Director with narrative addressing 36 CFR Part 59 of the LWCF Act.
2. Cultural Resources Review for Section 106 of the National Historic Preservation Act for the conversion and replacement properties.
 - a. EZ1 form(s) for archeological review with identified Area of Potential Effect².
 - b. Information needed for historic properties review, if appropriate.
 - RCO submits information to Department of Archeological and Historic Preservation.
 - NPS submits information to Indian Tribes.
 - May lead to additional survey work and a memorandum of agreement on any identified impacts.
3. Environmental assessment³ for National Environmental Policy Act compliance.
 - a. Draft EA per instructions in LWCF manual (pages 4-4 to 4-9 and 8-3 to 8-10)⁴.
 - b. Include site location maps as appropriate.
 - c. Include 6f boundary maps for current protected park area, park area protected after conversion and new park protected at the replacement property.
 - d. Include alternatives analysis of conversion (LWCF requirement) and replacement (RCO requirement).
 - e. Include discussion of how the proposed conversion and replacement are in accord with the State Comprehensive Outdoor Recreation Plan.
 - Provide draft to RCO and NPS for review.
 - Once reviewed and approved, the project sponsor releases the EA for 30-day public comment and intergovernmental review.
 - Project sponsor summarizes public and intergovernmental review⁵ comments in a final draft.

¹ LWCF Manual (October 2008) and RCO Manual 7 (May 2010)

² The Area of Potential Effect (APE) is the footprint of the property being converted and the replacement property. The cultural resources review ensures consideration of any cultural resources impacts from removing protection from the converted property and then identifying potential resources and impacts on the replacement property which may depend upon how the replacement property will be developed.

³ Environmental assessments are required for all LWCF conversions unless the conversion meets the requirements of a "small conversion" per the LWCF Manual, page 8-10.

⁴ Note that the EA instructions are very specific as to describing the federal action and what it needs to include. Read the manual instructions.

⁵ Intergovernmental review of the proposal is required per Executive Order 12372 and is usually accomplished by sending the draft EA to those state and federal agencies with jurisdictional oversight related to the conversion and replacement sites. See LWCF manual (page 4-3).

- Provide final draft EA to RCO.
4. Appraisal and review appraisals for conversion and replacement properties per LWCF manual requirements (pages 4-19 to 4-22) to demonstrate at least equivalent fair market values⁶.
 - a. Exclude the value of structures or facilities that will not directly enhance the outdoor recreation utility.
 - b. Value dates for both appraisals should reflect the date of acquisition of the replacement property.
 5. RCO acquisition documentation for replacement property.
 - a. Hazardous Substances Certification Form with RCO checklist or phase 1 environmental site assessment.
 - b. Preliminary title report
 - c. Notice of voluntary transaction to landowner
 - d. Notice of just compensation to landowner
 - e. Relocation plan, if eligible displaced parties on site
 6. Maps.
 - a. Location map showing relative location of conversion and replacement properties.
 - b. Location map for the conversion property.
 - c. Location map for the replacement property.
 - d. Detailed parcel map of the converted parcel (with legal description).
 - e. Detailed parcel map of the replacement property (with legal description).
 - f. Sign and dated 6(f) boundary maps for the remaining protected parkland and the replacement property per LWCF manual requirements (page 6-3 to 6-5)⁷.
 7. Site development plan and schedule for replacement property.
 8. Revised site development plan and schedule for remaining parkland, if applicable.
 9. Draft RCO deed of right for replacement property, if the original project was an acquisition project.
 10. Draft RCO release deed of right for conversion property, if the original project was an acquisition project.

⁶ Note there are very specific appraisal instructions related to LWCF projects and conversions. Provide the LWCF manual instructions to the appraiser and review appraiser.

⁷ If there is no existing approved 6(f) boundary map, then the project sponsor will need to first work with RCO and NPS to determine what the original 6(f) boundary was at the time of the grant agreement and any subsequent amendments. This can take a substantial amount of time and should be started early.

Phil Hoge

From: ECY RE SEPA REGISTER <separegister@ecy.wa.gov>
Sent: Tuesday, April 23, 2024 10:11 AM
To: Phil Hoge
Cc: Casey Dunbar
Subject: FW: LRN2024-00004 Notice of Environmental Review, Notice of Application & Notice of Future Public Hearings

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hello,

Ecology received this Notice of Environmental Review, Notice of Application & Notice of Future Public Hearings. **Is the County Adopting the DNS from SEPA Record 201806536 at this time?**

If you are adopting the prior DNS, you need to Adopt and issue the DNS and the SEPA Checklist to satisfy SEPA requirements. Here is a template that may be helpful. Since this is a GMA action, there should be a 14-day comment period per WAC 197-11-340(2)(a). Casey would enter this through SRS with the proposal type DNS, with subtype Adopt.

WAC 197-11-340

Determination of nonsignificance (DNS).

(1) If the responsible official determines there will be no probable significant adverse environmental impacts from a proposal, the lead agency shall prepare and issue a determination of nonsignificance (DNS) substantially in the form provided in WAC 197-11-970. If an agency adopts another environmental document in support of a threshold determination (Part Six), the notice of adoption (WAC 197-11-965) and the DNS shall be combined or attached to each other.

(2) When a DNS is issued for any of the proposals listed in (2)(a), the requirements in this subsection shall be met. The requirements of this subsection do not apply to a DNS issued when the optional DNS process in WAC 197-11-355 is used.

(a) An agency shall not act upon a proposal for fourteen days after the date of issuance of a DNS if the proposal involves:

- (i) Another agency with jurisdiction;
- (ii) Demolition of any structure or facility not exempted by WAC 197-11-800 (2)(f) or 197-11-880;
- (iii) Issuance of clearing or grading permits not exempted in Part Nine of these rules;
- (iv) A DNS under WAC 197-11-350 (2), (3) or 197-11-360(4); or

(v) A GMA action.

(b) The responsible official shall send the DNS and environmental checklist to agencies with jurisdiction, the department of ecology, and affected tribes, and each local agency or political subdivision

whose public services would be changed as a result of implementation of the proposal, and shall give notice under WAC [197-11-510](#).

(c) Any person, affected tribe, or agency may submit comments to the lead agency within fourteen days of the date of issuance of the DNS.

(d) The date of issue for the DNS is the date the DNS is sent to the department of ecology and agencies with jurisdiction and is made publicly available.

(e) An agency with jurisdiction may assume lead agency status only within this fourteen-day period (WAC [197-11-948](#)).

(f) The responsible official shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents. When a DNS is modified, the lead agency shall send the modified DNS to agencies with jurisdiction.

(3)(a) The lead agency shall withdraw a DNS if:

(i) There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts;

(ii) There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; or

(iii) The DNS was procured by misrepresentation or lack of material disclosure; if such DNS resulted from the actions of an applicant, any subsequent environmental checklist on the proposal shall be prepared directly by the lead agency or its consultant at the expense of the applicant.

(b) Subsection (3)(a)(ii) shall not apply when a nonexempt license has been issued on a private project.

(c) If the lead agency withdraws a DNS, the agency shall make a new threshold determination and notify other agencies with jurisdiction of the withdrawal and new threshold determination. If a DS is issued, each agency with jurisdiction shall commence action to suspend, modify, or revoke any approvals until the necessary environmental review has occurred (see also WAC [197-11-070](#)).

Please let me know if you have further questions or feel free to reach out to Sarah at SEPA Help who also reviewed the NOA. sepahelp@ecy.wa.gov.

Thank you,

From: ECY RE CRO SEPA Coordinator

Sent: Wednesday, April 17, 2024 3:56 PM

To: 'Casey Dunbar' <Casey.Dunbar@co.yakima.wa.us>

Subject: RE: LRN2024-00004 Notice of Environmental Review, Notice of Application & Notice of Future Public Hearings

Hi Casey,

Can you please submit this DNS (subtype-Adopt) through SRS? It appears that the related record is [201806536](#).

[SEPA Handbook](#)- Page 24 has more information about adopting a DNS.

- **Adoption / Determination of Nonsignificance** is used for existing DNS and environmental checklist, NEPA environmental assessment, or documented categorical exclusion is adopted for a new proposal using the combined adoption / DNS template. The agency must follow DNS procedures including a comment period, distribution, and public notice.

When adopting a document, a copy must be available for review — although the lead agency is not required to recirculate copies with the adoption notice, except to agencies with jurisdiction that have not already received them. Agencies are encouraged to distribute copies of adopted or incorporated SEPA documents to agencies with expertise or interest in the proposal, as well as affected tribal governments. Include the SEPA determination whenever possible since

Thank you,

Amber Johnson (she/her)

Administrative Assistant 3

Shorelands & Environmental Assistance Program

Department of Ecology | Central Region Office

Ph. 509-723-5677 | amber.johnson@ecy.wa.gov

Hours: Monday-Thursday 7am-5:30pm

From: Casey Dunbar <Casey.Dunbar@co.yakima.wa.us>

Sent: Wednesday, April 17, 2024 7:51 AM

To: ECY RE CRO SEPA Coordinator <crosepa@ecy.wa.gov>; jessica@yakama.com; ccamuso@yakama.com; THPO@yakama.com; Yakama SEPA <enviroreview@yakama.com>; nichole.pebeahsy@bia.gov; r10-nepa@epa.gov; Health District E-Mail <HealthDistrict.E-mail@co.yakima.wa.us>; Bright, Robert D CIV USARMY ID-READINESS (USA) <robert.d.bright10.civ@army.mil>; Torrey, Elizabeth M (DFW) <Elizabeth.Torrey@dfw.wa.gov>; Downes, Scott G (DFW) <Scott.Downes@dfw.wa.gov>; DAHP SEPA <sepa@dahp.wa.gov>; Gonseth, Paul <GonsetP@wsdot.wa.gov>

Subject: LRN2024-00004 Notice of Environmental Review, Notice of Application & Notice of Future Public Hearings

External Email

Casey Dunbar

SHE/HER/MS.

Planning Office Specialist

128 N 2nd St, 4th Floor

Yakima, WA 98901

(509)574-2300

Casey.dunbar@co.yakima.wa.us

This email and replies to it are subject to public disclosure under Washington state statute (RCW 42.56 - Public Records Act).

CONFIDENTIALITY NOTICE: This electronic mail transmission may contain legally privileged, confidential information belonging to the sender. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking any action based on the contents of this electronic mail is strictly prohibited. If you have received this electronic mail in error, please contact sender and delete all copies.





Appendix H

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 rezone 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.

Phil Hoge
Yakima County Public Services
May 1, 2024
Page 3

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

Phil Hoge

From: UNLAND, CHAD (DNR) <CHAD.UNLAND@dnr.wa.gov>
Sent: Wednesday, May 1, 2024 12:27 PM
To: Long Range Planning; Phil Hoge
Cc: FROMHERZ, MATT (DNR); Olin, Teri (DNR); davehbq@Hotmail.com
Subject: LRN 2024-00004/SEP2018-00006

Follow Up Flag: Follow up
Flag Status: Completed

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hi Phil:

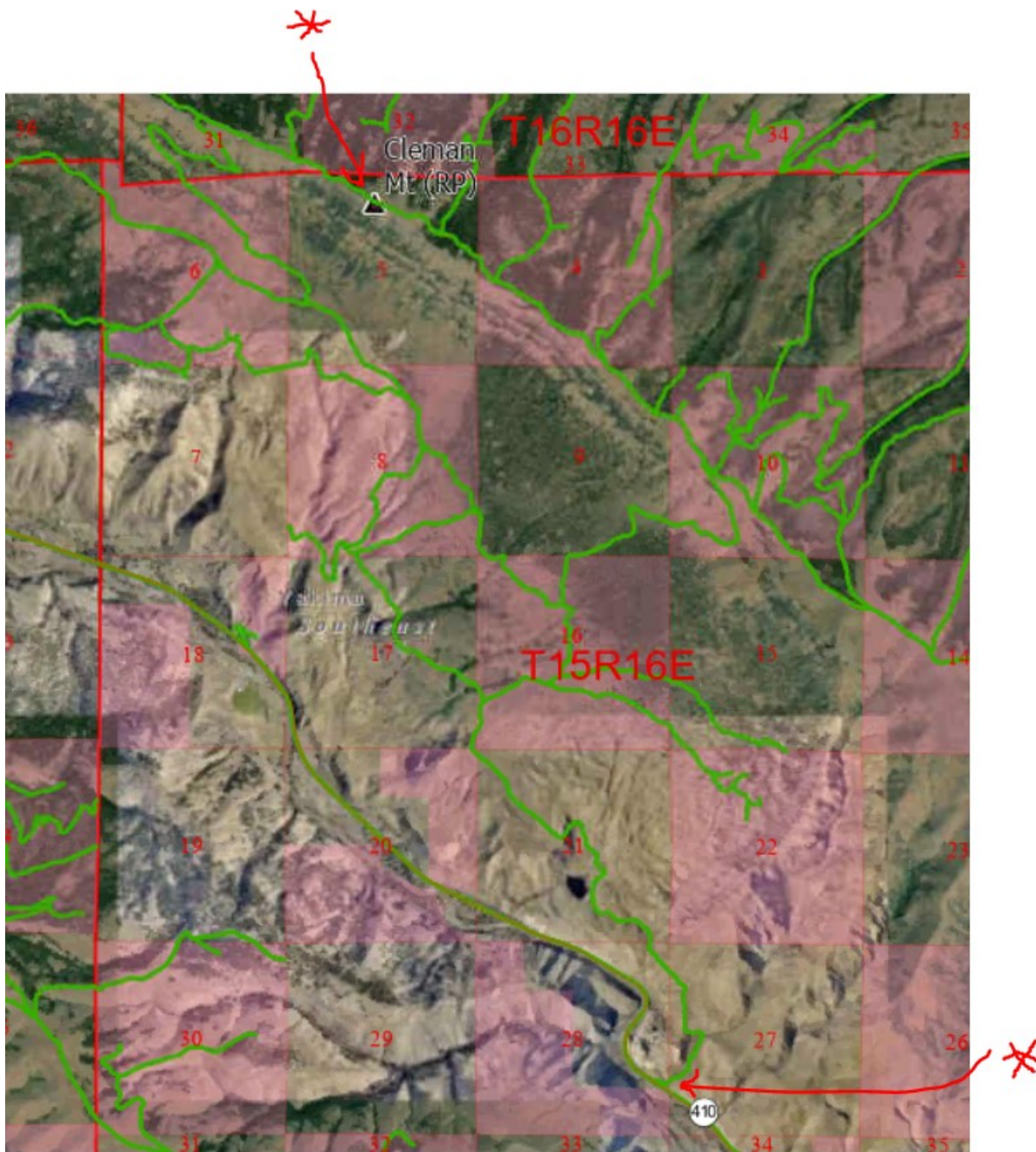
Thank you for the quick conversation today, much appreciated. Regarding this application, DNR is generally supportive, but would like to point out that the Washington State Department of Natural Resources (DNR) does have an access road, to the State's communication site, called Mud Lake Road, where DNR and others have easements, and would like an assurance through project planning, that DNR's rights to use the access road, will be preserved in planning stages, before any permits or construction.

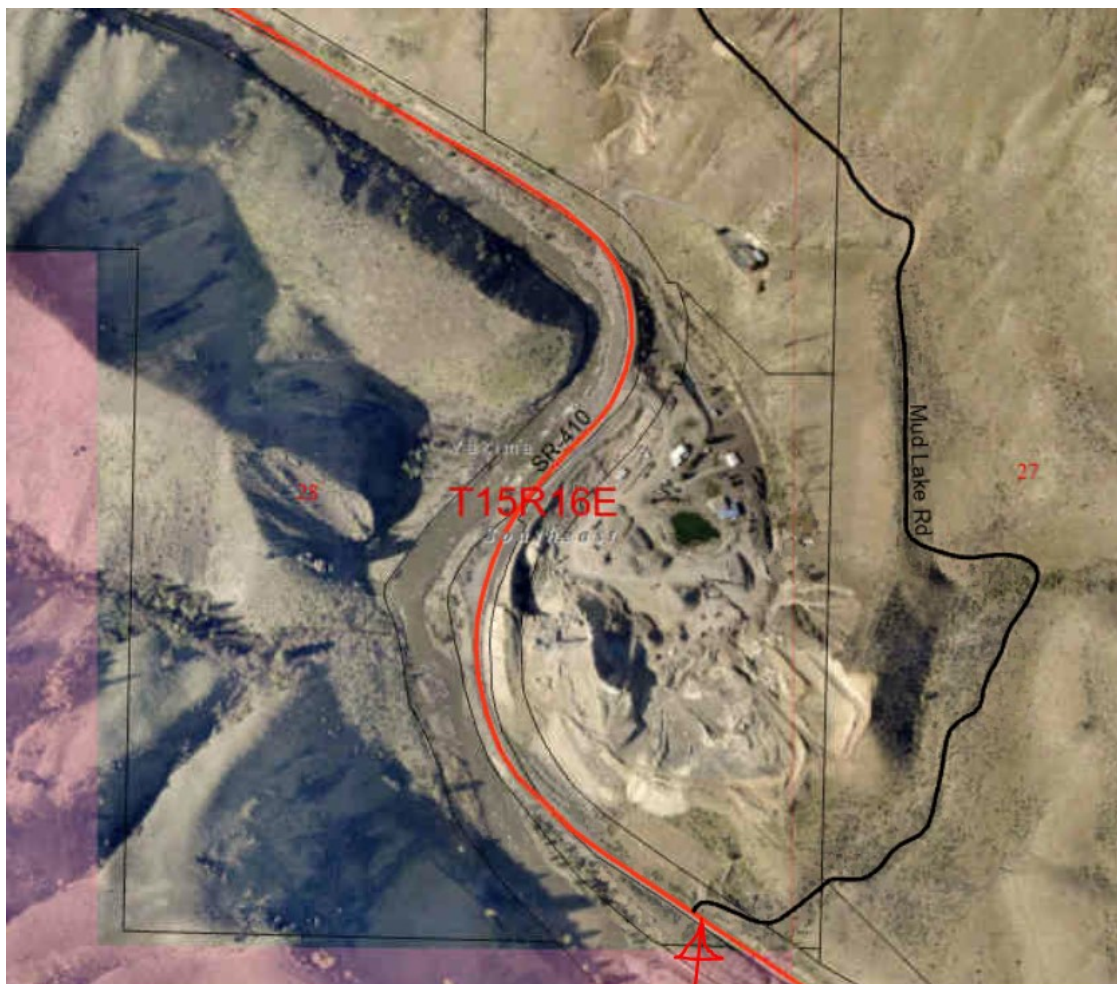
DNR has worked with Mr. Williamson and his staff cooperatively over the years, and as the Green Dot Road became gated, where they have legal rights, and DNR has always been able to get access use the Mud Lake Road.

Through your planning efforts, if the road is to be relocated, where will it go, and how will DNR get access?

Please let me know if you have any questions or comments. I include some maps below illustrating where DNR uses the Mud Lake gate, off Highway 410, for visual reference.

* Mud Lake Road Access Lands in highlighted as Lands owned by DNR.





Yakima County GIS - Washington Land Information Portal

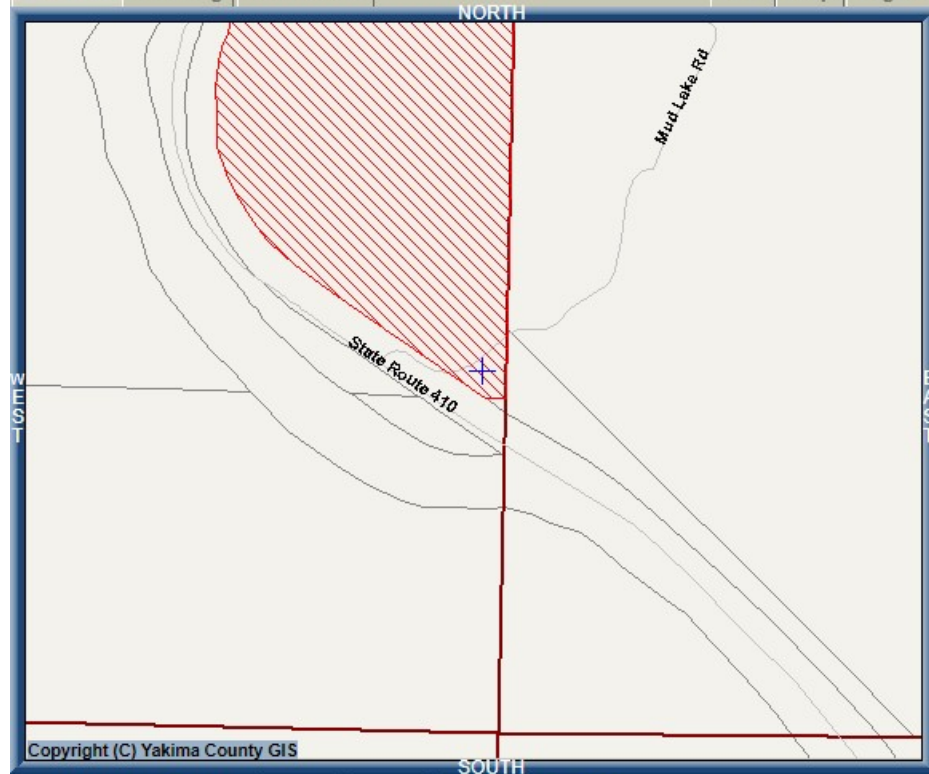
Yakima County Assessor
Yakima County GIS
Yakima County



FIRST
w

Assessor Planning Real Estate

FAQ Help Legend



Copyright (C) Yakima County GIS

Easting(ft) | Northing(ft)

Longitude(E) | Latitude(N)

Click Map to: [Get Information](#)

One Inch = 600 Feet
Feet 250 500 750 1000

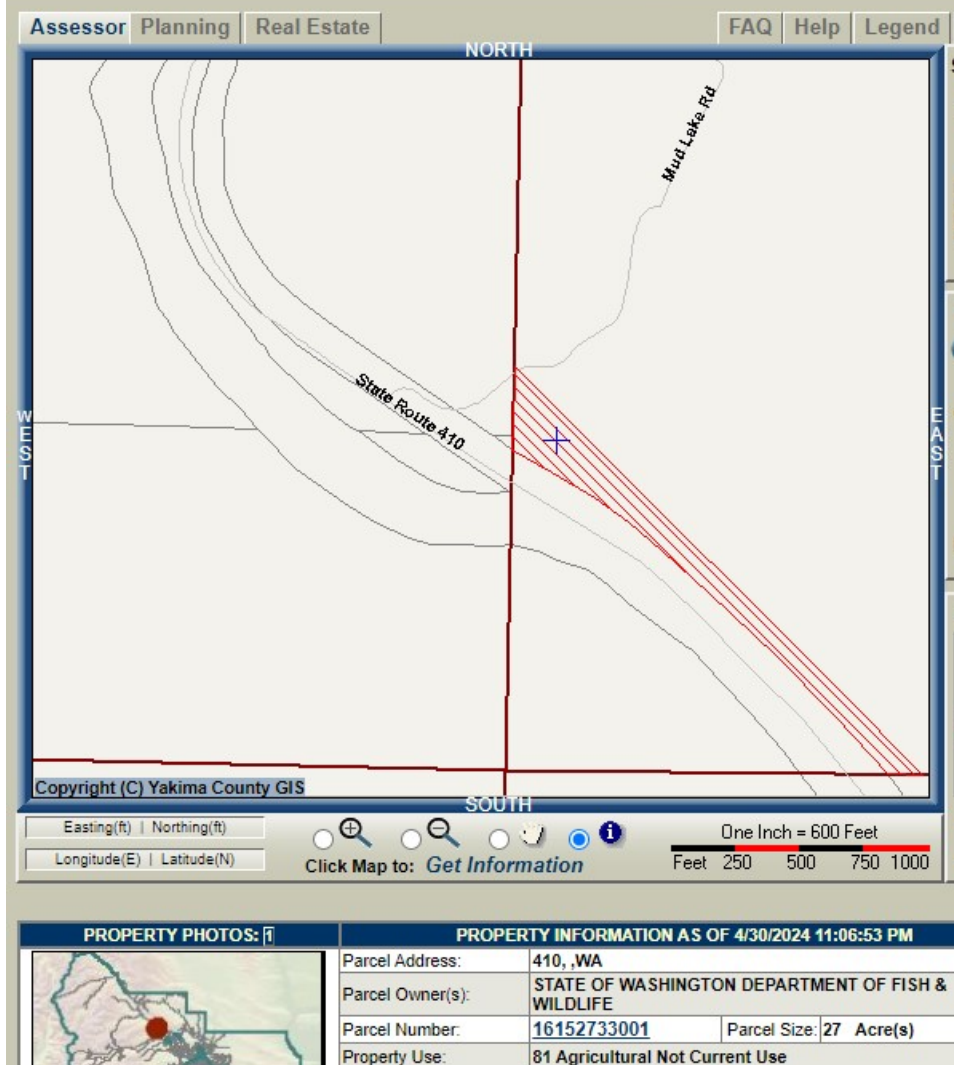
PROPERTY PHOTOS: 1 2 4

PROPERTY INFORMATION AS OF 4/30/2024 11:06:53 PM



Parcel Address:	3001 HWY 410, NACHES, WA 98937		
Parcel Owner(s):	HBQ LAND COMPANY LLC		
Parcel Number:	16152814001	Parcel Size:	44.35 Acre(s)
Property Use:	85 Mining		

An option may be to have the road located to the WDFW property as shown below, where a new gate, and connection to Hwy 410 can be installed, but there may be other options.



Chad Unland
Natural Resources Specialist
Southeast Region, 713 Bowers Rd. Ellensburg, WA 98926
Washington State Department of Natural Resources (DNR)
509-856-6167
chad.unland@dnr.wa.gov
www.dnr.wa.gov

-----Original Message-----

From: FROMHERZ, MATT (DNR) <matt.fromherz@dnr.wa.gov>
Sent: Monday, April 29, 2024 4:18 PM
To: UNLAND, CHAD (DNR) <CHAD.UNLAND@dnr.wa.gov>
Subject: FW: Scanned from a Xerox Multifunction Printer

Chad - Fyi on notice from Yakima County regarding that mining plan that could impact Mud Lake Road off Hwy 410.

Matt Fromherz
(509) 899-7965

-----Original Message-----

From: SEEL_AG_MFC1@dnr.wa.gov <SEEL_AG_MFC1@dnr.wa.gov>
Sent: Monday, April 29, 2024 4:12 PM
To: FROMHERZ, MATT (DNR) <matt.fromherz@dnr.wa.gov>
Subject: Scanned from a Xerox Multifunction Printer

Please open the attached document. It was sent to you using a Xerox multifunction printer.

Attachment File Type: pdf, Multi-Page

Multifunction Printer Location: DNR:SE - ELLENSBURG_713 E BOWERS RD
Multifunction Printer Name: SEEL_FR1_MFC1



**DEPARTMENT OF
NATURAL RESOURCES**

SOUTHEAST REGION
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ELLENSBURG, WA 98926

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WWW.DNR.WA.GOV

May 28, 2024

Yakima County Planning Division
Phil Hoge, Planner III
128 N. 2nd St.
4th Floor Courthouse
Yakima, WA 98901

Subject: LRN2024-0004/SEP2018-00006 – Williamson (Miocene Resources, LLC)

Dear Phil Hoge:

Thank you for the opportunity to comment on this proposal.

Department of Natural Resources (DNR) holds easement over what is referred to as Mud Lake Road. DNR uses this road for land management and administrative activities, including timber haul, fire control and access to a communication site. Reroute of Mud Lake Road is proposed to ultimately occur. The proponent asserts that they will work cooperatively with easement holders to relocate the road, but the route proposed does not appear feasible.

DNR is concerned that it is not reasonably possible to relocate Mud Lake Road over the hillside north of the active quarry, to a condition that remains comparably safe and usable for our resource management needs. The proposed relocation is over very steep slopes, through portions of the Sanford Pasture Landslide, as shown on the Expanded Reclamation Permit Application for Horseshoe Bend Quarry (Rec'd May 31, 2023 - see attached map). It appears crossing these steep slopes would require full bench construction (no fill slope) to meet Forest Practices standards, as well as the use of at least one switchback for reasonably safe and comparable grades. Without a road design, we estimate the full bench cut slopes may be 20' to 30' high and the switchback cut slope about 120' high or more.

Relocation of Mud Lake Road may be years in the future, however, we do not believe it is reasonable to approve an action that will ultimately require relocation to where it does not appear feasible. We request that a professionally engineered design, meeting Forest Practices standards and following DNR's current Forest Roads Guidebook requirements for a Single Lane Mainline, be provided to DNR for review and approval prior to any approval that may lead to such a relocation. Until proven otherwise, it should be assumed such relocation is impossible. DNR believes that the current route, shifted into the hill through the mining area, may be a feasible option.

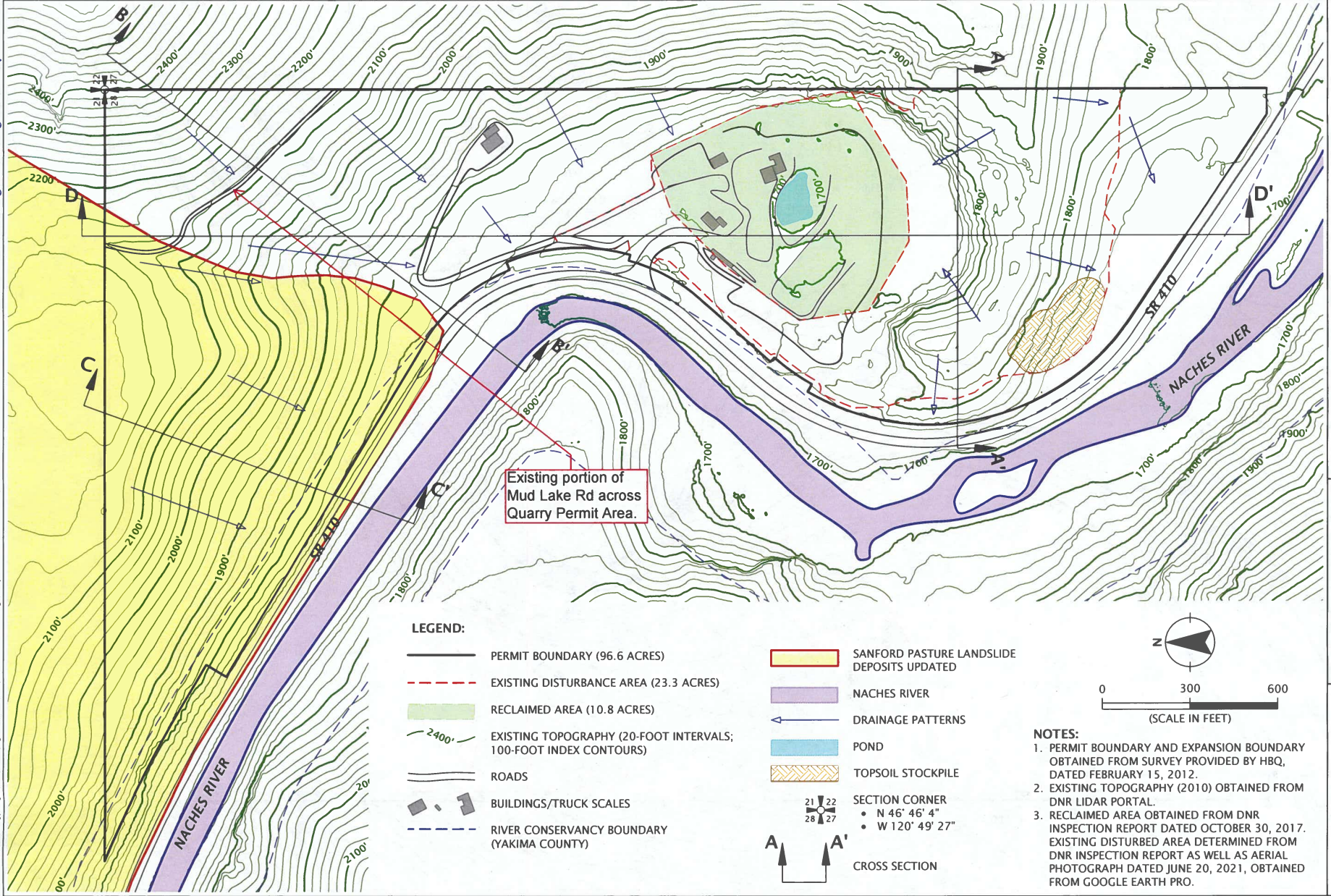
Please contact me with questions at (509) 571-0279 or Stephanie.Margheim@dnr.wa.gov.

Sincerely,

A handwritten signature in blue ink that reads "S Margheim".

Stephanie Margheim
Acting Assistant Region Manager

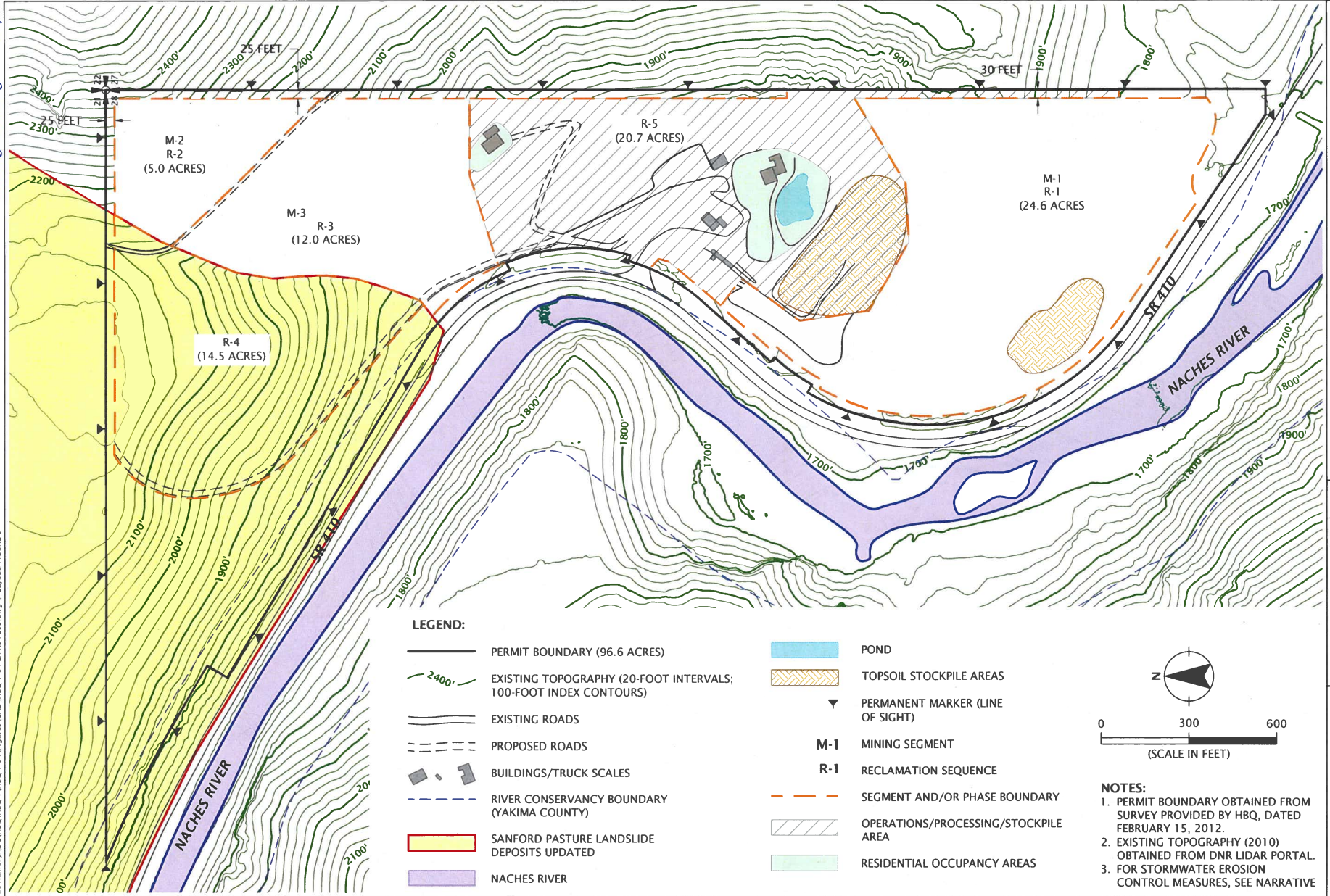
c: File 55-000572



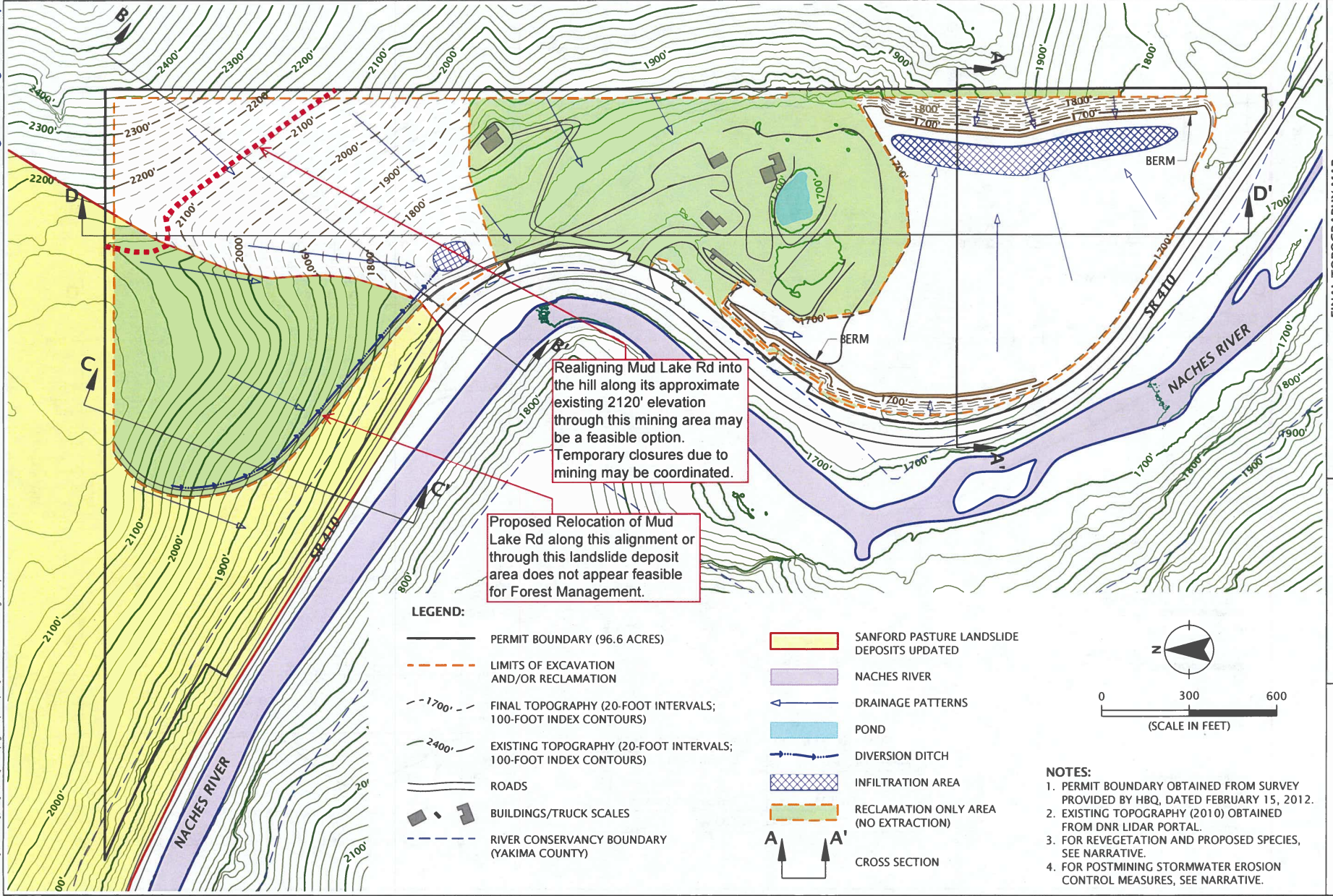
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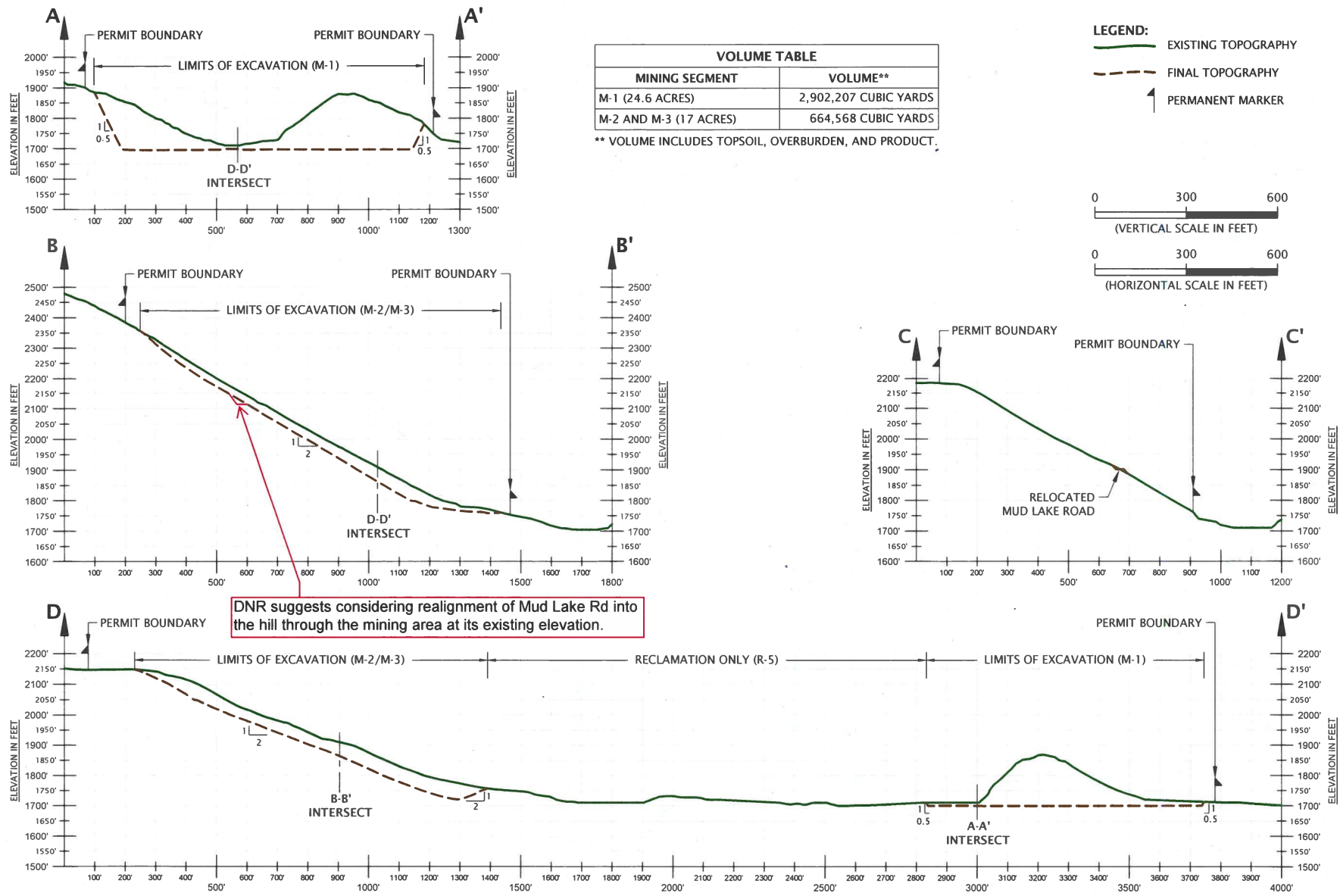
May 31, 2023
Washington Geological Survey

Printed By: mmliller | Print Date: 5/30/2023 2:57:04 PM
File Name: J:\E\1\HBQ\HBQ-1\HBQ-1-04\Figures\CAD\HBQ-1-04-EX-05-EL05.dwg | Layout: FIGURE 5



HBQ, INC.	RECLAMATION SEQUENCE MAP HORSESHOE BEND QUARRY (DNR #70-010881)	FIGURE 5
	YAKIMA COUNTY, WA SECTION 28, TOWNSHIP 15N, RANGE 16E, W.M.	







**DEPARTMENT OF
NATURAL RESOURCES**

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June 7, 2024

Yakima County Planning Division
Phil Hoge, Planner III
128 N. 2nd St.
4th Floor Courthouse
Yakima, WA 98901

Subject: LRN2024-0004/SEP2018-00006 – Williamson (Miocene Resources, LLC)

Dear Phil Hoge:

This is follow-up to the letter from Department of Natural Resources (DNR) on this subject dated May 28, 2024.

After considering DNR concerns expressed in our previous letter, the proponent has expressed willingness to work with DNR to maintain Mud Lake Road through their Horseshoe Bend Quarry mining area with relatively minor realignment. Realignment would be provided through horizontal shifts into the hill at its present elevation as their mining progresses, per DNR suggestion. Interruptions to access would be minimal and coordinated between the parties. Any necessary realignment will need to maintain the road in a safe and usable condition for DNR land management, including haul of timber, meeting Forest Practices standards and DNR's current Forest Roads Guidebook requirements for a Single Lane Mainline. DNR is agreeable to such a potential realignment of Mud Lake Road.

Since Mud Lake Road will continue through its existing alignment at each end of its passage through the Horseshoe Bend Quarry mining area, it will need to be maintained open, safe and usable, as described above for DNR land management activities, over its existing route or acceptable relocation through the proposed Mineral Resource Overlay area of 186 acres adjacent to and east of the Horseshoe Bend Quarry, down to its junction with SR 410. Expansion of mining into the proposed MRO would likely require one or more relocations of Mud Lake Road within the MRO. Such relocation fully within the MRO appears feasible. DNR will reasonably cooperate and coordinate with the proponent as necessary for such potential relocation of Mud Lake Road.

Please contact me with questions at (509) 571-0279 or Stephanie.Margheim@dnr.wa.gov.

Sincerely,

A handwritten signature in blue ink that reads "Smargheim".

Stephanie Margheim
Acting Assistant Region Manager

c: File 55-000572
File 55-107348