



1499 SE Tech Center Place, Ste. 380
Vancouver, WA 98683

Tel. (360) 567-3900
Fax (360) 567-3901

www.jordanramis.com

Jamie D. Howsley
Admitted in Oregon and Washington
jamie.howsley@jordanramis.com
Direct Dial: (360) 567-3913

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VIA EMAIL ONLY

Columbia River Gorge Commission
ATTN: Connie Acker
E-Mail: Connie.Acker@gorgecommission.org

Re: ***Comments on Gorge 2020 Land Uses Revisions and Public Comment Plan***

Dear Chair Liberty and Commissioners:

On behalf of Judith Zimmerly, property owner of the Washougal Pit, we are submitting the following comment on the draft Gorge 2020 Land Uses Chapter revisions presented to the Columbia River Gorge Commission ("CRGC") for its work session on April 29, 2020. We also have concerns with the Gorge 2020 Public Comment Plan for June 1-30, 2020, as well as the CRGC's approach to the plan amendment revisions and the treatment of public comments and stakeholder input in its process.

Foremost, we are deeply concerned about the proposed mining-related amendments within the Gorge 2020 Land Uses Chapter. The clear and unambiguous language of Section 6d(d)(9) of the National Scenic Area Act ("the Act") requires the Commission to consider mining within the National Scenic Area ("NSA"). Moreover, restricting the use and transport of aggregate material produced within the General Management Area is not in accordance with the Act and violates Washington's Growth Management Act, RCW 36.70A.020 ("GMA"). The Commission does not have the authority to restrict where materials from mining are transported to, nor the use of such material. Finally, including transportation of material in the Management Plan's definition of mining violates the GMA. These proposed amendments are targeted solely at our client and should not be adopted.

We also have significant concerns about the draft Gorge 2020 Public Comment Plan for June 1-30, 2020, as well as stakeholder input for Gorge 2020 in general. Shockingly, the Washington Department of Natural Resources ("DNR") was not informed of the Commission's proposed mining-related revisions. Beyond the fact these revisions are not in accordance with the Act or the GMA, one would expect the Commission—as a bi-state body—to provide notice of these proposed revisions to DNR, who is responsible for regulating mining in the State of Washington. Although the Commission has the authority to establish rules and regulations within the NSA, the Commission cannot abrogate state law or DNR's authority in the Gorge 2020 process. This is but one of our concerns regarding the lack of stakeholder input and the treatment of public comments during the Gorge 2020 process.

The impact of the Gorge 2020 proposed revisions to the Management Plan will be most profoundly felt by the Counties and citizens of the NSA. Gorge 2020 proposes significant changes in policy that will have permanent ramifications on Gorge communities and economies. Yet, stakeholders have been offered limited involvement in the development of the proposed revisions to the Management Plan. Public comment during this period is absolutely critical to Gorge 2020, as the Commission

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needs time to consider such comments prior to making endorsements on what will likely be the final language to be implemented. The majority of discussion and deliberation regarding the revisions will have occurred long before the formal June 1-30, 2020 Public Comment Period and we are concerned the comments offered during this period will not be afforded due regard.

The CRGC has engaged in the continual refinement of policy under the guise of “direction to staff,” which makes it difficult for the public and interested stakeholders to track the revision process or ascertain the reasoning behind proposed amendments. Central to this issue is the fact the CRGC is not affording stakeholders an adequate opportunity to review proposed redline language. Releasing proposed revisions, staff reports, and other essential documents only three business days prior to Commission meetings is not adequate. These documents are the product of months and years of Commission deliberation and are necessary for stakeholders to make an informed decision on proposed policy changes, as well as offer meaningful public comment.

Furthermore, as with the mining-related amendments to the Gorge 2020 Land Uses Chapter, staff recommendations are being continually ignored by the Commission. The Commission’s disregard for staff recommendations, such as that the Commission lacks the authority to prohibit mining in the NSA, suggests that public comment is not being afforded due consideration. The Commission has the authority to create and implement policy, however, it must still comply with federal and state law. The Commission has not done enough to solicit input from the jurisdictions and agencies that will be tasked with applying the revised standards of the Management Plan—especially the proposed mining-related amendments.

To that end, the policy concern underlying the extremely short formal comment period of June 1-30, 2020 is that the entire Gorge 2020 process appears to be a “race to the finish,” with a false deadline being driven by expiring commissioner terms rather than any policy consideration. The Commission is already late to its 10-year review of the Management Plan. In light of this, as well as the ongoing COVID-19 pandemic, we urge the Commission to extend the formal comment period and take the additional time necessary to ensure meaningful public engagement and decision-making. This is critically important to the Commission and required by the Act itself.

The above reflects some of our concerns with the Gorge 2020 process. We would like an opportunity to provide more detailed comments into the record, in addition to offering comment on the proposed redline language for the mining-related amendments to the Gorge 2020 Land Uses Chapter. This redline language was the subject of extensive debate during the April 29 Commission meeting and it does not appear the Commission reached a consensus. We harbor serious concerns that we will not be allowed the opportunity to review and comment on the proposed redline language prior to the formal June Public Comment Period. Thank you for your consideration of these concerns.

Very truly yours,

JORDAN RAMIS PC



Jamie D. Howsley

cc: Keenan Ordon-Bakalian
Armand Resto-Spotts