

## EXHIBIT P



**DEPARTMENT OF  
NATURAL RESOURCES**

**PRODUCT SALES & LEASING DIVISION**

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**COMMUNITY & ECONOMIC DEVELOPMENT**

Rick White  
Community and Economic Development Director  
City of Pasco  
Second Floor  
525 N Third Avenue  
Pasco, Washington 99301

RE: Periodic Update to the Pasco Comprehensive Plan – Draft Environmental Impact Statement (EIS)

Dear Mr. White,

The Department of Natural Resources (DNR) appreciates the opportunity to submit comments to the City of Pasco (City) on its proposed Comprehensive Plan amendments. Our comments are limited to the property we own east of Highway 395 and north and east of Highway 12. These parcels are identified internally by DNR as the North Pasco/King City property and the Pasco Industrial property. Attachment A is the list of properties DNR owns along with the current and proposed zoning and land use designations for each parcel, which we received from city staff on July 15, 2020. The amendments, as proposed by the City, modify all of DNR's land use designations from Industrial to DNR Reserve Area. DNR is requesting that the land use designation of Industrial remain on all of its parcels in order to allow us to continue to prudently manage these parcels for the benefit of our trust beneficiaries as explained in further detail below.

As you may already know, DNR manages approximately 3 million acres of uplands across the state that are held in trust for named beneficiaries. As such, DNR's fiduciary responsibility is to manage these lands similar to the way a private fiduciary would manage a trust portfolio. In DNR's case, based on RCW 43.30.215 we are directed to "achieve the maximum effective development and use of such lands and resources consistent with laws applicable hereto...". Additionally, we seek to reposition these assets to achieve the highest market return, either through disposition of sale or ground lease, on behalf of the underlying trust beneficiary.

The parcels identified on Attachment A have either been designated internally as "urban" due to their proximity within the city limits or UGA or have been placed on our Urban/Transition Lands list due to their land use character and location. Because of this placement, DNR's Commercial Real Estate Group, housed in Olympia, directly, or in an advisory role, helps manage these properties. Management activities for these particular parcels may include, but are not limited to, the following activities:

- 1) Interim uses – current and moderate timber or agriculture activities or continued short-term timber harvests or agricultural leasing.
- 2) Planning activities – annexations, rezones, comprehensive plan amendments, boundary line adjustments, public utility extensions, short plats or large lot subdivisions.
- 3) Commercial ground leasing to private sector entities or brokerage firms upon completion of 2) above, as necessary.
- 4) Disposition – direct sale to public agencies, public auction, or commercial land exchange upon completion of 2) above, as necessary.

Together, RCW 79.19.100 and DNR's Transition Lands Policy Plan ("**Plan**"), created in 1988, cause DNR to work collaboratively with local jurisdictions, as these lands transition into more urban-type character. DNR will continue to manage these lands in accordance with all local land use regulations, but wanted to ensure that we communicated to you our internal management strategies related to these Urban/Transition Lands, and our responsibilities as trust fiduciaries.

Based on our duties as a trust fiduciary, DNR has several concerns with the proposed land use designation change. Our concerns are as follows:

- 1) **DNR Reserve area is not defined.** We have reviewed the documents provided within the Draft EIS as well as the documents listed on the City's comprehensive plan page including Volumes 1 and 2 of the Comprehensive Plan and the Land Capacity Analysis,. There is no definition of what DNR Reserve Area means other than to state that it is DNR land. This clearly doesn't articulate any meaning related to long-term planning within the comprehensive plan.
- 2) **DNR Reserve area is an ambiguous designation.** The only information provided to us regarding the justification for this new land use designation was an excerpt from a Planning Commission meeting in 2018 in which city staff presented information to the Planning Commission speculating on existing and future use of DNR's land. That excerpt is on Attachment B. The information provided in that statement is inconsistent with how DNR manages its lands and how we specifically manage these transition parcels.

We cannot find anywhere in the supporting documents listed on the City's comprehensive plan web page, where the City justifies the land use designation change. The Land Capacity Analysis does not identify DNR land nor does it discuss the reason for its exclusion in the industrial land portion of the analysis. The Land Capacity Analysis does include a reference to RCW 36.70a.110(2) that states cities have discretion to determine market factor (defined by Commerce as a "deduction from net developable area to account for lands assumed not to be developable in the planning period") based on local circumstances. If an assumption was made by city staff regarding DNR's future use of its properties then we would like to be provided with the documents that support that assumption.

- 3) **DNR ownership is the only industrial property impacted.** The City has removed only DNR land from its industrial land use classification. Purportedly, the reasoning is due to its current agricultural use or non-industrial use. If this is true, the same change should



apply to all other industrial land owners in this area that are not currently developing their land industrially. However, it does not appear that any other non-industrially developed state, federal, or private properties with current industrial land use designations have any proposed new land use designations. The GMA lists the protection of property rights as a goal in the development of plans and regulations. Government entities are required to consider the impact of their actions upon property rights and must refrain from arbitrary and discriminatory actions-- **RCW 36.70A.020(6)**. The failure to do so constitutes noncompliance with the requirements of the GMA-**AGO 1992 No. 23, at 7**. Although this property is not privately owned, it is trust property, which must be administered by the Department as would a private trust-solely for the benefit of the trust, not the public in general. **County of Skamania v. State, 102 Wn.2d 127, 133, 685 P.2d 576 (1984)**. The fact that only DNR land is singled out for a proposed land use designation change is contrary to the intent of the GMA.

- 4) **Comprehensive Plan Elements.** An amendment modifying the land use designation from industrial to DNR Reserve Area is inconsistent with the existing and proposed policies of the comprehensive plan. The inclusion of DNR's property within city limits and the UGA shows that the City recognizes the relevance of DNR's land to the city's historical and current growth patterns. Nothing has changed with DNR's property other than the City needing to justify its UGA expansion.

Goal LU-2-A under the Land Use Element chapter requires that the City maintain an adequate amount of industrial land (among other land uses) proximate to appropriate transportation and utility infrastructure. Removing DNR land from the industrial land use designation in order to add additional industrial land currently outside of city limits skirts the intent of this goal. ED-2-C Policy within the Economic Development Element chapter provides direction to continue the pursuit and preservation of industrial sites for development that may be serviced by existing utilities. This policy continues to remain true for the DNR properties as most, if not all, of the properties have access to existing or planned utility infrastructure. In addition, as the City has previously determined in the land use designation process, the DNR properties are located directly adjacent to developed industrial land along Highway 12 and Highway 395. Clustering planned or future industrial development within close proximity to other industrial developments is good planning policy.

- 5) **Land Use Appeals.** Although the underlying zoning of Light Industrial would remain in place and would continue to allow permitted industrial uses on DNR's properties, the concern DNR has with the proposed land use designation change relates to discretionary reviews and capital facility projects both of which would require the reviewing party to turn to the comprehensive plan to ensure the proposal would meet the goals and policies. The DNR Reserve Area designation is not defined so discretionary review would then turn to the public record to find the intent of the land use designation.

In addition, most jurisdictions and funding agencies require documentation that any major capital facilities projects comply with the capital facilities plan, but also with the intent of the comprehensive plan. It seems that the intent by the City is to remove DNR land from the industrial land base and identify it as land that will not be developed. If that is the case (it is unclear as DNR Reserve Area is not defined), then the land use designation and zoning conflict with one another and one could argue that any development on the DNR properties is not consistent with the intent of the comprehensive plan.

The above items summarize DNR's concerns with the proposed land use designation change. Notwithstanding all of the above concerns, we would like to recognize and applaud the important economic development efforts being made by the City as well as the Port of Pasco. We believe the agencies' intentions are good and this land use planning work is important in order to continue to move the region forward. In the recent past, DNR has discussed opportunities for the Port of Pasco to purchase property from DNR to further the region's economic development goals. Although we could not come to agreement on a purchase price at that time, we will continue to explore those opportunities with the Port or other development partners.

It is very important to note that DNR wants to continue its good working relationship with the City and all of the economic development partners in the region to further the community and region's community development goals. This partnership was shown in the fairly recent commercial and residential development efforts made on DNR-owned land in the Road 68 interchange including the massive improvements to Chapel Hill Boulevard. DNR was able to create entitlements from formerly utilized agricultural land to align with current land use, zoning and growth patterns in the area and provide nearly \$3 million in one up-front payment for our contribution to the LID.

Similar to the prior entitlement process that led to the creation of the Road 68 interchange development, DNR wishes to maintain its industrial land use designation so we can ensure that we have every opportunity to provide value and revenue for our trust beneficiaries and comply with our fiduciary responsibilities as these properties evolve. This change in land use designation is not in the best interest of our trust beneficiaries and we cannot support the proposed change as currently written and documented in the proposed comprehensive plan update.

We look forward to working with the city to resolve these concerns and find a solution that works for us as well as the City of Pasco.

Sincerely,

*Kari R. Fagerness*

Kari Fagerness  
Planning Manager



Attachment A - List of Pasco properties

Parcel #	Existing Land Use	Existing Zoning	Existing UGA	Existing City Limits	Part of UGA Expansion	Proposed Land Use	Proposed Permitted Zoning
113740140	Industrial	Light Industrial	Yes	Yes	No	DNR Reserve	Light Industrial (I-1)
113700148	Industrial	N/A	Yes	No	No	DNR Reserve	Light Industrial (I-1)
112570022	Industrial	N/A	Yes	No	No	DNR Reserve	Light Industrial (I-1)
112570013	Industrial	N/A	Yes	No	No	DNR Reserve	Light Industrial (I-1)
112520013	Industrial	Light Industrial	Yes	Yes	No	DNR Reserve	Light Industrial (I-1)
113710066	Industrial	Light Industrial	Yes	Yes	No	DNR Reserve	Light Industrial (I-1)
113710075	Industrial	Light Industrial	Yes	Yes	No	DNR Reserve	Light Industrial (I-1)
113600032	Industrial	N/A	Yes	No	No	DNR Reserve	Light Industrial (I-1)
113600069	Industrial	N/A	Yes	No	No	DNR Reserve	Light Industrial (I-1)
113600050	Industrial	N/A	Yes	No	No	DNR Reserve	Light Industrial (I-1)
113210016	Industrial	Light Industrial	Yes	Yes	No	DNR Reserve	Light Industrial (I-1)

## Attachment B

*These are notes that were part of a staff presentation to the Pasco Planning Commission in June 2018 discussing the expansion of the Urban Growth Area (staff person unknown).*

“Over 900 acres of the industrial land east of the highways and inside the UGA is tied up in DNR ownership. DNR owns 1,234 acres of industrial land in the King City and the Pasco Kahlottus Highway areas. DNR has no interest in allowing their property to be developed for anything other than farming. As a result these lands will remain in agricultural production through the duration of the planning period. Sixty-two percent of these lands are in the City limits and cannot be removed from the UGA without removing the land from the City limits. The balance of the land is outside the City limits and zoned for industrial uses by the Franklin County.

The Port of Pasco has asked for these lands to remain in the UGA in the hopes an agreement can be reached with the DNR to transition these lands to industrial functions. The DNR lands have been given a land use classification of DNR Reserve. The DNR Reserve denotes lands that may be zoned for industrial use but unavailable for development presently due to DNR ownership. The DNR property impacts the market factor by reducing the available acreage for industrial development. Rearranging the UGA boundary to avoid DNR property south of the Pasco/Kahlottus Road will not help because the DNR also owns significant acreage outside the UGA in that area. The Port of Pasco has expressed concern about the impact of the DNR property on the community's ability to attract industrial development and has asked that the City consider a market factor adjustment to provide land for job creating industries.”