



wildsight

2-495 Wallinger Avenue Kimberley BC V1A 1Z6 • 250.427.9325 • info@wildsight.ca

June 12, 2024

Environmental Assessment Office
PO Box 9426 Stn Prov Govt
Victoria, BC V8W 9V1
Email: eaoinfo@gov.bc.ca

Dear Sir or Madam:

**Re: Environmental Assessment of proposed Record Ridge mine
(Rosland, British Columbia)**

Further to our letter of April 18, 2024, we are writing to inform you that it is Wildsight's position that the proposed Record Ridge mine near Rosland, BC is a reviewable project requiring an environmental impact assessment, pursuant to Section 9 of the *Environmental Assessment Act*, SBC 2018, c 51 and Section 9 of the *Reviewable Projects Regulation*, BC Reg 243/2019.

If the EAO does not agree with this position, we provide an alternative submission below supporting designation of the Proposed Mine as a reviewable project under Section 11 or 12 of the Act, building on the concerns as stated in our previous correspondence.

Wildsight has reviewed the City of Rosland's letter to the EAO dated May 28, 2024 and adopts the city's submissions in their entirety, while elaborating on them in this letter.

A. The Proposed Mine is a Reviewable Project

With respect to the requirement for an environmental assessment certificate, Wildsight notes that the Proposed Mine is a reviewable project based on the criteria under Section 9 of the Act and Section 9 of the Regulation.

We have reviewed materials submitted by the proponent, West High Yield Resources Ltd. ("WHY Resources"), and note that none of the exemptions specified under Appendix 3 of the Regulation that would exempt the Proposed Mine from the requirement for an environmental

impact assessment and environmental assessment certificate are applicable. As a result, an assessment and certificate are required before any work on the Proposed Mine can occur.

We therefore request that the Environmental Assessment Office confirm that the Proposed Mine is reviewable under Section 9 of the Act and communicate to WHY Resources and the public that an environmental impact assessment is required.

B. Effects on Indigenous Nations

Wildsight is concerned that a lack of clarity surrounding Indigenous rights and title in the West Kootenays will prevent adequate consultation with the appropriate Indigenous rights and title holders, and that the Proposed Mine could have effects on Indigenous Nations and on rights recognized and affirmed by Section 35 of the *Constitution Act, 1982*, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.

Wildsight understands that the City of Rossland recognizes the area as Sinixt territory, and notes that two entities assert collective rights and title on behalf of the Sinixt Peoples: the Autonomous Sinixt and the Confederated Tribes of the Colville Reservation.

Wildsight further understands based on communications from WHY Resources that the Osoyoos Indian Band has entered into a cooperation agreement with the proponent with respect to the Proposed Mine.

Overlapping Indigenous claims to the area by the Autonomous Sinixt, Confederated Tribes of the Colville Reservation, Syilx (Osoyoos) and Ktunaxa Peoples create a real risk that WHY Resources and the Province will sidestep proper consultation protocols and authorize the Proposed Mine in the absence of free, prior and informed consent of the appropriate Indigenous rights and title holders.

Wildsight therefore submits that recognizing or designating the Proposed Mine as a reviewable project—and ensuring a proper environmental assessment process—will help to ensure these Indigenous interests are properly considered, informed by a thorough understanding of the environmental, economic, social, cultural and health effects of the Proposed Mine on Indigenous interests and other interests.

C. The potential effects of the Proposed Mine will be equivalent to or greater than effects of mines extracting 250,000 tonnes of quarried product per year

In the event that the Environmental Assessment Office does not agree with Wildsight's position that the Proposed Mine is reviewable under Section 9 of the Act, then Wildsight makes the alternative submission that the Minister or Chief Executive Assessment Officer should designate the Proposed Mine as a reviewable project because the potential effects of the project will be equivalent to or greater than the potential effects of mines extracting 250,000 tonnes of quarried product per year, as per Part 3 of the *Reviewable Projects Regulation*, BC Reg 243/2019.

While WHY proposes to extract 200,000 tonnes of quarried product per year in its amended Mine Permit Application (dated October 2023, reducing the projected yield from 249,000 tonnes in the previous iteration of its application), Wildsight notes that the inadequate transportation infrastructure in the Rossland area for mining operations—including the Old Cascade Highway and Highway 22 between the Paterson border crossing and Warfield/Trail—will amplify transportation impacts. This includes:

- (1) Heightened safety risks to persons and property from collisions between trucks travelling to and from the Proposed Mine and pedestrians, motorists and other road users;
- (2) Increased noise, dust and emissions from mine-related trucking, owing to the inadequate transportation infrastructure cutting through the heart of the communities; and
- (3) Heavy volumes of mine-related traffic in the immediate vicinity of homes, farms and other properties.

Based on the foregoing, the Wildsight submits that the effects of the Proposed Mine on the local communities of Rossland, Paterson, Big Sheep Creek, Warfield and Trail with respect to transportation impacts will be equivalent to or greater than a mine that extracts 250,000 tonnes of quarried product per year.

Wildsight further submits that other impacts will be similarly amplified on account of the Proposed Mine's close proximity to these small communities and rural residential properties, including but not limited to:

- a. Impacts on wildlife, biodiversity and species of concern, owing to the unique ecological attributes of the Record Ridge grassland ecological community and the presence of the threatened Mountain Holly Fern, as described in our April 18, 2024 letter;
- b. Impacts of blasting, including noise and dust and their impacts on human health and non-human species;
- c. Impacts on the economy, tourism and recreation, including impacts on the Seven Summits Trail and the Red Mountain Ski Resort, both of which are located in close proximity to the Proposed Mine site; and
- d. Impacts on water quality, quantity and timing of flow, owing to the proximity of the Proposed Mine site to residents' homes as well as to agricultural lands (and a lack of clarity in WHY Resources' application materials with respect to site-specific water-impact modelling).

Wildsight submits that all of these adverse effects will be equivalent to or greater than the effects of mines extracting 250,000 tonnes of quarried product per year.

D. Environmental assessment of the Proposed Mine is consistent with the purposes set out in the Act

Wildsight further submits that an environmental assessment of the Proposed Mine is consistent with the purposes set out in Section 2 of the *Environmental Assessment Act*, SBC 2018, c 51.

As you are aware, these purposes include:

- (1) promoting sustainability by protecting the environment and fostering a sound economy and the well-being of British Columbians and their communities by
 - (A) carrying out assessments in a thorough, timely, transparent and impartial way,
 - (B) considering the environmental, economic, social, cultural and health effects of assessed projects,
 - (C) facilitating meaningful public participation throughout assessments,
 - (D) using the best available science, Indigenous knowledge and local knowledge in decision making under the Act, and
 - (E) coordinating assessments with other governments, where appropriate, including Indigenous nations, and with other provincial ministries and agencies;
- (2) supporting reconciliation with Indigenous peoples in British Columbia by
 - (A) supporting the implementation of the United Nations Declaration on the Rights of Indigenous Peoples,
 - (B) recognizing the inherent jurisdiction of Indigenous nations and their right to participate in decision making in matters that would affect their rights, through representatives chosen by themselves,
 - (C) collaborating with Indigenous nations in relation to reviewable projects, consistent with the United Nations Declaration on the Rights of Indigenous Peoples, and
 - (D) acknowledging Indigenous peoples' rights recognized and affirmed by section 35 of the Constitution Act, 1982 in the course of assessments and decision making under this Act.

(emphasis added)

Wildsight submits that an environmental assessment of the Proposed Mine is consistent with these purposes—and would help to advance these purposes—by:

- a. providing for a thorough and proper understanding and consideration of the environmental, economic, social, cultural and health effects of the Proposed Mine;
- b. facilitating meaningful public participation by residents of Rossland and the surrounding area, as well as other stakeholders, on the Proposed Mine;
- c. ensuring that the best available science, Indigenous knowledge and local knowledge are available to the statutory decision makers under the *Mines Act* and *Environmental Management Act*, to ensure this science and knowledge is properly considered prior to any decisions being made with respect to issuance of permits;
- d. ensuring that local government interests, including the interests of the City of Rossland, the Village of Warfield, the City of Trail and the Regional District of Kootenay Boundary, as well as Indigenous Nations, are properly engaged through coordination in the assessment process; and
- e. ensuring that reconciliation with Indigenous Peoples is supported by ensuring proper consultation, collaboration and recognition with the appropriate Indigenous rights and title holders through the assessment process, including proper consultation with the Autonomous Sinixt, Confederated Tribes of the Colville Reservation, Syilx and Ktunaxa Peoples.

E. Designation of the Proposed Mine as a reviewable project is in the public interest

Wildsight submits that designation of the Proposed Mine as a reviewable project is in the public interest.

The reasons for this include:

- a. residents of the local area have demonstrated a strong interest in the Proposed Mine, as evidenced by the participation of more than 500 residents of Rossland and surrounding communities at two Open House meetings convened by the Proponent in May 2023;
- b. hundreds of individuals have communicated their concerns in writing to WHY Resources and the Province;
- c. 1,361 people have signed a petition opposing the mine, of whom 57% reside in Rossland, 81% reside in the local area and 92% reside in British Columbia;
- d. small communities are socio-economically fragile, and upsetting this balance by introducing an ecologically, socially and economically destructive industrial project

can have a devastating effect on the local community and its residents in the short, medium and long term; and

- e. residents and businesses in Rossland and the surrounding area have worked in concert for several decades to transition the community to a strong socio-economic foundation, assisted by substantial financial support from the Province. This foundation, rooted in green business, eco-tourism and a high quality of life connected to a healthy natural environment, is placed at risk by the Proposed Mine.

For all these reasons, Wildsight asserts that designing the Proposed Mine as a reviewable project is strongly in the public interest.

Conclusion

In conclusion, Wildsight states that the proposed Record Ridge magnesium mine is a reviewable project pursuant to Section 9 of the *Environmental Assessment Act*, SBC 2018, c 51 and Section 9 of the *Reviewable Projects Regulation*, BC Reg 243/2019.

In the alternative, if the EAO does not agree, Wildsight requests that the Minister or Chief Executive Assessment Officer designate the Proposed Mine as a reviewable project pursuant to Section 11 or 12 of the Act, ensuring that a proper environmental assessment is conducted that adequately accounts for Indigenous interests and the environmental, economic, social, cultural and health effects of the Proposed Mine.

As stated above, Wildsight asserts in support of this alternative submission that:

- (1) the Proposed Mine could have effects on Indigenous Nations and on rights recognized and affirmed by Section 35 of the Constitution Act, 1982;
- (2) the potential effects of the Proposed Mine will be equivalent to or greater than effects of mines extracting 250,000 tonnes of quarried product per year;
- (3) environmental assessment of the Proposed Mine is consistent with the purposes set out in the *Environmental Assessment Act*; and
- (4) designation of the Proposed Mine as a reviewable project is in the public interest.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Wiebe', with a stylized, cursive script.

Simon Wiebe
Mining Policy and Impacts Researcher
T: 250.427.9325
E: simon@wildsight.ca

cc. George Heyman, Minister of Environment and Climate Change Strategy
Honourable Josie Osborne, Minister of Energy, Mines & Low Carbon Innovation
Kathie Wagar, Regional Director for Mining Operations (Cranbrook)
Katrine Conroy, MLA for Kootenay West
Brittney Anderson, MLA for Nelson-Creston