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July 12, 2010

Mr. Richard Whitman, Director
Department of Land Conservation
and Development
635 Capitol Street, NE Suite 150
Salem, OR 97301

Re: Objections to Metro Urban and Rural Reserves
Metro Ordinance No. 10-1238A and Washington County Ordinance 733

The following objections are filed on behalf of 1000 Friends of Oregon, the Washington County Farm Bureau, and Dave Vanasche, Washington County Farm Bureau President. These objections are to certain elements of Metro's urban and rural reserves decision, Ordinance No. 10-1238A, and the corresponding ordinance adopted by Washington County, Ordinance 733. (Because the findings in Metro Ordinance No. 10-1238A and Washington County Ordinance 733 are almost identical, references will be to the Metro decision.)¹

1000 Friends of Oregon, the Washington County Farm Bureau, and Farm Bureau officers and members, including Dave Vanasche, testified orally and in writing at the hearings held by Metro, Washington County Board of Commissioners and Reserves Coordinating Committee, and the Reserves Steering Committee on urban and rural reserves. In addition, one member of the Washington County Farm Bureau was on the Washington County Reserves Coordinating Committee, and 1000 Friends was a member of the Reserves Steering Committee. The participation of 1000 Friends, the Washington County Farm Bureau, and Dave Vanasche includes, but is not limited to, the following dates:

- Washington County Reserves Coordinating Committee, testimony of August 26, 2009
- Reserves Steering Committee and Metro Council, testimony of October 14, 2009; hearing of October 15, 2009
- Washington County Board of Commissioners hearings on December 8 and 15, 2009
- Metro Council hearings, testimony of January 14, February 25, May 20, May 25, 2010
- Participation on Washington County Reserves Coordinating Committee, throughout 2009
- Participation on Reserves Steering Committee, 2008-09

¹ Page references to the Metro decision are to the pagination of the entire decision – which contains several documents - as submitted to DLCD, not to the pagination of the individual documents.



OVERALL OBJECTIONS

Objection 1: The amount of acres proposed for urban reserves exceeds the statutory 50-year limit on urban reserves, ORS 195.145(4).

Metro's decision designates 28,615 acres as urban reserves, allegedly for a 50-year time period. The amount of acres proposed for urban reserves exceeds the statutory 50-year limit on urban reserves, by underestimating the capacity of the current UGB, which represents the starting period capacity for the urban reserves period, in at least three ways.

First, Metro assumes that the existing urban zoning, adopted and acknowledged by each city and county, will not be realized within the 20-year time period of the urban growth boundary (UGB), at least absent a demonstration that public investments or policies are currently in place or underway to cause the zoned level of urban development to happen.² Assuming that existing planning and zoning will not be met and the investments will not be made over the 20-year UGB planning period is unrealistic, does not meet the requirements of ORS 197.296 and Goal 14, and is contrary to the methodology used by the Department of Land Conservation and Development in evaluating all other UGBs.

In addition, to assume those densities will not be met over a 40-50 year time period is not only legally improper and unlikely, it is a statement that the Metro Council does not believe in or support the acknowledged land use, transportation, and public facility plans of its partner jurisdictions. Surely, at least those 20-year zoned will be met over the 40-50 year time period; if Metro believes otherwise, the burden of proof is on Metro to show that the city plans are inaccurate, not only in this decision but by objecting to the periodic review of its partner cities.

Second, and related to the first, Metro assumes that cities will meet their current zoning only if certain investments are made – such as in infrastructure, urban renewal, various subsidies, or waivers – and Metro requires a level of certainty about those investments before relying on them to assume that higher densities are achieved in any city. However, those cities all have acknowledged public facilities plans that “describe[] the water, sewer and transportation facilities which are to support the land uses designated in the appropriate acknowledged comprehensive plans...” for the 20-year planning period. OAR 660-011-0005(1), (4). Public facilities plans also include cost estimates, an estimate of when each facility project will be needed, and a discussion of funding mechanisms. Therefore, Metro should assume that at least these 20-year public investments will be made over the 40-50 year time period, and adjust its UGB capacity estimate accordingly.

Third, Metro's capacity estimate for the UGB assumes there will be no upzoning over the 20-year or 50-year period over current zoning. There is no evidence for that assumption, and it is contrary to past experience and law. In analyzing the capacity of its UGB, Metro must examine the housing density, mix, and trends over at least the past five years, or since the last periodic review, and use that in its assessment of future land needs and trends. And, evaluation of a UGB requires analysis of the full zoning capacity as well as upzoning potential.³ Although Metro is not - yet - conducting a UGB analysis, its reserves analysis is for a longer time period and therefore must rely upon the same

² Metro decision pp. 22-23; *COO Recommendation, Urban and Rural Reserves*, Sept. 15, 2009, Apps. 3E-C and 3E-D; *Metro Urban Growth Report*.

³ ORS 197.732(1)(c)(B); Goal 2, Part II(c)(2); Goal 14; OAR 660-004-0020(2)(b)(iii); *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372, 390, *aff'd* 130 Or App 406, 882 P2d 1130 (1994); *BenjFran Development v. Metro Service Dist.*, 17 Or LUBA 30, 49 (1988), *aff'd* 95 Or App 22, 767 P2d 467 (1989); *DLCD v. Douglas County*, 36 Or LUBA 26, 34-35 (1999); LCDC Answering Brief in *1000 Friends of Oregon v. LCDC (McMinnville)*, January 26, 2010, pp. 13-14.

legal and factual assumptions as it will for its UGB decision. In its reserves analysis, Metro must still have an adequate factual and legal basis, and there is none for its assumption of no upzoning.

Looking on the ground, one can see how unrealistic the assumption of no upzoning is as a practical matter. Metro relies upon its Corridors and Centers strategy to accommodate much of the expected population and employment growth in the region. The July 2004 ECONorthwest *Report on Corridors*, prepared for Metro, reviewed the planning and zoning for nine corridors and concluded that currently: “Corridors tend to be lower-density and more auto-oriented.”⁴ The Report shows that in 2004, the region had 41,907 gross acres of “Corridors,” of which 13,296 acres were zoned for single family and more than 5,400 acres were zoned either “rural,” “agriculture,” or “forest.”⁵ Although these facts have been raised in these reserves proceedings,⁶ we cannot find evidence in this record to show that the corridors have been upzoned, or that Metro assumes they will be. However, to meet the Region 2040 requirements and market demands over the 20-year UGB period and the full 50-year Reserves period, these corridors will be re-zoned to higher density and mixed uses.

Remedy: Because Metro has underestimated the capacity of the UGB for both the 20-year UGB period and the 40-50 year reserves period, the 28,615 acres proposed for urban reserves exceeds the 50-year time limit. LCDC should remand the decision to Metro with direction to fully account for upzoning, rezoning, and meeting zoned densities over the reserves time period, and decrease the amount of urban reserves accordingly

Objection 2: The amount, quality, and location of Foundation farm land designated as urban reserves violates ORS 195.137-.145 and OAR 660, division 27.

The Legislature made specific findings on the purpose of urban and rural reserves. It stated that rural reserves are meant to provide certainty for the agricultural and forestry industries, as well as to:

“offer[] long-term protection of *large blocks* of land with the *characteristics* necessary to maintain their viability.” OAR 195.139(1)(a) (emphasis added).

This is a substantive policy direction, based on the specific qualities, location of the land relative to other farm and forest uses, and size of the agricultural and forested areas.

In contrast, the legislative findings for urban reserves are not tied to the inherent qualities or size of the land; rather, they are based solely on providing:

“...certainty for *** [c]ommercer, other industries, other private landowners and provides of public services by determining the more or less like locations of future expansion or urban growth boundaries and urban developments.”

The remainder of the statute and the administrative rule reinforce this distinction. Rural reserves are based on the qualities of the land, including soil and water (water if necessary), its relationship to other farm and forest lands and agricultural infrastructure, and the existence of physical buffers between rural reserves and non-farm uses. These are qualitative, placed-based criteria. ORS 195.141, OAR 660-027-0060(1), (2).⁷

⁴ ECONorthwest July 2004, pp. 2-4

⁵ *Id.* at p. 5-3, Table 5-1.

⁶ 1000 Friends written testimony of May 20, 2010.

⁷ Following are the rural reserves factors from the administrative rule; the statutory factors are almost identical. OAR 660-027-0060:

The Commission recognized the importance – and finite quantity – of these characteristics in its administrative rule. Any lands identified as “Foundation” by the Oregon Department of Agriculture by definition means that they meet the rural reserve factors. Foundation lands cannot be designated as urban reserves unless there are findings and reasons explaining why they must be used for urban reserves, rather than other lands that are not Foundation. OAR 660-027-0040(11).

The statute and rule provide factors to be considered when evaluating lands for urban reserve designation but, in contrast to the rural reserve factors, they are not based on the location or size of the land under consideration. While the ability of the land to be developed in a compact, mixed-use urban fashion is the essence of the urban factors, the lack of reference to size and location recognizes that many topographies and locations can be, and have been, urbanized, and that lands capable of being urbanized are fairly interchangeable. In addition, the urban factors are considerations, while there is a higher level of justification that must be made for designating Foundation lands as urban reserves. OAR 660-027-0040(11)

Similarly, important natural landscape features are to be designated as rural reserves based on their qualitative and locational characteristics. They must be located to “limit urban development or define natural boundaries of urbanization, including plant, fish and wildlife habitat, steep slopes and floodplains.” ORS 195.137(1), OAR 660-027-0005(2).

Thus, the Legislature provided for rural reserves because it recognized that the characteristics of the land base essential for one of Oregon’s most productive, and growing, industries – agriculture – is finite, significant, place-based, and not fungible. In contrast, it recognized that the primary reason for urban reserves is for certainty of urban investment.

“(2) Rural Reserve Factors: When identifying and selecting lands for designation as rural reserves intended to provide long-term protection to the agricultural industry or forest industry, or both, a county shall base its decision on consideration of whether the lands proposed for designation.

- (a) Are situated in an area that is otherwise potentially subject to urbanization during the applicable period described in OAR 660-027-0040(2) or (3) as indicated by proximity to a UGB or proximity to properties with fair market values that significantly exceed agricultural values for farmland, or forestry values for forest land;
- (b) Are capable of sustaining long-term agricultural operations for agricultural land, or are capable of sustaining long-term forestry operations for forest land;
- (c) Have suitable soils where needed to sustain long-term agricultural or forestry operations and, for agricultural land, have available water where needed to sustain long-term agricultural operations; and
- (d) Are suitable to sustain long-term agricultural or forestry operations, taking into account:
 - (A) for farm land, the existence of a large block of agricultural or other resource land with a concentration or cluster of farm operations, or, for forest land, the existence of a large block of forested land with a concentration or cluster of managed woodlots;
 - (B) The adjacent land use pattern, including its location in relation to adjacent non-farm uses or non-forest uses, and the existence of buffers between agricultural or forest operations and non-farm or non-forest uses;
 - (C) The agricultural or forest land use pattern, including parcelization, tenure and ownership patterns; and
 - (D) The sufficiency of agricultural or forestry infrastructure in the area, whichever is applicable.

Although the Legislature did not provide for any “balancing” in authorizing urban and rural reserves, LCDC did by stating that the reserve rule’s objective is:

“...a balance in the designation of urban and rural reserves that, in its entirety, best achieves livable communities, the viability and vitality of the agricultural and forest industries and protection of the important natural landscape features that define the region....”⁸

The amount, quality, and location of the lands designated as urban reserves fail to comply with the reserve statute and rule. Metro designated 28,615 acres as urban reserves. 11,911 of those acres are identified as Foundation farm land by the Oregon Department of Agriculture (ODA).⁹ Almost all of the Foundation farm land designated for urban reserves is in Washington County – 9730 acres, or 82% of all the Foundation farm land in the decision. In contrast, Metro designated very little Foundation farm land as urban reserves in Clackamas and Multnomah counties. For example, in Clackamas County, the *inverse* of Washington County is the case – 84% of the urban reserves are on lands identified as “Conflicted” by the ODA.

Not only is the amount of Foundation farm land designated as urban reserves disproportionate region-wide and in Washington County, but in Washington County, the lands designated as urban reserves are specifically threatened by urbanization. The first factor cited in the statute and rule to be considered in whether lands should be protected as rural reserves is whether the land:

“(a) Is situated in an area that is otherwise potentially subject to urbanization during the period described in subsection (2)(b) of this section, as indicated by proximity to the urban growth boundary...”

The “subject to urbanization” is an *additional* factor of the reserve statute and rule - beyond the criteria used by the Department of Agriculture is identifying Foundation farm land – that must be considered. ORS 195.141(3)(a); *see also* OAR 660-027-0060(2)(a).

Almost all Washington County Foundation lands designated as urban reserves were also found to be “subject to urbanization.” In fact, Washington County found the areas north of Council Creek, in the Evergreen area, and in Helvetia to be “highly” subject to urbanization.¹⁰ In addition, all the acres that Washington County deemed “undesignated” are Foundation farm land and “highly” subject to urbanization. Foundation farm land subject to urbanization meets all the criteria for protection as rural reserves, not urban.

An examination of the maps shows that at least 75% of the current UGB in Washington County is now ringed with proposed urban reserves that are “highly” subject to urbanization. If the undesignated lands are included, that amount increases.

The result is that the land most threatened by urbanization in Washington County is now proposed as urban reserves, while many acres *not* under threat of urbanization in the planning period are designated as rural reserves, turning the law on its head. While the rule recognizes a balance between rural and urban needs, this decision is not balanced.

⁸ OAR 660-027-0005(2)

⁹ *See* Metro decision, p. 179, table titled “Reserves Acreage Breakdown.” Also Exhibit E to Metro Ordinance, decision p. 15.

¹⁰ Washington County RCC Urban & Rural Reserves Recommendations, September 23, 2009, Map 16, *Subject to Urbanization*. [Map 16 Subject to Urbanization](http://www.co.washington.or.us/LUT/PlanningProjects/reserves/wcrcc-urban-and-rural-reserves-recommendations.cfm) <http://www.co.washington.or.us/LUT/PlanningProjects/reserves/wcrcc-urban-and-rural-reserves-recommendations.cfm>

Finally, the Metro decision goes on at length in an attempt to paint a picture that the amount of farm land in general, and Foundation farm land in particular, is a small percentage of the overall amount of all land, or farm land, in the region outside the UGB. (Metro decision pp. 15-16) This is irrelevant factually and without any basis in the law. It is a smokescreen to hide the significant damage that will be done to the agricultural industry in the region and state by this decision.

The reserves law is based on the *quality* of the land at issue – *not* the quantity. The reserves statute and rule, as well as Goal 14 and ORS 197.298, emphasize the quality of the agriculture and forest lands under consideration, and their contribution to those industries. In crafting the reserve rule and statute, every person and governmental agency involved agreed that there was not to be an acre-for-acre comparison of urban and rural reserves, or anything else. All recognized that would make no sense practically. Rather, we agreed that this law would be based on the factual quality of the lands and industries – whether urban or rural. For Metro and local decision-makers to rely on this weak reed of percentages of land to justify their decision is disingenuous and dishonest to the process, the reality, and the other participants.

There are alternatives to designating this much Foundation farm land in Washington County, and in the region. First, alternatives that are not Foundation farm land exist, including but not limited to:

- Assuming more of the zoned capacity inside the current UGB will be realized over the period (see Objection 1)
- Increasing densities inside the current UGB (see Objection 1)
- Assuming higher densities in the lands designated as urban reserves
- Conflicted and Important lands not designated as urban reserves, for example:
 - Clackamas Heights
 - East Wilsonville
 - West Wilsonville
 - Southeast of Oregon City
 - Southwest of Borland Road
 - Between Wilsonville and Sherwood

Metro discounts some of these areas and chose Foundation farm land instead because the alternatives are more expensive and “politically difficult” to urbanize,¹¹ and due to “the growing cost of urban services and the declining sources of revenues to pay for them.”¹² Merely being more expensive than farm land to urbanize is not a factor in the reserves rule or statute; even Metro recognizes that flat farm land is almost always cheaper to serve with urban infrastructure than other areas.¹³ While efficiency of service is one factor, it is not the only one; moreover, most of the reserve study areas were fairly similar in serviceability. Political difficulty is not a factor. Oregon’s land use law is based on the quality, location, and characteristics of the land, not on temporal ownership or shifting political views.¹⁴

¹¹ Metro Decision, p. 17.

¹² Metro decision, p. 16.

¹³ See also *City of West Linn v. LCDC*, 201 Or App 419, 446 (2005); *Residents of Rosemont v. Metro*, 173 Or App 321, 335 n. 6 (2001).

¹⁴ Metro uses the difficulty of urbanizing Damascus as an example. This is a canard. That UGB expansion was for a 20-year time frame; it is not expected to fully develop in the near term, and certainly not in this economic market. The assertion ignores that the Damascus area has incorporated as a city and has embarked on nationally-recognized planning efforts, attracting some of the leading land use and transportation academics in the nation. The city’s efforts to integrate urban and agricultural uses in the UGB is ground-breaking. In contrast, the Bethany area – approximately 800 acres of relatively flat, mostly farm land – was brought into the UGB and no development has taken place there, due primarily to two factors: (1) the high speculative price paid for the land by developers, and (2) the high cost of infrastructure, despite

The declining sources of revenue to pay for infrastructure is not a factor, nor would it make much sense when looking at a 50-year time period. The Bethany UGB experience has illustrated the region's inability to accurately evaluate the cost of infrastructure for even the next few years. Moreover, if this is the case, that is an argument for a *smaller* urban reserve, not a larger one. Metro's studies have shown that the cost of providing urban infrastructure to undeveloped areas is 2 to 3 times as expensive as accommodating the same number of people or employees in the existing, developed urban area.¹⁵

Finally, the Metro region can choose a time span less than the maximum 50 years, or an estimate of future growth that is not at the top of its population and employment growth forecast. This would be consistent with the recommendation of the nine state agencies, including the Department of Land Conservation and Development.

“The state agencies strongly support using the lower end of the planning period authorized for reserves – e.g. forty years. We are facing a time of extraordinary uncertainty in how our communities and industries will evolve. A receding demographic peak, rapid globalization, immigration, climate change, and changes in energy pricing all may require that we be able to adapt more rapidly than we have in the past in terms of how we live, work and travel. Reserves require a balancing between the advantages of providing long-term certainty (for landowners, local governments, public and private investment) and the disadvantages of inflexibility if conditions change in unexpected ways.

“Given the global and local uncertainties facing us (as reflected, in part, by the large ranges in Metro's population and employment forecasts) we believe the region should strike a balance that tends towards the risk management/flexibility end of the scale rather than locking up most of the land on the periphery of the UGB for 50 years. One way of providing flexibility is to set reserves for a forty-year period, and simultaneously plan to revisit whether additional reserves should be designated well before that forty-year period expires (a twenty to twenty-five year ‘check-in’).”¹⁶

If choosing the outer limit of the allowable time span and the upper end of the population and employment forecast results in a designation of urban reserves that does not conform to the law, which we believe this does not, then Metro must choose a lesser time span and/or a lower point within the forecast.

Remedy: Direct Metro to reduce the amount of Foundation farm land designated as urban reserves consistent with state law. Designate those lands as rural reserves, because by definition they meet the rural reserves factors and they are subject to urbanization.

promises made when the land was brought into the UGB that it could be cost-effectively served. This latter point is the real example Metro should be looking to in evaluating future UGB actions.

¹⁵ Metro, *Comparative Infrastructure Costs: Local Case Studies*, 2008; FCS Group and Cogan Owens Cogan, *Regional Infrastructure Analysis*, 2008.

¹⁶ Joint State Agency Comments of October 2009.

Objection 3: The alleged need for 3000 acres for large lot industrial use is without substantial evidence, and the designation of lands to meet this “need” violates the reserve rule and statute by improperly using large blocks of Foundation farm land.

Metro determined that the existing UGB has sufficient capacity for overall employment growth for the 50-year reserves period.¹⁷ However, the Metro decision includes approximately 3000 acres of net buildable land that is “suitable for larger-parcel industrial users” to “account for the preference of some industrial employees for larger parcels.”¹⁸ This fails to comply with the reserves law, for several reasons.

First, there is no legal basis for providing for any specific type of land use – here, large lots for industrial purposes – in the urban reserves. Nor is there a provision allowing for setting aside large blocks of land for industrial use. In fact, the reserves law specifically and only says that *agricultural* lands should be protected in “large blocks” in the *rural* reserves, which matches the Legislature's purpose in adopting Senate Bill 100 originally. ORS 215.243(2) The reserves law does not provide that land should be created or maintained in large blocks for any other use. The Legislature knew how to use reserves to preserve land in large blocks for certain purposes – it chose not to do so here.

LCDC disallowed use of this same “large lot” argument to drive urban reserves to farm land in the city of Newberg reserves decision. Although the reserves process used in Newberg falls under a different administrative rule, the legal and policy rationale is the same. In its remand order of April 22, 2010, LCDC stated:

“OAR 660- 021-0030(1) does not authorize a city's long-term land need to be based on specific siting requirements for particular uses, and that (instead) the amount of land in a city's urban reserves must be based on generalized long-term population and employment forecasts.

* * * *

“THEREFORE, IT IS ORDERED THAT: 1. The City’s decision designating URAs is remanded to remove identification of specific industrial, commercial, institutional, and livability needs.”

Second, the Metro decision acknowledges that this “preference” for large lots for industrial purposes has driven the decision to incorporate Foundation farm land that otherwise would be in rural reserves. There is no legal basis to make any urban reserve decision based on “preferences” of some employers.

Third, this does not make sense from a practical standpoint. Reserves are for a 40 to 50 year time frame. Metro’s underlying technical reports acknowledge the difficulty of projecting industrial land needs and, in any event, the decision lacks substantial evidence that there is an unmet need for large lots for the reserves time period. The 3000 acre number comes from this analysis:

“Based on the analysis done in the Urban Growth Report for the 20-year time frame plus historical demand estimates, it is estimated that 100 acres per year would be appropriate over the 50-year urban reserves time period.”¹⁹

As explained in Objection 1, the urban reserves need projection, including for employment land, exceeds the 50-year time frame and therefore cannot be relied upon. The flaws in that analysis

¹⁷ Metro decision, p. 23.

¹⁸ Metro decision, p. 23.

¹⁹ Metro decision, p. 119 (staff report of June 9, 2010).

described in Objection 1 are amplified here, where Metro acknowledges that the 3000 acres estimate is based on historical demands, not a future demand.

There also is no substantial evidence in the record to support a need for 3000 acres of large lot sites; the projected future employment trends, how that employment will use buildings, and the locational requirements and desires for that employment do not support this conclusion. The 3000 acres does not seem to take into account Metro's conclusion that "employment land will develop more efficiently in urban reserves," because "industrial activity [is shifting] from production to research and development with the result that higher floor area ratios, more demand for office-type building products and more of a focus on the smaller products being located along corridors and centers."²⁰ Metro's large employer/large lot analysis shows that the office building type is the most efficient of any industrial business type in terms of jobs per acre.²¹ Thus, whatever demand there might be today for large lots, it is diminishing.²²

Finally, it appears that Metro may have designated more than 3000 acres for large lots, and that the overwhelming majority of it is on Foundation farm land in Washington County, thereby driving the flaws in the overall reserves decision, described in Objections 1 and 2. Urban Reserve Area 8A, Hillsboro North, contains 2265 acres of buildable land and was designated an urban reserve to meet the alleged need for large lot industrial sites.²³ This area is also Foundation farm land, is "highly" subject to urbanization, and is irrigated. And it has the important natural landscape feature of Weibel Creek. There is no other need stated for this land, or for this amount of land. Thus, almost the entire regional "need" for large lot is proposed to be met on one site of Foundation farm land in Washington County. There is no factual basis for the implied conclusion that most of the large lot need is in one small part of the region.

Assuming that the "need" is legitimate, there are alternatives in the region to over 2000 acres of Foundation farm land in one location. In fact, all the designated urban reserves on Conflicted or Important land could and must be examined to meet this need. The existence in some cases of a "plan" for other uses of a proposed urban reserve is irrelevant. (For example, area 6A Hillsboro South, larger parts of Stafford and Borland Road, areas around Wilsonville).

Metro also designated other areas around the region pursuant to the large lot "need," including but not necessarily limited to portions of 7I Cornelius North (Foundation), possibly portions of 7B Forest Grove North (Foundation), 1D and 1F Boring (not Foundation), Borland Road (not Foundation), 2A Damascus South (not Foundation), 5F Tonquin. It appears this might drive the overall acreage for large lots to over 3000 acres.

Metro's decision to add 3000 acres of Foundation farm land to the urban reserves is without basis in law and lacks substantial evidence.

Remedy: Direct Metro to analyze reserves land need without a large lot for industrial users factor, and to remove 3000 acres of Foundation farm land designated for that purpose.

²⁰ Metro decision, p. 119.

²¹ 2009-2030 Urban Growth Report, *Appendix 4: Forecast-based large employer/large lot analysis*. See, for example, table 6.

²² Chief Operating Officer Recommendation, Sept. 15, 2009; including App. 3E-D.

²³ Metro decision, p. 90.

WASHINGTON COUNTY AND SPECIFIC AREA OBJECTIONS

Objection 4: Washington County’s reserves analysis, on which Metro relies, is legally flawed.

Washington County conducted an analysis for purposes of designating urban and rural reserves that is legally flawed. The County analysis brought in elements not in the law, and used various weighting schemes to measure these and other elements, resulting in an analytical system that in some cases is actually contrary to both the purpose and factors of the Reserve statute and rule.

Metro appears to have incorporated most or all of this analysis in its decision,²⁴ resulting in a flawed final reserves decision for the Washington County portion of the regional reserves decision. We describe here our objections to the entire Washington County analysis, and because it is part of each specific area analysis, we incorporate it without repeating it into the specific areas to which we also have additional objections.

Those specific area objections follow Objection 4, and are for the urban reserves proposed north of Council Creek (urban reserve areas 7I Cornelius North and a portion of 7B Forest Grove North); the Evergreen area (8A Hillsboro North); and the undesignated area around the towns of North Plains and Banks.

The Washington County portion of the reserves decision does not comply with ORS 195.137-.145 and OAR chapter 660, division 27, on several grounds. The statute and rule use similar language in listing the factors that must be considered when evaluating lands for rural reserve designation. ORS 195.141(3)(a)-(d); OAR 660-027-0060(2)(a)-(d), (3).

ORS 195.141(3)(a) and OAR 660-027-0060(2)(a) provide that the lands to select for rural reserves should be based on whether the land is “potentially subject to urbanization,” with rural reserves protection as a tool to protect Foundation farmlands and important natural resources that are subject to urbanization. Washington County mapped those areas subject to high, medium, or low threat from urbanization.²⁵ Little of the land designated as *rural* reserves in Washington County seems to be actually under threat from urbanization over the next 40-50 years. The analysis shows that most of the rural reserves lands are under “low” or “medium” threat from urbanization.

In contrast, *every acre* designated for urban reserves in Washington County is subject to “high” threat from urbanization and, as noted above, most of those are Foundation farm land. The State Agency letter noted and criticized this analysis.²⁶

ORS 195.141(3)(b), and (d) and OAR 660-027-0060(2)(b) and (d) provide that those lands “capable of sustaining long term agricultural operations” and that are “suitable to sustain long-term agricultural operations” are appropriate for rural reserves designation. These qualities are reflected in the land identified as Foundation farm land by the ODA.

Evidence in the record from the Washington County Farm Bureau and individual farmers describes the robust and growing agricultural economy in the region in general, and in Washington

²⁴ The Metro decision relies upon the “analysis and methodology” detailed by Washington County in its September 23, 2009 Urban and Rural Reserves Report and Recommendations to the Regional Reserves Steering Committee. Metro decision pp. 71, 95; Wash. Co. Record starting at p. 2493. Hereafter this will be referred to as the “Washington County Report.”

²⁵ Washington County Report, p. 22, and Map 16:

<http://www.co.washington.or.us/LUT/PlanningProjects/reserves/wcrcc-urban-and-rural-reserves-recommendations.cfm>

²⁶ State Agency letter, p. 13.

County in particular.²⁷ As testified to below, agriculture is Oregon's #2 industry producing over \$5 billion /year. Add in the goods and services farmers purchase from other businesses to grow food and fiber, and the value-added products that are produced, and agriculture is a \$10 billion industry, accounting for over 10% of the state's economy. The Portland region forms its core: Washington and Clackamas counties are always in the top 5 of Oregon's counties in agricultural production. Multnomah County leads the state in food processing – which was the *only manufacturing sector* in Oregon to show positive employment gains in 2008. That core industry of food processing relies upon the proximity of its inputs – from Washington, Clackamas, and Multnomah county farms. Agricultural products are #1 in bulk and #2 in value of shipments out of the Port of Portland. This brings new dollars into the state and region.

Oregon agriculture has been increasing in value every year for over a decade, and Washington County's agricultural cluster has been growing for over 150 years. Yet much of the lands designated as urban reserves are those lands that have been the productive heart of Washington County agriculture for that 150 years, and which will continue to support a growing economy if designated as rural reserves, not urban.

ORS 195.141(3)(c) and OAR 660-027-0060(2)(c) state that a factor in selecting rural reserves is whether there is “available water *where needed.*” The Washington County analysis, and hence the Metro decision, weights various characteristics in evaluating this factor.²⁸ It places an inappropriately high weight on whether land is in an irrigation district, and an inappropriately low weight if the land is in a water-restricted area. While irrigation, and in particular the existence of an irrigation district, are important contributors to the viability and vitality of the agriculture industry and represent a significant investment in infrastructure, the lack of a irrigation or an irrigation district should not be used to discount otherwise qualifying lands. Many crops, including high value ones, do not need irrigation. This skews the final decision as to whether an area should be in an urban or rural reserve for the following reasons:²⁹

- The statute and rule explicitly state that water availability is to be a factor *where it is needed.* As testified to before Washington County and Metro, many farmers grow high value crops that do not need irrigation. Examples include legume seeds, hay, grapes, grass seed and more.
- Many Washington County farmers obtain irrigation from a source other than TVID.
- Farm land in a water-restricted area should not be discounted because it has a protected source of water; these are lands that actually have an additional reason to be *in* rural reserves.

The State Agencies also found this analysis to be flawed; but apparently Washington County and Metro continued to rely upon it. Except when they did not. Almost all the Foundation farm land in the urban reserves designated north of Council Creek (areas 7I and 7B) and in North Hillsboro (area 8A) is in the Tualatin Valley Irrigation District.³⁰

ORS 197.141(3)(d)(A) and OAR 660-027-0060(2)(d)(A) address the importance of whether there is a “large block of agricultural land” in designating rural reserves. The decision seems to equate “large block” with large “parcels,” and “parcelization” with “ownership.” An area was considered “parcelized” if the majority of tax lots were 35 acres or less.³¹ This reflects a significant

²⁷ For example, letter of August 26, 2009 from Washington County Farm Bureau, Larry Duyck, and Dave Vanasche to Washington County Reserves Coordinating Committee.

²⁸ Washington County Report, pp. 6-7 and Table 1.; pp. 22-23.

²⁹ *Id.*, testimony of Oregon Department of Agriculture; State Agency letter of October 2009.

³⁰ Farm Bureau letter of August 26, 2009.

³¹ Washington County Report, p. 26; Wash. Co. Rec. starting at p. 2493.

misunderstanding of both the law and the way farming works on the ground. It looks too narrowly at parcelization, and discounts lands if they are parcelized, as follows:

- While parcelization as measured in this manner is not appropriate, the 35-acre cut-off for what is deemed “parcelized” is too high in any event. There is no evidence in the record to support this or any other parcel size. The justification provided for this was: “[Washington County] Staff’s belief that commercial agricultural production is more easily facilitated in areas where parcel size is large enough to viably farm....”³² No explanation of the 35-acre conclusion is given.
- The issue for farmers is not parcelization per se, as that seems to have been translated into ownership and tax lots. As testified to, most farmers farm small parcels that they own or lease as part of larger agricultural operations.
- The legal issue, for reserves evaluation, is whether a small parcel is located in an area that is largely agricultural in nature, or whether it is isolated in an area that is already broken up with smaller developed parcels. The issue is surrounding conflicts and the relationship with other farming activities in the region, not the parcel size. This is emphasized further by factors (d)(B), (C), and (D), which elaborate on what is meant by a “large block.”
- The Metro Council heard testimony from many smaller farmers – in particular, specialty farmers like, organic farmers, Community Supported Agriculture farm owners, and those just starting out in farming – that they rely upon these smaller parcels and are producing high-value crops on them.
- The Metro decision is selective in its application of this factor – as noted in testimony, some of the most significant regions of Foundation farm land are in large blocks and ownerships and parcels, and yet have been designated as urban reserves - north of Council Creek, north and west of Hillsboro, south of the former St. Mary’s land, and north of Highway 26.³³
- The State Agency letter also found this analysis to be flawed.

ORS 195.141(3)(d)(D) and OAR 660-027-0060(2)(d)(D) require consideration of the “sufficiency of agricultural infrastructure in the area.” The decision does not adequately address factor (d)(D); in fact, it appears the County relied solely on the Washington County Farm Bureau to supply the information to address this issue, and was not satisfied with what it received and thus did not address it at all.³⁴ And, we can find no evidence that Metro did more, although there was extensive testimony on this factor submitted to both the County and Metro. Apparently, neither the County nor Metro conducted any analysis of their own or contacted the ODA for information. Therefore, the ODA finding that the areas designated as Foundation farm land are critical to maintain the sufficiency of the agricultural infrastructure in the area stands.

However, there is substantial evidence in the record from local agriculture-related businesses testifying to the importance of protecting the limited amount of agricultural lands left in the County. For example, there are letters from the following, all of which were submitted to Washington County and the Metro Council:

³² Washington County Report p. 26; Wash. Co. Rec. starting at p. 2493.

³³ Washington County Report, App. 1, Map 24.

³⁴ Washington County Report, Issue Paper no. 10.

- Ag West Supply, Aug. 19, 2009
- Rick’s Independent Crop Consulting Services
- Metro New Holland, Aug. 10, 2009
- Wilco Winfield LLC; Aug. 1, 2009
- Western Ag Improvements, Aug. 10, 2009
- Fisher Farm & Lawn, July 9, 2009

As an example, here is partial testimony from one large equipment dealer, located in Cornelius, who described:

“the importance of the region’s agriculture to another segment of the local economy... those businesses that support the region’s agricultural producers...include[ing] farm equipment dealers; farm chemical and seed businesses; businesses that prepare, process, or package agricultural products, trucking company businesses....Businesses that provide services, goods, and other infrastructure needs to agriculture in Washington County depend on a critical mass of...suitable agricultural land. Loss of agricultural land in Washington County has been dramatic and is of concern to our business.”³⁵

Metro’s Chief Operating Officer, in his recommendation, commented specifically on the importance and expense of one type of agricultural infrastructure – irrigation districts – and relied on that as part of his recommendations that certain lands be designated rural reserves.³⁶ Yet this did not make it not the final analysis or decision.

Remedy: Due to the multiple legal and factual flaws in the reserves analysis of Washington County, that portion of the reserves decision should be remanded to Metro.

Objection 5: Designation of the farm land north of Council Creek, generally north of the cities of Cornelius and Forest Grove, as urban reserves violates the reserves statute and rule (urban reserve area 7I and a portion of 7B).

The Metro decision designates as urban reserves at least 624 acres in Cornelius North (7I), located north of Council Creek. (It may be more than this because this acreage may not account for the floodplains and wetlands in the area.) Some portion of Forest Grove North (7B) is also located north of Council Creek. This objection is to all lands in both urban reserve areas that are north of Council Creek. The following reasons for this objection are in addition to those contained in Objection 4.

The area qualifies as a rural reserve. It is Foundation agricultural land and meets all rural reserve factors: It is “highly” subject to urbanization during the time period, is capable of and does sustain long-term agricultural operations, is primarily Class I, II, and III soils, is an intact large block of farm land, and the farm use and ownership patterns demonstrate long-term stability. Most, if not all, the land is in the Tualatin Valley Irrigation District. As a potential candidate for rural reserves, Washington County ranked it as Tier 1 – the most qualifying, based on all the rural reserve factors.³⁷

Written and oral testimony from the Washington County Farm Bureau and from individual farmers, some of whom farm north of Council Creek, attested to the fact that this area is the heart of the Tualatin Valley agricultural industry and contains some of the most productive blocks of

³⁵ Letter from Fisher Farm & Lawn.

³⁶ COO Recommendation, Sept. 15, 2009, p. 23.

³⁷ Washington County Report.

farmland in the state. Agriculture-related businesses in Washington County testified that this area is critical to the economic health of the supporting agriculture infrastructure and industry.³⁸

The area designated as urban reserves has significant and irreplaceable agricultural infrastructure in it, which the decision does not address although it is required to do so. These include, among others: Tualatin Valley Irrigation District infrastructure; VanDyke Seed, a seed-cleaning plant; Jacobsmuhlen's Meats, a meat processor; Spiesschaert Enterprises; and Duyck Produce. Nor does it address the nearby agricultural infrastructure – inside the urban areas of Cornelius, Forest Grove, Hillsboro, North Plains, and Banks - and the impact of designating this land as urban reserves.

The area north of Council Creek also qualifies as rural reserves because it is a mapped significant natural landscape feature under the rural reserves statute and rule.³⁹ Council Creek and its floodplain form a natural boundary separating urban and rural uses, and qualify as an important natural landscape feature. Crossing Council Creek would be a significant intrusion into the heart of Tualatin Valley agricultural land and industry, without any other logical, natural boundary evident. Because the area qualifies under *both* the agricultural land and natural resource categories as a rural reserve, the burden of proof to designate it as urban is even higher, and has not been met. OAR 660-027-0060(1).

Furthermore, expansion across Council Creek is contrary to the urban reserve factors, and is contrary to the stated local aspirations of Forest Grove and Cornelius, as reflected in their local plans and on-the-ground circumstances. Both want significant transit improvement, including eventually light retail. Urban reserves north of Council Creek would not facilitate compact, mixed-use development in the current town centers of either city, and would be contrary to creating a community that is well-served by transit. The land proposed is not proximate to the high capacity transit line that Cornelius envisions for its community or to the rest of the city; rather, the urban reserves land to which we object is across a wide creek and floodplain, far from the proposed transit line. Urbanizing this area would reinforce auto-oriented development patterns and would be contrary to the state and region's climate change goals.

The Metro Chief Operating Officer relied on this in finding that the area north of Cornelius does not qualify as an urban reserve:

“Large scale urbanization in the area to the north may detract from implementing the 2040 Plan by placing thousands of households and jobs farther away from centers and transit corridors, thus increasing Vehicle Miles Traveled (VMT) and making it more difficult to support the recently adopted High Capacity Transit (HCT) corridor from Hillsboro to Forest Grove.”⁴⁰

Urbanizing the area north of Council Creek would also be expensive. “To improve such [transportation] access would require considerable regional resources.”⁴¹

The Metro decision is suppose to be based on regional need, not local wishes. Yet the decision relies, in part, on Cornelius' desire for 150 acres of land for industrial use, and on Cornelius

³⁸ See, e.g., testimony of Fisher Farm & Lawn; Ag West Supply; Rick's Independent Crop Consulting Services; Wilco Winfield LLC; Metro new Holland; Western Ag Improvements. ,

³⁹ Metro Natural Landscape Features Map; Washington County [Map 5 Natural Landscape Features Inventory - Metro \(February 2008\)](#)

⁴⁰ COO Recommendation, Sept. 15, 2009, p. 24.

⁴¹ *Id.*

apparent pledge to serve the area and provide governance.⁴² Reliance on a local need or desire is not a legal criterion for an urban reserve designation. The law provides for such consideration when evaluating UGB expansions, not urban reserves.

Moreover, if the individual characteristics of Cornelius are taken into account, the justification to add this land as an urban reserves diminishes even more. Cornelius has, and has had for some time, hundreds of acres of vacant and underutilized land. Metro's analysis shows that Cornelius currently has 125-150 acres of vacant, buildable land inside its portion of the region's urban growth boundary – over 10% of the current area of Cornelius. This includes over 50 acres of land that Metro added to Cornelius only a few years ago for industrial use. That land is still being farmed. It is not clear whether the city has even annexed it yet. Another 20+ acres of land, which has full urban services and is in an industrial park, has had a "For Sale" sign up for years. The aerial map of the Cornelius and Forest Grove area, submitted in the record, illustrates the large amount of vacant land within the current boundaries of both cities, much of which is being farmed still.⁴³ Reliance on the alleged needs or desires of one city is not legal, and does not support this decision in any event.

The State Agency letter also recommends against including the land north of Council Creek in the urban reserves, concluding it does not qualify under the law.⁴⁴

"The state agencies generally concur with the COO recommendations for this area....Rural reserves for areas here that are a significant distance from the existing UGB don't appear to meet the factors in the rule for designation of rural reserves... and generally there is too much land designated as rural reserves in this area."

The Metro Chief Operating Officer concluded:

"The area includes some of the best agricultural land in the state. To the north of Cornelius and Forest Grove, there is a well-established agricultural community that is part of the Tualatin Valley Irrigation District, representing a significant investment in agricultural infrastructure and a key component for proving agricultural product flexibility."⁴⁵

The Metro decision findings are conclusory, in most cases simply restating the law or relying on Washington County's analysis, which is flawed as described in Objection 4.

In addition, it appears that neither Metro nor Washington County addressed at least two factors in designating this area for urban reserves: OAR 660-027-0050(7) – can be developed in a way that preserves important natural landscape features, and (8) – can be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves. Nor did they address at least one rural reserve factor – OAR 660-027-0060(d)(B) – the existence of buffers between agricultural or forest operations and non-farm or non-forest uses.

These three factors are intertwined, and unaddressed. Council Creek currently provides a significant natural buffer between urban and rural uses, the importance of which was testified to repeatedly by farmer experts and residents of the area. Council Creek is mapped as an important natural landscape feature that limits urban development and defines the natural boundaries of urbanization. OAR 660-027-0005(2). Yet this decision leaps right over Council Creek, creating an urban/rural boundary that is basically an invisible line in a field. It eliminates the natural buffer and

⁴² Metro decision, p. 89.

⁴³ Maps attached to testimony of 1000 Friends and Save Helvetia.

⁴⁴ http://library.oregonmetro.gov/files/final_consolidated_state_agency_comments.pdf

⁴⁵ COO Recommendation, Sept. 15, 2009, p. 23.

creates an immediate interface of conflict. The decision does not address the impact urban reserve designation will have on the adjacent farm land or on the wetlands and floodplains of Council Creek that would be in urban reserves. Finally, despite much testimony on the subject and legal requirements to do so, the decision does not address the impact this intrusion into the heart of the Tualatin Valley agricultural community will have on the future of regional and statewide agriculture.⁴⁶

Not urbanizing the land north of Council Creek would still leave Cornelius with approximately 350 urban reserve acres on the south side of Council Creek and to the east and south of the city (7C Cornelius East and 7D Cornelius South), more land than the city is likely to use in a 50-year period based on the city's past land absorption rates. It will also leave Forest Grove with most of the land in the Forest Grove North urban reserve area, plus all of 7E Forest Grove South.

Remedy: Remand the Washington County portion of the decision with direction to remove the urban reserve designation north of Council creek in 7I and 7B, and to designate the lands as rural reserves. Designation of the lands north of Council Creek as urban reserves does not meet the legal test of balance, locally or regionally; nor does it meet the criteria for urban reserves. These lands do meet the criteria for rural reserves.

Objection 6: Designation of the Hillsboro North area (8A, Evergreen) as an urban reserve violates the reserve statute and rule.

Proposed urban reserve area 8A Hillsboro North contains 2265 acres and extends north of Hillsboro to Highway 26 and as far west as McKay Creek, thereby crossing Jackson School Road and bringing urbanization all the way to and beyond the Jackson School Road interchange. It encompasses Waibel Creek, which runs north-south. The following reasons for this objection are in addition to those contained in Objection 4.

Area 8A is entirely Foundation agricultural land and meets every rural reserve factor. It is highly subject to urbanization during the time period, is capable of and does sustain long-term agricultural operations, is primarily Class I, II, and III soils, is an intact large block of farm land. As one farmer testified, the land here is even better than that on Sauvie Island.⁴⁷ The area is entirely irrigated by a groundwater system. Sewell Road and the exception area are an excellent manmade buffer and edge that can protect the area from conflicting uses, and the farm use and ownership patterns demonstrate long-term stability.

In addition, the proposed area's proximity to Jackson School Road will be a magnet for future urbanization in this western direction, adversely impacting the farm lands around this area with conflicting uses, speculative land purchases, urban traffic, and more. The current and future transportation system in this area is auto-dependent, which will exacerbate the region's greenhouse gas emissions, and our ability to reduce them, which is already in doubt.

The extension of this area across Jackson School Road and to the interchange at Highway 26 eliminates several natural and manmade buffers that could have been relied upon to reduce the conflict between urban and rural uses: Waibel Creek, Jackson School Road, Sewel Road, and an

⁴⁶ See, for example, testimony presented by Dave Vanasche and the Washington County Farm Bureau from SAIF on the current dangerous traffic conditions caused by urban dwellers using Washington County farm roads to cut-through from one part of the urban area to another, causing safety conflicts for farmers and farm equipment, and additional testimony on how the conflicts will increase with an urban reserve designation.

⁴⁷ Testimony of Laura Masterson to Metro Council and Core 4.

existing exception area. Instead, the proposed urban reserve has no natural or manmade buffer to protect rural from urban uses.

As described in Objection 5, the decision does not address OAR 660-027-0050(7), (8) or OAR 660-027-0060(d)(B). There is no evidence in the record that these factors can be addressed. Nor is there evidence in the record that any interchange management plan for the area as it impacts Highway 26 would be effective, or that any interchange management plan has ever been effective, in reducing impacts on interchanges, highways, and on surrounding farm lands.

Remedy: Remand the Washington County portion of the decision with direction to remove the urban reserve designation from 8A Hillsboro North, and to designate the lands as rural reserves.

Objection 7: Most of the “undesigned” lands around North Plains and Banks should be rural reserves.

The Metro decision leaves substantial areas around the towns of North Plains and Banks as undesignated, apparently so those cities can in the future designate urban reserves or expand their UGBs. An examination of the map shows the undesignated lands are about four times the size of each city’s current footprint. Even the large urban reserves proposed for the Metro UGB are not anywhere near that order of magnitude larger than the current urbanized area. There are no projections that even half this much land would be needed for urban reserves for the two towns. Not only is it extremely unlikely that these cities will experience that much growth, but demographic and employment projections demonstrate that future growth will not be accommodated in a *less* dense pattern than already exists (this likely would also be contrary to law).

Therefore, “undesigned” in these areas is a misnomer; it is actually – as stated by elected officials during the course of this decision - a category of “next-in-line” lands for urbanization. However, that is not contemplated by the law.

Much of these areas clearly qualify for rural reserve designation – they are part of large blocks of Foundation land in active, long-term, stable agricultural production and consist of Class I, II, and III soils. It appears that almost all the lands are in the Tualatin Valley Irrigation District or have water rights.⁴⁸ Based on the testimony of local officials from North Plains and Banks, they are subject to urbanization in the time period.

The impact of leaving areas that qualify as rural reserves in an undesignated category must be evaluated, not only on those lands, but on the farm and forest lands around them. ORS 195.141(3)(d)(B), OAR 660-027-0060(d)(B). The remaining farm land in Washington County will be squeezed between urban areas, causing it to become less and less viable for agriculture. Local farmers testified to the difficulty of farming in areas that are under speculative pressure to urbanize, which these will be – Metro Councilors and Washington County Commissioners described the function of the undesignated lands as “safety valves” for urbanization, and that some might be urbanized in the planning period.

Testimony from Washington County farmers Dave Vanasche, Bob Vanderzanden, Larry Duyck, and others described the types of conflicts they already experience in farming lands near the edge of urbanization, and which will increase if the category of “undesigned” lands is large. These conflicts include: lost land leases; restrictions by landlords on planting anything but an annual crop;

⁴⁸ Washington County Report, App. 1 Map 18.

lack of investment in or repair of infrastructure; speculative buying driving up land prices; competition with non-farms for use of the land; planting of lower value crops.⁴⁹

For additional reasons, the undesignated area around North Plains lacks justification. Approximately 10 years ago, after a protracted legal battle, North Plains received approval from LCDC for a UGB expansion to the north and east of the city, on to prime farm land, because the city argued strongly and successfully that a UGB expansion across Highway 26 to the south would be prohibitively expensive to serve, would cut the city in half, and would violate the city's adopted vision as a compact community with connected, walkable neighborhoods. The city pointed out that it is "North" Plains, not "South" Plains. 1000 Friends of Oregon was persuaded by this argument and did not object to not crossing Hwy. 26 to the south with the UGB expansion. Others litigated the issue, and the LCDC decision prevailed.

Now, just a short time later, the area to the south of North Plains is left undesignated, in case North Plains wants to grow in that direction. Apparently, the rationale for not doing so has become moot – it is no longer expensive to serve and cutting the community in half with a highway is not an issue? It seems like just the opposite would be true – that it is even less likely the city would grow to the south, since much of the lands added to the north and east have not yet been annexed or developed.

This does not meet the purpose of the reserve legislation, ORS 195.139, which is to offer "protection of large blocks of [agricultural] land ...to maintain their viability." These lands meet the rural reserve factors and should be designated as such, possibly with a significantly smaller area of undesignated lands around the two towns should either be able to justify a future UGB expansion. The Metro COO also recommends that this area be designated as rural reserves.⁵⁰

Remedy: Remand Washington County portion of the decision with direction to remove or decrease the size and location of the undesignated lands around North Plains and Banks.

⁴⁹ See, for e.g., testimony of Dave Vanasche, including documentation of lost lease due to possible inclusion in UGB; testimony of Larry Duyck and Bob Vanderzanden

⁵⁰ COO Recommendation, Sept. 15, 2009, pp. 25-26.

Thank you for consideration of our objections.

Mary Kyle McCurdy

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1000 Friends of Oregon

Dave Vanasche
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