June 2, 2011

Mr. Jerry Lidz, Director
Mr. Larry French, Urban and Rural Reserves Specialist
Oregon Department of Land Conservation and Development
635 Capitol Street NE
Salem, Oregon 97301

Dear Mr. Lidz and Mr. French:

The Oregon Department of Agriculture (ODA) hereby files the objections discussed below to the decisions by Metro (and Washington County) to adopt urban and rural reserves (Metro Ordinance No. 11-1255). We also incorporate herein by reference and renew all objections, comments and testimony we made to the original Metro Ordinance No. 10-1238A and Washington County Ordinance No. 733.

Contacts:  Katy Coba, Director
            Jim Johnson, Land Use and Water Planning Coordinator
Address:    635 Capitol Street NE
            Salem, Oregon 97301
Telephone:  503.986.4706
Email:      kcoba@oda.state.or.us
            jjohnson@oda.state.or.us

ODA submitted written comments related to the most recent decision in a letter dated March 8, 2011 addressed to Metro President Hughes and Washington County Commission Chair Andy Duyck.

ODA also participated in the process first as a member of the Reserve Steering Committee (RSC) and second as a party to letters providing comment from nine state agencies.\(^1\)

Additionally, ODA conducted analysis and developed a report entitled Identification and Assessment of the Long-Term Commercial Viability of Metro region Agricultural Lands, January 2007, which was the basis for much of the discussion relating to agricultural lands in the region and is referenced by name in the Land Conservation and Development Commission Administrative Rule that deals with the reserves process (OAR 660 Division 27).

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\(^1\) Letter dated October 14, 2009 addressed to the RSC and the Core 4, 1370 of Page Metro index of submitted materials (Ordinance No. 10-1238A) (here after referred to as the state agency letter); Letter dated January 22, 2010 addressed to the Core 4 members, Page 1630 of Metro Index of Submitted Materials Ordinance No. 10-1238A).
Objection 1: The decision is not consistent with the purpose and objective of OAR 660, Division 27.

OAR 660-027-0005(2) states:

The objective of this division 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 for its residents.

We discussed the failure to achieve the required balance in our original objection. We assert that Metro and Washington County (County) extended if not expanded support for this imbalance in their most recent decision. We believe that based on LCDC’s (Commission) oral remand, Metro and the County mistakenly decided to “make up for lost acres” in effect replacing “lost” acres on an acre for acre basis. We do not believe that this was the intent of the Commission.

This mistake was further compounded by Metro and the County only looking to lands located within Washington County to “make up for the loss.” There are many areas located throughout the region that could meet specified needs without impacting quality agricultural lands. As a side note, it is curious that most of the “lost” lands are located in the Cornelius and Forest Grove areas yet the replacement lands are located north the City of Hillsboro and Highway 26 (352 acres designated as urban reserve) and south of Hillsboro (383 acres removed from a rural reserve designation).

The remedy is a remand with instructions to reduce the amount of urban reserve lands that are recognized as Foundation Agricultural Lands. This would include the change of certain proposed urban reserves (see objections below) to rural reserves consistent with the rural reserve factors. The decrease of urban reserve acreage would still result in a total urban reserve within the 40-50 year range recommended in the urban growth report and the recommendation of then Metro COO, Michael Jordan.²

A remand could also include instructions to better designate rural reserves that meet both the quality standards and the threat factors established by the rule and to adjust the amount of urban reserves lands to better achieve a balance that protects quality agricultural lands that truly require protection from urbanization. Planning for a 40-year planning period as called for by the nine state agencies³ could also remedy the situation in terms the total acreage required to meet the identified need.

Should the Commission decide that additional acreage is warranted, land not designated as Foundation Agricultural Land that could “substitute” for the subject urban reserves and

² Pages 597 and 604 of the original Metro Index of Submitted Materials (here after referred to as the Metro COO Recommendation).
³ State Agency Letter dated October 14, 2009; Letter dated January 22, 2010 addressed to the Core 4 members, Page 1630 of the original Metro Index of Submitted Materials.
undesignated lands is located southwest of Borland Road, southeast of Oregon City, in the Clackamas Heights area, east and west of Wilsonville, and between Wilsonville and Sherwood.

Objection 2: The analysis and designation of key Washington County agricultural lands as Urban Reserves and failure to designate qualified agricultural lands as rural reserves is flawed.

We discussed this concern in our previous objection and include those comments here by reference. In our letter to Metro and the County dated March 18, 2011 dealing with the most recent action, we also reiterated our previous comments related to the flawed agricultural analysis used by the County and incorporated by Metro. We also expanded our comments as follows:

Much of the county analysis related to agricultural capability depends on a report done by an OSU Extension soil scientist (Agricultural Productivity Ratings for Soils of the Willamette Valley, J. Herbert Huddleston). This report provides an alternative method to characterize the relative fertility of soils in the Willamette Valley as an alternative to the agricultural capability system developed by the USDA Natural Resources Service that is commonly used in NRCS soil surveys, including the Washington County Soil Survey. Washington County staff has indicated their reliance on this report due in great part to the their contention that the county soil survey is outdated. The reference by county staff to the “published soil survey” in their testimony, both written and oral, in effect relates to the “paper survey” which refers to soils conditions in 1975 and later 1982. If this document were indeed the source for data used in soil capability analysis, we would agree that it is “outdated.”

It is important to note that the “official” soil survey for Washington County (and most others) is now found electronically on the Internet. Electronic soil surveys are the source for most spatial analysis relating to soils used involving geographic information systems. The USDA NRCS Soil Survey Geographic (SSURGO) database for Washington County was the source of soils data used by ODA to conduct all analysis related to soils. Since 1982, this database has been updated numerous times by the NRCS. According to the most recent meta data information from SSURGO, the Washington County Soil Survey has received several updates since 2000, the most recent in 2010.

ODA staff has reviewed the Huddleston report. We would point out that the report is not dated, however cover notes within the report indicate that research on the subject began in 1976, making some of the assumptions about crop diversity and value rather dated. Data currently available within the official Washington County Soil Survey would be a much better source for data relating to agricultural capability. For further detailed analysis of this report see the attached memo from Paul Measeles, ODA hydrologist and a registered geologist to Jim Johnson, ODA Land Use Water Planning Coordinator.
The analysis for purposes of designating urban and rural reserves in Washington County is inconsistent with the applicable law. The analysis conducted by the County and integrated by Metro into their decision involve elements not in the law, and used various weighting analyses to measure those and other elements, resulting in some blocks of land being designated contrary to both the purpose and factors of the statute and rule. As pointed out in the state agency letter, factors used by the county many times downgraded the value of certain agricultural lands for protection as rural reserves.

The remedy for these deficiencies is a remand of the portion of the decision that discounts the value of agricultural land for protection as rural reserve on the basis of the analysis conducted by the County and incorporated by Metro. The Commission could also consider the analysis done by ODA and require designation of lands located north of Cornelius, north of Waibel Creek, north of Highway 26 and south of and adjacent to Highway 10 as rural reserves.

Specific Area Objections

Objection 3: Failure to designate agricultural land north of Council Creek (Area 71) as a rural reserve is inconsistent with the Reserves Statute and Rules.

This area originally contained 623 acres located north of Council Creek. Metro and the County originally designated this area as an urban reserve. The Commission directed Metro to remove the urban reserve designation from this area. Metro on remand decided to designate the northern 263-acre portion of the area as rural reserve but left the southern 360 acres north of and adjacent to Council Creek undesignated. The dividing line between the northern and southern portions is just that, a line (property lines of existing lots/parcels).

The decision to leave the area north of Council Creek undesignated is not consistent with the reserve rules and statute. The following statement we made in our previous objection to this areas merit stating again.

This area is perhaps the textbook example of land that qualifies for protection as a rural reserve. It is Foundation Agricultural Land and meets all of the factors in law that are required to be considered for the designation of rural reserves including valuable, prime farmland soils, availability of water and agricultural infrastructure and perhaps just as important as these physical capability factors, the area is part of a much larger block of agricultural land that maintains the integrity needed to sustain agricultural operations with minimal conflict from urbanization and nonfarm land uses. It is also under constant threat to be urbanized as evidenced by its long history of advocacy for inclusion within the Cornelius Urban Growth Boundary, including the designation as an urban reserve by Metro. This is supported by testimony from area farmers, Washington County Farm Bureau, agri-businesses, and the recommendations from the Metro COO and the state agencies.

As with the previous urban reserve designation, the integrity of this area is at risk by not protecting the subject area as a rural reserve. An “undesignated” strip of land sandwiched
between an urban area and a rural reserve in effect acts as a future area for development. In this case, the “undesignated” land runs parallel to the existing urban creating a “new edge” with agricultural lands located to the north, east and west. This edge provides no buffer or protection to adjacent agricultural lands, unlike Council Creek.

Left “undesignated, these lands become in effect a protrusion of potential urban land which would have implications on agricultural operations both within and adjacent to the subject lands. First as “undesignated” lands, these lands in effect become next in line for urbanization and in fact, could move up in line should they be designated by future actions as urban reserves, current law does not limit the addition of new rural reserves from land not protected as a rural reserve. Second, because these lands could be urbanized sooner, the speculative value of the land becomes much higher then if protected for agricultural use making it difficult at best for farmers to rent, lease or acquire the subject lands. Speculation and high land values also tend to preclude current farmers from developing agricultural infrastructure and developing high-value crops, such as perennials, that require a long time to mature and realize income for the farmer.

This very concern was recently discussed in an article in the April 29, 2011 Capital Press (Submitted into the record by North Plains area farmer Larry Duyck, see attached). The example cited involved 89 acres of Washington County farmland currently zoned EFU listed for sale for $3.3 million by a local real estate agent. The article indicates that the designation of the subject property as an urban reserve increases the value of the subject property by $2.8 million over its value as farmland. We would suggest that this speculative land value would also impact lands that remain undesignated. This would especially be of concern in the subject situation, as the “undesignated” land would be sandwiched in between the existing urban growth boundary and a rural reserve area.

Finally, urbanization of these areas has implications to adjacent agricultural operations. Council Creek currently provides an excellent and definable edge and buffer between urban lands and the block of agricultural land located to the north. The protrusion of “undesignated” land into this area as proposed creates an additional two edges for agricultural operations to deal with. These edges provide no real buffer to adjacent agricultural lands. Additionally, such a protrusion out and into agricultural lands has long-term implications on surrounding agricultural lands. The extension of urban services such as roads, sewer and water lines north into this area can do nothing but put pressure to ultimately urbanize and infill the notches of rural land remaining to the west and east. And any such extensions of roads to the northern edge of this area could promote further extension north to U.S. Highway 26 with implications to the larger agricultural area. It is also important to point out that the “undesignated status” does not provide the added protection from plan amendments and zoning changes that is afforded by a rural reserve designation.

Metro has provided no findings to explain why this area should not be designated as a rural reserve or any findings that explain why the area was left undesignated. It would seem that the only reason to leave this area undesignated is to provide the potential for future urbanization with all the implications previously discussed to area agriculture.

4 Farmers contend urban reserve eroding farmland, Capital Press, April 29, 2011.
The remedy is to remand this portion of the decision with direction to designate this area as rural reserve.

Objection 4: The 440 acres added to the urban reserve Area 8B should be designated rural reserve.

This area is located north of U.S. Highway 26 and west of Helvetia Road. Metro's most recent decision changes 352 acres from "undesignated" status to urban reserve. With the existing 88 acres previously approved as an urban reserve, this area now encompasses an urban reserve area of 440 acres.

This area was specifically called out in the state agency comments dated October 14, 2009.

The area north of Highway 26 to the west of Helvetia and east of Jackson School roads should be designated rural reserves to form a "hard edge" to the boundary in this important agricultural region, except for an area just east of the City of North Plains, which could remain "undesignated."

We, along with eight other state agencies made only one exception to protecting the lands north of Highway 26 as a rural reserve. This involved the original 88 acres that was ultimately designated as urban reserve. The state agencies remarked that this area should remain undesignated or be designated urban reserve in order to facilitate the "...additional transportation investments that are anticipated."

Because this is a new area of "concern" that was not discussed in detail in our first objection, we provide a more detailed discussion below of the attributes that qualify this area for rural reserve designation related to agricultural capability and suitability.

The subject 352 acres are part of a much larger block of agricultural land and as such, are highly suited to and merit designation as rural reserve. This area was determined by ODA to be Foundation Agricultural Land. The soils in this area are defined as high-value soils in state law. Most of the soils in the Helvetia area are also prime soils as defined by the U.S. Department of Agriculture and are classified as Class I and II agricultural soils. These soils are considered the best of the best for agricultural production. Farms in the area have also made substantial investment in drainage infrastructure in the area.

While the subject area is not located within an irrigation district, it is important to note that there are significant numbers and quantity of both surface and ground water withdrawals in this and the surrounding area. There are also numerous examples of high-value crops in the area that do not require substantial irrigation due to favorable climate conditions.

The subject area is also part of a larger block of agricultural land that has maintained excellent agricultural integrity resulting in few negative implications to conducting efficient and effective farming operations. The pattern of parcelization in the region has facilitated a full range and
scale of operations, tenure (fee title, lease, rent) that in turn provide good opportunities for adaptation to changing trends in agriculture. Maintaining existing, well-developed edges and buffers from existing and future urban development would best sustain the existing integrity. Highway 26 provides such an edge, currently from development located to the southeast and when urbanized as currently planned, to the south of Highway 26.\(^5\)

This area meets all the legal requirements for designation as a rural reserve. Designation as an urban reserve that protrudes out into the larger rural reserve area would have implications on the area agricultural lands already deemed qualified for rural reserve designation.

The remedy is to remand this area with direction to designate it as rural reserve.

**Objection 5:** The area located north of and adjacent to Rosedale Road and south of Area 6A were improperly converted from Rural Reserve to undesignated status.

This area meets all the requirements for designation (as decided earlier) as Rural Reserve land. It is Foundation Farmland, is part of a larger block of agricultural land and includes tracts of land currently employed in farm use. The area is most certainly subject to a threat of urbanization as evidenced by its location adjacent to the urban growth boundary and the removal of the rural reserve designation that was previously afforded to the area.

The “new” undesignated area would in effect extend the potential for urbanization along the entire length of the urban growth boundary from southern Hillsboro to Kings City. It would also extend the potential for urbanization much farther south then ODA found to be conducive to long-term viable agricultural operation in the area. ODA analysis early on recommended that development in the “South Hillsboro” area stop at Butter Creek where a good edge and buffer could be established.\(^6\) After consultation with other state agencies, the ultimate decision was to support an urban reserve designation south to Rosedale Road where an edge and buffer could be maintained to protect the large agricultural region to the south. The decision to potentially urbanize the area south of Rosedale Road by removing the protection afforded by the rural reserve designation in effect removes the edge.

The shape of the proposed undesignated block of land is also of concern. It does not simply parallel the existing urban growth boundary. Instead, it protrudes out into the larger block of agricultural land creating multiple edges with no buffers to the adjacent agricultural lands. There is little discussion in the decision by Metro, as required by OAR 660-027-0050(8)\(^7\), relating to

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\(^5\) The original ODA analysis of this area and classification as Foundation Agricultural Land can be found in *Identification and Assessment of the Long-Term Commercial Viability of Metro Region Agricultural Lands, January 2007*, Oregon Department of Agriculture.

\(^6\) *Identification and Assessment of the Long-Term Commercial Viability of Metro Region Agricultural Lands, January 2007*, Oregon Department of Agriculture, page 51.

\(^7\) OAR 660-027-0050(8) is the urban reserve factor that requires that an area “can be designed to avoid or minimize adverse effects on farm and forest practices and on important natural landscape features on nearby resource land, including land designated as urban reserve.
impacts to area agricultural other than conclusionary statements relating to future land use decisions. The state agency recommendation recognized the need for an adequate edge in the area resulting in the recommended edge at Rosedale Road. The proposed removal of the rural reserve status on the subject area creates an area with multiple edges with little if any opportunities to protect adjacent agricultural lands.

The remedy is to remand this area with direction to designate it as rural reserve.

Sincerely,

\[\text{Signature}\]

Katy Coba
Director
Oregon Department of Agriculture

Attachment: Capital Press article

Cc: Metro
    Washington County
    Multnomah County
    Clackamas County
    Richard Whitman
Oregon

Farmers contend urban reserve eroding farmland

Critics say flawed process pairs agricultural lands at risk from developers

By MITHC LIES

Real estate agent Clint Cronin is advertising 96 acres of the Washington County Farm Bureau land for $2.1 million. Although sold exclusive farm use, the land is on the market at approximately $1,200,000 designed "urban reserve" in the county's large urban land.

Cronin said the designation reduces the value of the property by $2.5 million or more, but he was a "come around in the market, according to the Washington County Farm Bureau, essentially pricing the land out of farming.

The farmers set out for years ago acquiring farmland, the Portland Metro area's urban and rural reserve process is ending their hard-earned and increasing development pressure on sensitive lands.

The reserve process was adopted by the 2005 legislature to preserve some farmland for the next 50 years by designating it "urban reserve." The idea was to allow farmers near urban growth boundaries to develop land by making long-term investments in farming.

The process calls for development not to exceed a ratio of "urban reserves." Urban reserves would be the first areas brought into urban growth boundaries for development, provided they could be the site of the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

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The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The new process aims to prioritize areas within the creek and Highway 24 on the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.

The process for a scientists believe the Land Commission is looking at the 118 acres of North and Metro officials designed the reservation at approximately 100 acres of North and Metro-Central and Washington counties to be protected by the Urban Land Conservation and Development Commission.