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Thomas H. Cutler, of counsel
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July 14, 2010

VIA E-MAIL (Larry.French@state.or.us)

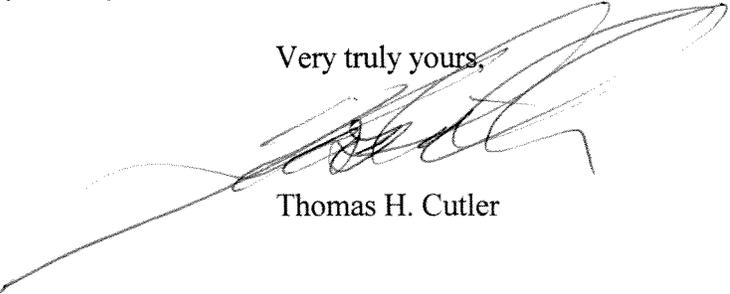
Attn: Land Conservation and Development Commission
Department of Land Conservation and Development
635 Capitol St. NE, Suite 150
Salem 97301-2540

**Re: Opposition to Inclusion of Cal Farms, LLC and
Surrounding Properties in Rural Reserves**

Dear Commissioners:

I represent Jim Calcagno of Cal Farms, LLC. His personal and business address is: 17031 S. Clackamas River Drive, Oregon City, OR 97045. Mr. Calcagno and Cal Farms, LLC strenuously object to the inclusion of their properties bordering Clackamas River Drive as Rural Reserves. My client participated at the local level by submitting written comments to both the Clackamas County Planning Commission and to the Clackamas County Commissioners. He also testified orally at the County Commissioner's hearing at which the currently proposed reserves map was adopted. I attach with this letter copies of the two letters, one signed by my client and one signed by the undersigned, setting forth the particular objections and arguments against inclusion of the Cal Farm properties as Rural Reserves. By way of correction of the erroneous decision/inclusion, we propose and respectfully request that the Rural Reserves map and related textual decision be amended to exclude the narrow, isolated strip of land bordering Clackamas River Drive, West of the Carver Bridge, or at the very least that the Calcagno/Cal Farms properties be specifically excluded for all of the reasons set forth in the above referenced and attached letters. Thank you for your consideration.

Very truly yours,



Thomas H. Cutler

THC:ljb
Enclosure
cc: client (w/encl.)

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April 21, 2010

Clackamas County Board of Commissioners
2051 Kaen Road
Oregon City, OR 97045

**Re: Opposition to Inclusion of Cal Farms, LLC and
Surrounding Properties in Rural Reserves**

Dear Commissioners:

I represent Jim Calcagno of Cal Farms, LLC. Mr. Calcagno lives on Clackamas River Drive, where he and his family conduct farming operations on acreage both owned and leased. I enclose a copy of his letter to the board of this same date. Before taking any definitive or final action with respect to the designation of "rural reserve" lands, I strongly urge the board to carefully consider Mr. Calcagno's serious concerns regarding the reserves map as presently proposed. Mr. Calcagno and his family have already experienced the press of urbanization having been displaced from their original operations in Milwaukie. They are now similarly experiencing increasing pressure and incompatibility with their already substantially urbanized surroundings at their present location. Designating this particular area as rural reserve will do nothing to stop this process. Much worse, rather than offering protection or assistance to the Calcagnos and their neighbors, this very long term designation will cause serious harm to them. Rather than being able to pick up and move further out when they are eventually overwhelmed by urbanization all around them (which is traditionally a very viable option for farmers everywhere displaced by urbanization), they will become isolated and trapped by this designation, and their options unnecessarily limited.

By way of supplementation to my client's comments, I offer the following analysis of the criteria and legal standards applicable to the board's rural reserve deliberations.

1. The Area is Already Substantially and Irreversibly Urbanized.

Under OAR 660-027-0060(2)(a), rural reserves intended to provide long term protection for the agricultural industry should be "situated in an area that is otherwise potentially subject to urbanization . . ." As my client points out along the little over a mile stretch of Clackamas River Drive near his home and farm (between 16807 Clack. River. Dr. and the Carver bridge), there are already various commercial establishments and over 50 houses. Greatly increased commuter and bicycle traffic is further evidence of the current urbanization of this area. Heavy rush hour traffic patterns already exist on this narrow, supposedly rural road. Moreover, dozens of additional

homes are already permitted or are being allowed through approved Measure 49 home site claims. Further, my client's land is directly adjacent to the existing UGB to the North and is less than a 10-minute drive to I-205. It is simply too late to properly consider this area for rural reserve designation.

The Oregon Department of Agriculture has already conducted an exhaustive study of the agricultural lands in the Metro area and concluded that this area is not "foundational." The fact is, based on the factors and realities my client illustrates in his enclosed letter, the area already substantially compromised and does not factor into long term policy or strategy with respect to the state's agriculture resources. See ODA Map attached.

Furthermore, I must also note that nine state agencies, including the Oregon Department of Agriculture and the Department of Land Conservation and Development have also weighed in on the currently proposed rural and urban reserve map, and have voiced serious concerns regarding the methodology used, specifically regarding the over-inclusion of lands as rural reserves. I enclose herewith a copy of the October 14, 2009 and January 22, 2010 multi-agency letters in this regard.

Again, designating this area as "rural reserves" will not and cannot stop the urbanization that has already reached my client. This criterion is simply not met.

2. The Area is Not Capable of Sustaining Long-Term Agricultural Operations.

Under ORS 660-027-0060(2)(b), suitable rural reserve lands are to be "capable of sustaining long-term agricultural operations . . ." As my client aptly discusses in his letter he has serious and legitimate concerns regarding the long-term sustainability of agricultural operations in the area. He has no long-term assurances regarding water supply, nor regarding his right to continue to lease lands on which his operations depend. In addition to leasing from private parties, Cal Farms, LLC leases significant acreages from Metro, which has purchased various properties along the Clackamas River. As my client correctly asserts, although he appreciates the present opportunity to keep these lands productive, he is under no illusion that these lands will be available for agricultural purposes indefinitely. Similarly, the existing surrounding urbanization and the continuing urbanization, regardless of a rural reserve designation, makes long-term agricultural operations unsustainable. This criterion is not met.

3. Area Too Small for Mutually Sustaining Agriculture.

Under ORS 660-027-0060(2)(d)(A), the area must be suitable to sustain long-term agricultural operations based on "the existence of a large block of agricultural or other resource land concentration" Given the existing urbanization within the proposed Clackamas River area and the directly adjacent and urbanizing forces surrounding this area, the proposed area cannot be considered a large enough "block" of lands for mutually supportive agriculture operations. Rather, it is a rather fairly narrow, irregularly shaped strip of land along a single

arterial roadway. There is no critical mass of AG lands and, importantly, there is already no room for my client to expand. (Through increasing demand and good practices my client and his family have been steadily expanding their operations for decades.) This criterion is not met.

4. The Area has no Buffers and is Inconsistent with Adjacent Land Use Patterns.

Under OAR 660-027-0060(2)(d)(B), long term agricultural sustainability is to be determined by consideration of adjacent land use patterns, "location and relation to adjacent non-farm uses, ... and the existence of buffers between agricultural ... and non-farm ... uses." Again, it is too late and the area too small for any adequate buffers to exist between agricultural and non-agricultural uses in the area. With respect to the adjacent land use pattern, the land is directly adjacent to the urban growth boundary and urbanization continues both outside and inside the proposed area. Similarly, with respect to the areas "location and relation to adjacent non-farm uses" it is directly adjacent to such uses with no buffer. This criterion is not met.

5. Insufficiency of Agricultural Infrastructure.

Under OAR 660-027-0060(2)(d)(D), suitability for long-term agricultural operations must take into account the "sufficiency of agricultural ... infrastructure in the area..." As Mr. Calcagno discusses, there is no significant agricultural infrastructure to speak of, and the existing roadways for access and egress in the area are barely adequate even now to support his present agricultural operations. They will too soon become inadequate as additional urban traffic flow from and to surrounding areas continue to increase. If the area is designated as rural reserve, Mr. Calcagno and his neighbors face the unfortunate irony that their rural and urban uses of the roadways and other infrastructure will continue to increase, but because the area will be designated as "rural" for up to 50 years hence, the area will not benefit from any infrastructure improvement through the normal progression of urban development. This criterion is not met.

6. Rural Reserves are Supposed to Provide Long-Term Protection to the Agriculture Industry.

We also ask the board to keep in mind the whole purpose of rural reserve designation is to "provide long-term protection to the agriculture industry." Taking the action of designating the currently proposed area along the Clackamas River in the rural reserve will not serve to protect the agricultural industry as my client aptly explains in his letter. It will have a counter-effect. The area will become an isolated pocket of minimal and every decreasing agricultural use with no buffer and with no sustainability in the long-term. Rather than being protected, my client and his neighbors will become trapped with their agricultural uses becoming increasingly incompatible with surrounding urbanization, but with nowhere to move or expand. Their operations will become more and more difficult with no change or relief on the horizon. Imagine what will likely happen to this area over the span of fifty years. It is simply unreasonable and unfair to lock this and surrounding properties off in this way, and for such a long time.

7. If Rural Reserve Designation is for Natural Landscape Features Protection it is Over-Inclusive, Unnecessary and at the Same Time Inadequate.

The designation of rural reserve for the subject area does not fit the criteria under ORS 660-027-0060(3) either. First, the designation does not appear to be for the purpose of protecting an important landscape feature. While the Clackamas River runs through this area, the designated lands are not confined to this or any other important natural feature. The outline of the presently proposed rural reserve appears to follow property lines in blocks and chunks, rather than following any natural buffer area for the river or other natural features. Hence, ironically, the area designated is too small to provide a sufficiently large "block" for agricultural purposes but is too large and over inclusive to be designed to merely protect a natural landscape feature.

Second, if the intent of designating these lands as rural reserve is for the benefit of protecting the Clackamas River, all of the properties are already subject to numerous federal, state and county laws buffering and protecting the river. Further, with the exception of very limited areas mostly within the already designated buffer areas for the river, the land proposed to be designated as "rural reserve" cannot be considered natural in any meaningful sense. These lands are being farmed and have been cleared, graded, fertilized, treated, etc consistent with agricultural practices. Also they are bounded by residential development on all sides. Farms are not natural landscape features. Homes are not natural material landscape features. These lands are already a checkerboard of conflicting man made structures and uses. Designating the agricultural portions of all of these lands as an important landscape feature simply does not make sense. The fact is there is already a concentration of both agricultural and residential uses on these portions of the land in question and it is simply ineffectual and untimely to designate these portions of the land as rural reserve.

CONCLUSION

It is my hope that the foregoing analysis and supplementation of my client's written comments will be of some assistance in the decisions before you regarding rural reserve designation for the county and for the metro area. My clients and I appreciate how difficult and complex the task before you is. However, the currently proposed designations will have a very, very long impact on the subject properties and would result in the adverse consequences referenced above, many of which may not have been fully considered or intended at this stage in your deliberation. I am also enclosing for your consideration the multi-agency letters dated October 14, 2009 and January 22, 2010 respectively opposing the over inclusion of lands in the rural reserves, and questioning the methodology used in arriving at the Core 4 map as presently proposed. I respectfully request that my client's properties not be included in the rural reserve designations.

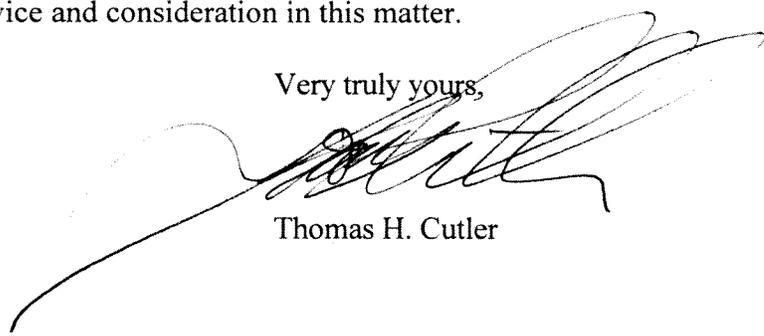
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Thank you for your service and consideration in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Thomas H. Cutler', written over a large, light-colored scribble or watermark.

Thomas H. Cutler

THC:ljb

cc: client
Dan Chandler
Maggie Dickerson

CAL FARMS, L.L.C.
James and Colleen Calcagno
PO Box 796
Oregon City, OR 97045

April 21, 2010

Clackamas County Board of Commissioners
2051 Kaen Road
Oregon City, OR 97045

Re: Rural Reserves

Dear Commissioners,

I have just recently learned that you are about to take initial steps toward designating rural reserves in my area. I live on Clackamas River Drive and operate my family's farming business, Cal Farms, L.L.C. on various parcels west of the Carver bridge and bordering Clackamas River Drive. I am very much opposed to my property, and the surrounding properties, being included in the proposed rural reserves map. Designating mine and other neighboring properties along Clackamas River Drive as "rural reserve" simply does not make sense.

I already abut the present UGB boundary, which is directly north of me. Even on the south side of the river, the area is already substantially urbanized and will continue to be bordered by urbanizing areas, all with no buffer or transition for agriculture. There is a tavern and a restaurant within close proximity to my property. In a little over a mile stretch of Clackamas River Dr. from the Carver bridge to 16807 (my area; the area included in the Lower Clackamas River Water Control District) alone, there are more than 50 homes. Many more home site lots are being created and many more homes will continue to be added under Measure 49 claims.

Unfortunately it is too late to turn back the clock on any of this. Although I have one of the largest of the agricultural operations in the area, I am under no illusion that my operations here will be sustainable in the long term. Much of the acreage on which I operate is leased on a short term basis, with no assurance of continued availability. In particular, I lease substantial acreage from Metro. Metro has also purchased several other properties along the Clackamas River. My family values the present ability to use the Metro acreage and to keep the land productive, and we have a good working relationship with Metro. However, it is unclear how

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long we will be allowed to farm these properties. I know that Metro did not purchase these properties for farming purposes or to lease them to me indefinitely.

Several other factors also make long term agricultural operations in this area unsustainable. I have no assurance of a continuous and sufficient water supply. The infrastructure for agriculture along Clackamas River Drive is simply inadequate. The roads serving the area are already inadequate and ingress and egress to my properties for the trucks and heavy equipment I depend on is already very limited due to weight limits and congestion. If this relatively narrow strip along Clackamas River Drive is included in the rural reserve, my family will face the worst of both worlds over the coming decades, i.e., our farming operations will become increasingly incompatible with surrounding urbanization (again with no buffer) but yet this strip will not experience infrastructure improvements that usually come with urbanization because it will be "reserved" against urban development.

Although we would very much like to continue farming operations here into the foreseeable future, we are painfully aware of the reality of the growth and incompatible uses that have already arrived around us. We have already experienced this same process before. Our farm used to be in Milwaukie before we were pushed out by urbanization. We had a 7 ½ acre farm. We expanded by leasing lands around us. We experienced continually increasing complaints regarding the noise, dust, spraying, odors, farm equipment on roads, etc., all of which are associated with our operations. We had nowhere else to expand to and we had to move our operations.

Unfortunately we are now seeing the very same process in our present location. We bought larger acreage than we had in Milwaukie and thought that would be enough. Our operations and the demand for our produce have steadily increased. We have again expanded to leased land around us. However, the urban crowding process is already well under way. There are continually increasing local and adjacent suburban residents nearby and all are using the same roadways we depend on. There has been a dramatic increase in traffic on Clackamas River Dr., which I often refer to as "Highway 212B." Between 6:30 and 8:30 in the morning we have urban rush hour traffic going west. From 4:00 to 6:00 pm we have the same thing, only going in the opposite direction. When there are accidents on 212, 213, or 224, I have seen Clackamas River Dr. backed up for three miles! We are also now seeing a lot of bicycle traffic, something we had not seen before.

This is part of what I like to call the "urban parade" we now see along Clackamas River Dr. In the summer, in particular, we see motorcycle clubs with hundreds of motorcycles passing our property in a single day. We see collector car caravans and countless urbanites flocking to the Clackamas River for recreation. The Carver boat ramp is very popular, but it allows only limited access and there is very little parking. The rafters/floaters end up parking around the nearby restaurant and tavern and all along the shoulders of Clackamas River Dr. for a good half mile, along our fields.

Yet we still have to run a farm. We still have to work our fields, use and move our heavy equipment, get our product to market, and run large trucks to and from our location on a continual basis. Just like we experienced in Milwaukie, bikes, commuters and tractors on narrow, one-lane roads don't mix well. Similarly, the steady flow of large trucks and other heavy equipment we depend upon to keep supplied, our operations running, and to get our product to market don't mix well with urban rush hour traffic, motorcycle clubs, car shows and endless boaters and urban week-enders! Yet we have no choice but to run our trucks, tractors and other heavy equipment on our properties and surrounding roads. We also have all of the noise, dust, odors, spray, etc. you would expect from farm operations. The board may not fully understand these increasing existing conflicts, but I can say that all it takes is for someone to pass by and get a few drops from our sprinklers on their car and I get a visit from the county sheriff! All of this is further indication of the incompatible urbanization that has and is already going on, and that will continue to go on, regardless of whether this narrow strip is designated as "rural reserve." It is what is going on all around us that is driving these changes, not the zoning, land use designation or labels applied within our area.

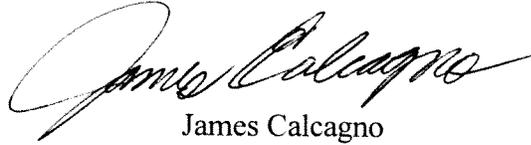
Finally, with respect to soils, although many of the soils on my owned and leased properties, as well as those of surrounding neighbors, are designated prime or of high value, much of the land is far too rocky for productive or feasible agriculture. (There is a reason Carver was once named "Stone.") Also, I understand urban reserves are only supposed to be designated where there is a "significant block" of land that can create mutually sustainable agricultural operations. Again, preserving this relatively narrow strip along the Clackamas River will be just that, a strip and not a significant block of land. It will not allow for buffering, transition or mutually supportive agriculture. More importantly we have no room for expansion. We have already experienced the process of having surrounding lands become unavailable. Just like in Milwaukie, we are now facing the real and inevitable prospects of losing our leased lands with no other available land around us. Designating this area as "reserve" will not change these hard facts.

In conclusion, I am disappointed that this particular area has not, apparently, been studied sufficiently regarding its lack of long-term agricultural sustainability before proposing that it be cut off, isolated, and adversely impacted for the next 50 years. We do not want to become trapped in an island of "reserves" that are labeled "rural," but is already so surrounded and impacted by urbanization that we cannot sustain, much less expand our operations. This is not practical for my family. Also, many of the constituents of the Lower Clackamas Water Control District (of which I am president) tell me they share my concerns, but were not aware that they were being considered for rural reserves as they have received no notice or invitation to be part of this discussion. My family and I and many of my neighbors strongly oppose the inclusion of the lands along Clackamas River and Clackamas River Drive as rural reserve. I respectfully request that my comments be given due consideration and that the commissioners and/or the "Core Four" will modify the proposed rural reserves map before it is adopted.

April 21, 2010
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Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "James Calcagno". The signature is fluid and cursive, with a large initial "J" and "C".

James Calcagno

cc: Dan Chandler, County Counsel
Maggie Dickerson