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September 25, 2014

To: The Land Conservation and Development Commission of the State of Oregon  
Oregon Department of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540  
Attn: Casaria Taylor

re: Review of the Designation of Urban Reserves by Metro and Rural Reserves by  
Clackamas County, Multnomah County, and Washington County

Dear Commissioners,

The Land Conservation and Development Commission has requested briefings that addresses issues identified by the court in *Barkers Five, LLC v. LCDC*, 261 Or App 259 (2014) at 363-364.

This brief addresses the second error:

“Second, LCDC’s order is unlawful in substance to the extent that it concluded that Multnomah County’s “consideration” of the factors pertaining to the rural reserve designation of Area 9D was legally sufficient. On remand, LCDC must determine the effect of that error on the designation of reserves in Multnomah County in its entirety.” 261 Or App at 364.

The brief also responds to the commission’s related question “Whether there is substantial evidence in the record that clearly supports a conclusion that Multnomah County applied the reserves factors to Area 9D.”

This brief supports Multnomah County’s designation of Rural Reserves in Area 9D.

#### Standing

I was a party to the judicial review of the *Barkers Five, LLC v. LCDC* (A152351).

I was also a member of the Multnomah County Reserves Citizen Advisory Committee (CAC) and submitted verbal and written testimony at numerous Urban and Rural Reserves hearings held by Metro, Multnomah County, and Washington County.

### Background and Approach

The May 8, 2014, Staff Report, Agenda Item 18 (Update: Metro Urban and Rural Reserves and HB 4078), page 4, summarizes the court's conclusion this way:

“Multnomah County. The court concluded that Multnomah County erred by failing to explain why an area of land south of Skyline Boulevard, known as Area 9D, was included as part of a larger area for consideration as a rural reserve. Specifically, the court concluded that when a significant portion of an area has dissimilar characteristics to the overall study area, the county must explain why it designated the land as it did.”

The August 15, 2014, Staff Report, Agenda Item 3 (Metro Urban and Rural Reserves Court of Appeals Remand), page 2 explains that LCDC may decide to “identify evidence in the record that “clearly supports” the decision made by Multnomah County with respect to Area 9D:

“The issues before the commission on remand are complex and the commission has several options to consider (in particular whether to utilize the authority granted under HB 4078 (2014)<sup>1</sup> to identify evidence in the record that “clearly supports” the decision made by Multnomah County with respect to Area 9D and Metro with respect to Stafford,<sup>2</sup> or whether to remand the submittal to Multnomah County and Metro to address those issues).”

I believe that the best outcome will be achieved if LCDC exercises this new option to identify evidence in the record that “clearly supports” the Multnomah County decision to designate Area 9D as a Rural Reserve. In this brief I will point to some of the prolific evidence in the record that supports designating Area 9D as a Rural Reserve for Natural Features and explain why this designation is appropriate.

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<sup>1</sup> Section 9 of HB 4078 provides, in relevant part:

“the commission may approve all or part of the local land use decision if the commission identifies evidence in the record that clearly supports all or part of the decision even though the findings of the local government either:

- (1) Do not recite adequate facts or conclusions of law; or
- (2) Do not adequately identify the legal standards that apply, or the relationship of the legal standards to the facts.

See <https://olis.leg.state.or.us/liz/2014R1/Measures/Text/HB4078/Enrolled>

<sup>2</sup> The “Stafford” area includes Areas 4A to 4D.

The difficulty is not finding evidence to support this designation of Area 9D, the difficulty lies in choosing among the many highly applicable pieces of evidence that “clearly support” the County’s decision.

Remanding the submittal to Multnomah County would greatly extend an already lengthy, time consuming, and extremely thorough process without adding significant value.

Sufficiency of the County’s explanation of why Area 9D was designated as rural reserves

The County’s<sup>3</sup> explanation pertaining to Area 9D was so poorly worded that I believe it was, in part, misunderstood by the Court of Appeals, who are not familiar with the geography of western Multnomah County.

The Court of Appeals observes in their opinion that

“Nevertheless, in the description in the submittal as to how Areas 9D (which encompasses all of Study Area 6) and 9F ‘fare under the factors,’ only a single sentence pertains to the land in Study Area 6 south of Skyline Boulevard: ‘Landscape features mapping south of Skyline includes both Rock Creek and Abbey Creek headwaters areas that abut the [C]ity of Portland on the east and follow the county line on the west. Nothing more.’<sup>47</sup>” 261 Or App at 345 (emphasis added, and footnote 47 omitted)

I believe that there are several sentences in the County’s description in the submittal as to how Areas 9D and 9F “fare under the factors” that the County intended to refer to the portion of Area 9D (Study Area 6) located south of Skyline Boulevard.

The County’s explanation of the designation of Area 9D states

“*How Rural Reserve 9D and 9F Fare Under the Factors:* All of the Multnomah Channel area is an important landscape feature, and the interior area from approximately Rocky Point Rd. south to Skyline Blvd. is a large contiguous block on the landscape features map. MultCo Rec. 1767. This interior area is steeply sloped and heavily forested, and is known for high value wildlife habitat and as a wildlife corridor between the [C]oast [R]ange and Forest Park. It is also recognized as having high scenic value as viewed from both east Portland and Sauvie Island, and from the US Highway 26 corridor on the west. Landscape features mapping south of Skyline includes both Rock Creek and Abbey Creek headwaters areas that abut the [C]ity of Portland on the east and follow the county line on the west.

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<sup>3</sup> References to “the County” or “County” mean Multnomah County.

‘The potential for urbanization north of the Cornelius Pass Rd. and Skyline intersection in Area 9D, and all of area 9F, was ranked by the CAC as low. Limitations to development in the Tualatin Mountains include steep slope hazards, difficulty to provide urban transportation systems, and other key services of sewer and water. Areas along Multnomah Channel were generally ranked low due to physical constraints including the low lying land that is unprotected from flooding. Additional limitations are due to the narrow configuration of the land between US Highway 30 and the river coupled with extensive public ownership, and low efficiency for providing key urban services. MultCo Rec. 3022-3027. Subsequent information suggested some potential for urban development given the close proximity of US Highway 30 to the area.’ 261 Or App 343-344 (quoting JER-667-668).

The county’s explanation doesn’t make it clear which attributes referenced (natural landscape features, steep slopes, high value wildlife habitat and wildlife corridor between Forest Park and the Coast Range, high scenic value from various locations) exist in each part of area 9D. It also doesn’t explain the landscape referenced – where are Forest Park, the Coast Range, and the Tualatin Mountains relative to area 9D, for example? If you know where these features are, you will understand that if you view the Tualatin Mountains from Hwy 26 you will be looking at the portion of area 9D that is south of Skyline. There are steep slope hazards in area 9D both north and south of Skyline, and the wildlife corridor includes both sides of the mountains (the animals don’t feel constrained to use only one side of the hill).

It is also unfortunate that the natural landscape features map referenced (“MultCo Rec. 1767) has very few reference points and can be confusing without a description of what it shows. It can be difficult for anyone who isn’t extremely familiar with the area to locate Area 9D and other reference points such as Skyline Blvd are found on this map. Any of the pale purple layers are considered natural features, each represents a different information source (this is indicated in the map key but may not be obvious on first examination).

It might have helped if the text of the County’s explanation had more explicitly summarized what the natural features map shows. For example, the County could have noted that this map shows that all of 9D north of Skyline (including the Multnomah Channel portion) is identified as natural features, and that more than two thirds of Area 9D south of Skyline is also mapped as natural features.

The county’s explanation could also have referred to their Rural Reserves Analysis for what were then called Study Area 5 (NW Hills North) and Study Area 6 (West Hills South). This analysis can be found at R-C(3)(212-215, 218) and R-C(3)(219-224, 229). These two Study Areas (5 and 6) were later combined with what was then referred to as

Study Area 9 (Multnomah Channel<sup>4</sup>), then the combined area was divided into two new areas that were denominated Area 9D and 9F.

The Multnomah Channel area may initially seem quite different than the steep Tualatin Mountains, but it shares many characteristics with Area 6a. Both areas are dominated by natural hazards (landslide hazards on steep slopes in the mountains R-C(3)(379-380), and floodplain along the Multnomah Channel waterway R-C(1)(431-432)), are made up entirely of large swaths of Natural Landscape Features R-C(2)(395) that contain important wildlife habitat and wildlife corridors R-C(1)(158), and both provide a sense of place for the region (views of steep mountains in one case, and of extensive wetlands in the other). Both also include large areas of public ownership R-C(1)(1030), and they are part of a large scale habitat connection between the mountains, Sauvie Island, and the Willamette River. R-C(1)(158). So it is appropriate to combine these areas even though their topography is very different.

#### Reasons for Discrepancies between the CAC's factor analysis and final recommendations

The County's Reasons for Designating Areas in Multnomah County as Urban Reserves or Rural Reserves explains that the CAC met 16 times, and we continued to receive important input throughout our work:

”The suitability recommendations phase studied information relevant to ranking each of the urban and rural factors for all study areas of the county and took place in CAC meetings 10 through 16. # Record Index CAC Agendas Compiled The approach entailed application of all of the urban and rural factors and suitability rankings of high, medium, or low for their suitability as urban or rural reserve based on those factors. Technical information included data from the prior phases and hazard and buildable lands maps, Metro 2040 design type maps, extent of the use of exception lands for farming, zoning and partitioning. During this period, the CAC continued to receive information from citizen participants at meetings, from local governments, and from CAC members. # Record Index CAC Meeting Summaries. The group was further informed of information present in the Reserves Steering Committee forum, and of regional public outreach results. # Record Index CAC Agendas Compiled” JER 662 (emphasis added)

The CAC had a very thoughtful and thorough process, but some late arriving information significantly changed how we evaluated areas, especially potential rural reserves. Be cautious about relying on the CAC's detailed factor analysis in the County report where it doesn't appear to conform to our final recommendation about Reserves designations. The need for this caution is explained in my letter to the county Board of Commissioners dated September 10, 2009. The letter describes receiving new

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<sup>4</sup> “Multnomah Channel” refers to a reserves study area, the rural land between Hwy 30 and the Multnomah Channel waterway (this waterway lies between Sauvie Island and the mainland).

information late in the process when it was too late to revise our factor analysis. This is especially true for the Multnomah Channel area, which we never had time to give a lot of consideration, even when developing on our final recommendations. The two new pieces of information described in the letter resulted in the CAC recommending more areas be designated as Rural Reserves.

#### “CAC Suitability ratings and Overall Reserves Recommendations.

The CAC continued to receive important new information through our final meeting. Our time was limited and it wasn't possible to go back and revisit suitability ratings for individual areas, so we could only use the new information for our final Reserves recommendations. This resulted in a few overall Reserve recommendations that do not appear to be consistent with our suitability ratings. The most obvious example is Area 6. The Area 6 Rural Reserve suitability (part Low, part High) was decided at meeting #14 of 16. But the CAC's final recommendation was that all of Area 6 be designated Rural Reserve, demonstrating that the CAC found it all "suitable" in our final evaluation. Area 5, which is very similar, received a "High" Rural Reserve suitability rating at meeting #16 (in spite of earlier work that appeared to be heading towards a "Low" rating).

Two things in particular caused the CAC to rethink our approach at our last two meetings.

First, at our 15th meeting we were given revised instructions about how to use Rural Reserve factors 2a and 3a about "potentially subject to urbanization." The new instructions made it clear that the county has great latitude in how we interpret and weigh these factors. [see #1 in Background section below] This was a very significant change from previous staff instructions.

Then at our final meeting on July 30<sup>th</sup>, we were provided with an updated map for Natural Features. I think the new map made it clearer to the committee that the wildlife habitat across the West Hills had been extensively studied and found to be regionally significant.

Similarly, the factor ratings for all areas should be considered preliminary, and that information should be used only with great caution. The Overall Reserve Recommendations best represent the CAC's "final answer" about suitability.” R-C(2)(384)

Information did not stop arriving after the CAC finished our recommendations in July 2009, so the county Board of Commissioners was inspired to modify a few of our recommended reserves designations because of new information that reached them after the CAC concluded our work. The final decision by the Multnomah County Board of Commissioners to designate all of Areas 9D and 9F as Rural Reserves reflected all the input they had received from the CAC, County staff, the public (written and oral

testimony and online input), and other parties involved in the Reserves process. The board's decisions reflect this input, even if it isn't well documented by County staff.

For example, the Joint State Agency Comments urged protection of Multnomah Channel (the ground between Hwy 30 and the Multnomah Channel waterway) urge protecting the area as a rural reserve.

Joint State Agency Comments on Metro Urban and Rural Reserves, dated October 14, 2009, say this about West Multnomah County:

“The agencies agree with COO recommendations for this area. Agricultural and forest lands that are under threat of urbanization and that have high wildlife habitat value (including Sauvie Island and non-industrial forest lands linking Forest Park to the larger blocks of wildland forest to the northwest as a wildlife migration corridor) should be designated as rural reserves. It is in the best interests of the state, Metro, the affected counties and urban residents to provide these landowners with economic incentives to continue investing in forest management rather than converting these lands to non-forest uses.

The corridor between the Multnomah Channel and Highway 30 is currently recommended as "undesigned." The rationale against rural reserve designation is, in part, the extent of wetlands and potential flooding that likely limits the footprint of development. The agencies are concerned that even with these development limitations, because of the proximity to Highway 30, there is a high long-term threat of urbanization. At the same time, the substantial aquatic habitat values and transportation access concerns suggest that this area be designated as a rural reserve.” R-C(4)(118)

Analysis of area 9D for the Natural Landscape Features factors:

It seems to me that the most useful format for presenting information in the record that “clearly supports” the county’s designation of 9D as rural reserve for natural features is to identify evidence relating to the factors.

It is important to remember OAR 660-027-0005(2) when evaluating potential rural reserves:

“... Rural reserves under this division are intended to provide long-term protection for large blocks of agricultural land and forest lands, and for important natural landscape features that limit urban development or define natural boundaries of urbanization. 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.” (emphasis added)

OAD 660-027-0060(3) Rural Reserve Factors: When identifying and selecting land for designation as rural reserves intended to protect important natural landscape features, a county must consider those areas identified in Metro's February 2007 "*Natural Landscape Features Inventory*" and other pertinent information, and 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 OAD 660-027-0040(2) or (3);

All of area 9D is within 3 miles of the UGB. JER-667, R-C(3)(229). The CAC felt there is urbanization potential west of McNamee Road, but not between McNamee Road and the UGB. Staff rated the areas north of Skyline a low potential, but high for areas south of Skyline. Part of the area south of Skyline was considered for urban reserve. R-C(3)(219-220). Since the ratings were mixed, figure on a medium score for area 9D.

(b) Are subject to natural disasters or hazards, such as floodplains, steep slopes and areas subject to landslides;

As the Slope and Floodplain Constraint maps of NW North and NW South show, area 9D north of Skyline in the Tualatin Mountains is dominated by steep ( $\geq 25\%$ ) slopes. But the Tualatin Mountains in area 9D south of Skyline Blvd also include notable areas with steep slopes. The Multnomah Channel portion of area 9D includes some narrow steep slopes adjacent to Hwy 30, but this part of 9D is almost entirely mapped as floodplain. R-C(1)(431-432)

Slope hazards for area 9D are identified on the Multnomah County Urban/Rural Reserves Reserves - Slope Hazards Maps for West Hills North & Sauvie Island and West Hills South. R-C(1)(938-939) It looks like about a quarter of area 9D south of Skyline is slope hazard, and almost all of area 9D north of Skyline is slope hazard. Altogether, area 9D appears to deserve a high score.

(c) Are important fish, plant or wildlife habitat;

There is an overwhelming amount of evidence available for this factor. Area 9D clearly deserves a high score north and south of Skyline, and along Multnomah Channel. All of 9D north of Skyline is mapped as natural features, including Multnomah Channel, and more than two thirds of Area 9D south of Skyline is also mapped as natural features. R-C(2)(395)

Multnomah County identified all of 9D in the Tualatin Mountains as significant Goal 5 resource and protected it with habitat overlays in the zoning R-C(1)(356, 357):

'From the Multnomah County West Hills Rural Area Plan:

## ***"WILDLIFE HABITAT***

Wildlife Habitat has been identified as a significant Goal 5 resource in the West Hills. All of the West Hills, excepting a small area consisting of the Bonny Slope subdivision along Laidlaw Road and adjacent areas, has been determined to be significant wildlife habitat, because it is all part of an ecosystem which supports a diverse wildlife population relatively undisturbed by the rural levels of development in the West Hills." R-C(3)(361) (emphasis added)

There's so much evidence for this factor that I put most of it in a separate section at the end of this brief, see the Addendum for factor Natural Features factor (c): beginning on page 14.

While there are some pockets of land south of Skyline that do not show mapped natural landscape features, Multnomah County identified those areas as important habitat, and it isn't practical to think about separating out these relatively small pockets for separate designation. Animals don't adhere to the sharp boundaries shown on the maps. Also, the adjacent areas of Multnomah County and Washington County have been designated as rural reserves, which work with this area to create a broad protected landscape suitable for the elk, cougar, and bears that use it today. JER-794-5, 806-807.

(d) Are necessary to protect water quality or water quantity, such as streams, wetlands and riparian areas;

This factor earns a high score for all of 9D. Multnomah County's SEC NW Hills North and South maps, which show the County's protected Goal 5 resources. R-C(1)(356, 357). All of area 9D is contains protected stream corridors except the Multnomah Channel area.

The Natural Landscape Features Inventory for area #23, Forest Park Connections, says in part "The Forest Park connection area provides protection to key watersheds like Balch, Miller, Ennis and Agency Creeks..." R-C(1)(11).

Metro Resolution 07-3834, Approving the Natural Areas Acquisition Refinement Plan for the Rock Creek Headwaters and Greenway Target Area. R-C(1)(369-388, 390). The Rock Creek Headwaters and Greenway Target Area Acquisition Map R-C(1)(390) shows portions of area 9D south of Skyline are part of this acquisition target.

The Target Area Description says "Rock Creek flows from the Tualatin Mountains to the Tualatin River. The headwaters hold key areas of undeveloped land which provides linkages for wildlife. These areas also contribute to water quality. ... protecting water quality is a priority." R-C(1)(372). (emphasis added)

The Findings for the Rock Creek Headwaters and Greenway Target Area include:

- “Rock Creek is a major tributary of the Tualatin River. The headwaters of Rock Creek and its tributaries have been targeted for acquisition due to intense development pressure as urban growth expands throughout the watershed. Watershed managers have identified protection of the headwater areas as a high priority for meeting water quality protection goals in the lower watershed and also to improve and protect wildlife habitat.
- The headwaters of Rock Creek originate on the west side of the Tualatin Mountains southwest of NW Skyline Boulevard and Forest Park. Numerous tributary streams flow through woodlands and agricultural lands before crossing into the urbanized area near West Union and Springville Roads.
- The watershed for Rock Creek includes in excess of 18,000 acres and numerous tributary streams. Major tributary streams include Abbey, Bronson, Holcomb and Beaverton Creeks.
- Established science continues to show the key importance of intact headwaters for water quality and quantity protection, habitat and maintenance of overall watershed health.
- The science report notes that the area’s oak woodlands and oak savanna habitat support varied wildlife, and expanding the protected natural areas would increase habitat opportunities for vulnerable species such as red-legged frogs, Western bluebirds and northwestern pond turtles. In addition, threatened species such as steelhead, cutthroat trout and coho salmon are present in Rock Abbey, Holcomb and Bannister and Bronson creeks.
- Stakeholders identified protection of east/west wildlife corridors as just as important as north/south corridors.” R-C(1)(373).

Two of Metro’s Tier I Objectives for this target area relate to Area 9D south of Skyline Blvd:

- “Acquire and protect the riparian corridors and important upland habitat in the Abbey Creek headwaters.
- Acquire and protect a natural corridor along the main stem of Abbey Creek linking its confluence at Rock Creek to the Westside Trail and Forest Park.” R-C(1)(374).

(e) Provide a sense of place for the region, such as buttes, bluffs, islands and extensive wetlands;

9D scores well on this factor.

9D has extensive wetlands in the Multnomah Channel area. R-C(3)(250).

The county mentions views of the Tualatin Mountains: “It is also recognized as having high scenic value as viewed from both east Portland and Sauvie Island, and from the US Highway 26 corridor on the west.” JER-667 From Hwy 26, only the part of 9D which is south of Skyline will be visible. From east Portland and Sauvie Island there are views of the Tualatin Mountains in Area 9D north of Skyline. The Multnomah Channel portion of 9D provides scenic views for travelers along Hwy 30 and from Sauvie Island. These views can be verified from topographic maps in the record, including the steep slopes maps of NW North and NW South R-C(1)(431, 432) and the Forest Park Neighborhood Big Game Map. R-C(1)(392a).

(f) Can serve as a boundary or buffer, such as rivers, cliffs and floodplains, to reduce conflicts between urban uses and rural uses, or conflicts between urban uses and natural resource uses;

The CAC and staff gave the part of 9D south of Skyline a high score, because it helps provide a buffer for “existing and potential urban areas.

The southwest slopes form a large-scale buffer between urban areas to the west and Forest Park. Other features within this area that provide buffers between urban and farm/forest/natural resources include:

- Abbey Creek headwaters, and the east-west lower Abbey Creek drainage
- Rock Creek running north-south immediately west of the county line.”

Areas north of Skyline get a low score because there aren’t any existing or potential urban areas to buffer (unless you count the heavy traffic on Hwy 30 and Cornelius Pass Road). R-C(3)(223).

The joint state agency letter says:

“As a general matter, the state agencies believe that larger floodplain areas that are on the periphery of the urban area should *not* be included in urban reserves and that, instead they should be used as a natural boundary between urban and rural areas to the extent possible.” R-C(4)(108). This applies to the wide riparian corridor and floodplain around Abbey Creek, on the southern edge of area 9D, which helps create a natural boundary.

In the southern portion of area 9D, Abbey Creek, the powerlines, and the county line have been cited by Metro and the Oregon Court of Appeals as forming a buffer between urban and rural uses. These elements provide an appropriate buffered edge for a Rural Reserve.

Exhibit C to Metro Ordinance No. 02-987A FOR THE PURPOSE OF AMENDING THE URBAN GROWTH BOUNDARY TO ADD LAND IN THE BETHANY AREA, adopted December 12, 2002 says:

“The inclusion of all of areas 84-87 allows Abby (sic) Creek and the adjoining riparian zone to form a natural buffer separating the Bethany area from the resource land and existing rural neighborhoods to the north, and it utilizes the powerlines and also the Multnomah County line as clear demarcations along the expansion area’s eastern border.” (page 2)

“The Bethany expansion area will have clear boundaries that serve to both visibly highlight the line separating urban and rural uses, and to also serve as a buffer between urban development and rural uses. NW 185<sup>th</sup> Avenue, Abby (sic) Creek and its adjoining riparian zone and slopes and the powerline easement coupled with the Multnomah County boundary line all serve to clearly demarcate and buffer the proposed expansion area. “ (page 9)

These same elements were also cited as buffers in the Oregon Court of Appeals decision affirming the North Bethany UGB expansion area (text is paraphrased from an email from Jim Emerson to Chuck Beasley on April 16, 2009):

Case # A122169 (which decision was consolidated with case #'s A122246 and A122444,) “City of West Linn et al V. LCDC et al” was decided by the Oregon Court of Appeals on September 8, 2005. In affirming the inclusion of Areas 84-87 (North Bethany) into the UGB, the Court said:

“The Bethany expansion area will have clear boundaries that serve to both visibly highlight the line separating urban and rural uses, and to also serve as a buffer between urban development and rural uses. NW 185<sup>th</sup> Ave., Abby (sic) Creek and its adjoining riparian zones and slopes and the powerline easement coupled with the Multnomah County boundary line all serve to clearly demarcate and buffer the proposed expansion area.”

(g) Provide for separation between cities; and

The part of 9D south of Skyline separates the developing urban area in North Bethany (effectively a city) on its southern edge from the parts of Portland located along Skyline Blvd on its northeastern edges. County staff and the CAC rated area 9D low for this factor.

(h) Provide easy access to recreational opportunities in rural areas, such as rural trails and parks.

This factor got a high rating from the CAC and county staff. The explanation says “This area includes recreational opportunities adjacent to the urban area including bicycle routes along Skyline and Germantown Roads. The area also contains the Metro “Ancient Forest Preserve.” Within the reserves planning horizon, additional trails proposed for the area are likely to become accessible to the public.” R-C(3)(223)

This analysis shows that 9D scores well for many factors, including (b) natural disasters and hazards, (c) important habitat, (d) water quality or quantity, (e) sense of place, (f) boundary or buffer, and (h) recreation access, with outstanding scores for wildlife habitat, water quality, and sense of place. Its rural edges are adjacent to other rural reserves, helping to define a natural boundary of urbanization.

### Conclusion

The natural features in 9D, which include steep slopes, floodplains, and dense networks of headwater streams, should be protected in a rural reserve for natural features that will work with adjacent rural reserves to limit urban development and so the area helps (in conjunction with adjacent rural reserves) define a natural boundary of urbanization. Taken together, these rural reserves will protect important natural landscape features that define the region.

There is ample evidence in the record that “clearly supports” designating area 9D as a Rural Reserve for natural features, especially given its importance for wildlife habitat, water quality, and sense of place in the context of the West Hills, Forest Park, and wildlife corridors.

I hope that LCDC will choose to exercise their option to identify evidence in the record that “clearly supports” the Multnomah County decision to designate Area 9D as a Rural Reserve, and bring this process to an efficient conclusion.

Thank you for your consideration.



Carol Chesarek

### **Addendum for factor Natural Features factor (c):**

Evidence for OAR **660-027-0060(3)(c)** Are important fish, plant or wildlife habitat.

#### Natural Features Maps

It can be difficult to locate area 9D on these maps, so I'm including information about several. Note that these maps are based on maps of wildlife habitat and stream corridors, and are not designed to identify landscape features providing views or sense of place:

It is unfortunate that the natural landscape features map referenced in the County's explanation of the reasons for designating area 9D as rural reserve ("MultCo Rec. 1767), which is the final and most accurate version, has very few reference points and can be confusing without a description of what it shows. It can be difficult for anyone who isn't extremely familiar with the area to see where Area 9D and other reference points such as Skyline Blvd are found on the map. Any of the pale purple layers are considered natural features, each represents a different map source (this is indicated in the map key but may not be obvious on first examination).

This map shows that all of 9D north of Skyline (including the Multnomah Channel portion) is identified as natural features, and that more than two thirds of Area 9D south of Skyline is also mapped as natural features. R-C(2)(395)

Metro's February 2007 Natural Landscape Features Inventory map<sup>5</sup>. R-C(1)(158). This map is referenced in OAR 660-027-0060(3): "Rural Reserve Factors: When identifying and selecting lands for designation as rural reserves intended to protect important natural landscape features, a county must consider those areas identified in Metro's February 2007 'Natural Landscape Features Inventory...'"

Metro Urban and Rural Reserves Study Area Natural Landscape Features Subset, Map 9 West Hills. R-C(1)(365). This was the third version of the Natural Landscape Features map. This version has the best reference marks (county line,

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<sup>5</sup> There were four versions of the Natural Landscape Features inventory map created for the Reserves process, this 2007 map was the first. This map shows habitat connections along the Tualatin Mountains between Forest Park and the Coast Range, and from Forest Park through Multnomah Channel to Sauvie Island. These habitat connections are not shown on the other maps of the natural landscape features inventory. The map version cited by the County ("MultCo Rec. 1767") was the final and most accurate Natural Landscape Features map. The second version was a subset of the first map, showing only the features within the Reserves study area. I do not cite it here because it doesn't include any unique information.

roads including Skyline Blvd, UGB, etc) but doesn't show the most accurate inventory.

Multnomah County combined resource layers maps, NW North and NW South. R-C(1)(366, 367). These maps show the previous Natural Landscape Features Map combined with several other resource layers, including the Agricultural Land Inventory, steep slopes, and forestry types. I cite it here because the map of NW South clearly shows the southern boundary and most of the eastern boundary of 9D relative to a Natural Features inventory, including the south-east boundary of 9D at the powerlines. The remainder of 9D is on the NW North map, but this map does not show the western boundary of Area 9D.

Metro's 2006 on Metro's Bond Acquisition Program map shows their Forest Park Connections (J) and Upper Rock Creek (K) target acquisition areas and their relationship to the Willamette River Greenway target areas on Sauvie Island, in addition to previously acquired natural areas properties and other public lands. R-C(1)(1030).

Multnomah County's SEC NW Hills North and South maps, which show the County's protected Goal 5 resources. R-C(1)(356, 357). All of Area 9D is regionally significant wildlife habitat and contains protected stream corridors. Most of 9D located north of Skyline Blvd is also protected for scenic views.

Metro Regionally Significant Fish and Wildlife Habitat Inventory Map for Forest Park Neighborhood Association. R-C(1)(392). Shows stream corridors and upland wildlife habitat with county line, roads, property lines, and powerlines for all of Area 9D south of Skyline Blvd, but only part of 9D north of Skyline. This Metro inventory covers areas within 1 mile of the UGB and does not include all natural landscape features.

The ODFW "has documented Rock Creek as critical for a number of wildlife and fish species, including those of special conservation concern." R-21(149).

#### Multnomah County habitat inventories

'From the Multnomah County West Hills Rural Area Plan:

#### ***"WILDLIFE HABITAT***

Wildlife Habitat has been identified as a significant Goal 5 resource in the West Hills. All of the West Hills, excepting a small area consisting of the Bonny Slope subdivision along Laidlaw Road and adjacent areas, has been determined to be significant wildlife habitat, because it is all part of an ecosystem which supports a diverse wildlife population relatively undisturbed by the rural levels of development in the West Hills." ' R-C(3)(361) (emphasis added)

**“From the Multnomah County West Hills Reconciliation Report Revised - May 1996:**

Page V-9,1 0,11 (Wildlife Habitat):

‘Finally, the West Hills’ relationship to Forest Park is critical to the West Hill’s significance ... Forest Park, in isolation, is not large enough to support self-sustaining populations of medium and large size mammals, such as elk, bobcats, mountain lions ... and black bears [footnote: the implication is not that Forest Park should be managed exclusively for bear and elk; rather, the point is that managing Forest Park and the adjacent wildlife are for bear and elk will ensure sufficient habitat for smaller mammal and bird species that reside in the Portland region.] for which hundreds of square miles of habitat would be required ...

Thus it is the quantity of the West Hills Wildlife Habitat Area in relation to its quality and location that are critical to this inquiry. High quality habitat elsewhere in Multnomah County cannot substitute for even medium quality habitat in the West Hills. It is because medium quality habitat is limited, and threatened by conflicting uses at a particular location, that makes the West Hills a significant Goal 5 resource.’ “ R-C(3)(361) (emphasis added)

Metro Natural Features

The Natural Landscape Features Inventory for area #23, Forest Park Connections, says in part “The Forest Park connection area provides protection to key watersheds like Balch, Miller, Ennis and Agency Creeks and secures the integrity of the "big game" corridor that links the park with habitat in the northern Coast Range. Connecting Forest Park to Rock Creek and the proposed Westside Trail will keep important wildlife corridors intact and provide trail connections between the region’s largest urban park and Washington County.” R-C(1)(11).

Metro Natural Areas Bond Target Areas

Metro Resolution 07-3834, Approving the Natural Areas Acquisition Refinement Plan for the Rock Creek Headwaters and Greenway Target Area. R-C(1)(369-388, 390). The Rock Creek Headwaters and Greenway Target Area Acquisition Map R-C(1)(390) shows portions of Area 9D south of Skyline are an acquisition target, indicating they are natural areas of significant regional value. The Resolution documents the extensive process Metro used to identify the target acquisition areas. R-C(1)(370).

The Target Area Description says “Rock Creek flows from the Tualatin Mountains to the Tualatin River. The headwaters hold key areas of undeveloped land which provides linkages for wildlife. These areas also contribute to water quality. ... protecting water quality is a priority.” R-C(1)(372).

The Findings for the Rock Creek Headwaters and Greenway Target Area include:

- “Rock Creek is a major tributary of the Tualatin River. The headwaters of Rock Creek and its tributaries have been targeted for acquisition due to intense development pressure as urban growth expands throughout the watershed. Watershed managers have identified protection of the headwater areas as a high priority for meeting water quality protection goals in the lower watershed and also to improve and protect wildlife habitat.
- The headwaters of Rock Creek originate on the west side of the Tualatin Mountains southwest of NW Skyline Boulevard and Forest Park. Numerous tributary streams flow through woodlands and agricultural lands before crossing into the urbanized area near West Union and Springville Roads.
- The watershed for Rock Creek includes in excess of 18,000 acres and numerous tributary streams. Major tributary streams include Abbey, Bronson, Holcomb and Beaverton Creeks.
- Established science continues to show the key importance of intact headwaters for water quality and quantity protection, habitat and maintenance of overall watershed health.
- The science report notes that the area’s oak woodlands and oak savanna habitat support varied wildlife, and expanding the protected natural areas would increase habitat opportunities for vulnerable species such as red-legged frogs, Western bluebirds and northwestern pond turtles. In addition, threatened species such as steelhead, cutthroat trout and coho salmon are present in Rock Abbey, Holcomb and Bannister and Bronson creeks.
- Stakeholders identified protection of east/west wildlife corridors as just as important as north/south corridors.” R-C(1)(373).

Two of Metro’s Tier I Objectives for this target area relate to Area 9D south of Skyline Blvd:

- “Acquire and protect the riparian corridors and important upland habitat in the Abbey Creek headwaters.
- Acquire and protect a natural corridor along the main stem of Abbey Creek linking its confluence at Rock Creek to the Westside Trail and Forest Park.” R-C(1)(374).

Metro Resolution 07- 3833, Approving the Natural Areas Acquisition Refinement Plan for the Forest Park Connections Target Area R-C(1)(389). The highlighted areas with the arrows crossing Skyline Blvd on this map show that wildlife connections from Forest Park across Skyline Blvd to Area 9D south of Skyline are an acquisition target, indicating that these connections are of significant regional value. Portions of Area 9D north of Skyline are shown to be acquisition targets, indicating they are natural areas of significant regional value.

Both target areas (but not the arrows indicating wildlife connectivity) may be more easily seen in relation to landmarks on Metro's Bond Acquisition Program map. R-C(1)(1030)

### Other

Forest Park Neighborhood Big Game Map. R-C(1)(392a). Forest Park Neighborhood collected information about big game sightings from area residents and recorded it on this USGS map and in an associated spreadsheet. The map legend is not legible at this resolution, but the green dots mark recorded elk sightings. Orange dots indicate cougar, and black dots indicate black bear sightings. The map shows numerous sightings of elk, and occasional sightings of cougar and black bear, in Area 9D, especially in the portion south of Skyline Blvd.

Oregon State Conservation Plan conservation opportunity areas. Map 4 shows that Multnomah Channel is part of area WV-01 Columbia River Bottomlands R-C(1)(79). Portions of Area 9D are included in area CR-09 Portland's Forest Park, R-C(1)(80).

According to Audubon Society of Portland (ASoP):

“The Rock Creek corridor and floodplain is designated on several regional inventories and maps used to develop Metro's Inventory of Natural Landscape Features. The primary reason for its designation in natural resource inventories is in providing a *critical* wildlife corridor connecting the Tualatin River to Forest Park and in helping maintain water quality and quantity within the Tualatin basin.” R-21(403).

The ODFW “has documented Rock Creek as critical for a number of wildlife and fish species, including those of special conservation concern.” R-21(149).

