



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

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January 15, 2015

Re: LCDC Remand of Multnomah County Area 9D and Metro Urban Reserves Areas 4A, 4B, 4C, and 4D (Remand Order 12-ACK-001819)

Dear President Hughes, Commissioner Kafoury, Commissioner Ludlow, and Commissioner Duyck:

Enclosed please find the Commission's Order remanding portions of the Metro Reserves Submittal, specifically Metro Urban Reserves Areas 4A, 4B, 4C, and 4D and Multnomah County Rural Reserve Area 9D. We appreciate the efforts of the region has invested in undertaking the urban and rural reserves process. The Department and Commission believe the reserves planning is important for the long-term growth, livability, and vitality of the region, and supports the counties and Metro in that work. With respect to timing; the Commission has requested that a resubmittal be completed by October 2015.

Judicial review of this order may be obtained by filing a petition for review within 21 days from the service of this final order, pursuant to ORS 197.651.

Please contact your regional representatives, Anne Debbaut at (503) 725-2182 or email anne.debbaut@state.or.us; or Jennifer Donnelly at (503) 725-2183 or email jennifer.donnelly@state.or.us, if you have any questions or need further assistance.

Very truly yours,

Jim Rue
Director

cc: Alan Rappleyea
Alison Kean Campbell
Carol Chesarek
Carrie Richter
Christopher Crean
Christopher James
Ellen F. Rosenblum
Jacquilyn Saito-Moore

January 15, 2015

Re: LCDC Remand of Multnomah County Area 9D and Metro Urban Reserves Areas 4A, 4B, 4C, and 4D (Remand Order 12-ACK-001819)

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Jed Tomkins

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Kristian Spencer Roggendorf

Mary Kyle McCurdy

Matthew Lowe

Michael Sheehan

Nathan Boderman

Pamela Beery

Roger Alfred

Stephen Madkour

Steven Pfeiffer

Wendie Kellington

Steve Shipsey

Jennifer Donnelly

Anne Debbaut

**BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON**

**IN THE MATTER OF THE REMAND)
OF THE DESIGNATION OF URBAN)
RESERVES BY METRO AND RURAL) REMAND
RESERVES BY CLACKAMAS COUNTY,) ORDER 14-ACK-001861
MULTNOMAH COUNTY, AND)
WASHINGTON COUNTY)**

This matter came before the Land Conservation and Development Commission (Commission) on November 13, 2014, on remand of Compliance Acknowledgment Order 12-ACK-001819 from the Oregon Court of Appeals, pursuant to ORS 197.651.

History and Summary of Urban and Rural Reserves

1. On June 23, 2010, the Department of Land Conservation and Development (Department) received Metro Ordinance No. 10-1238A, the joint and concurrent submittal of Clackamas County, Multnomah County, Washington County, and Metro pursuant to ORS 195.137-195.145 and 197.626 (collectively, Initial Submittal).
2. On October 29, 2010, the Commission voted to remand a portion of the Initial Submittal as it applied to certain reserve designations in Washington County.
3. On May 13, 2011, the Department received the re-designation submittal, Metro Ordinance No. 11-1255.
4. On August 19, 2011, the Commission voted to acknowledge the Metro Urban and Rural Reserves submittal in its entirety, including the Initial Submittal, as revised by the 2011 re-designation submittal (collectively, Reserves Submittal).
5. On August 14, 2012, the Department issued Order 12-ACK-001819 implementing the Commission's acknowledgment of Metro Urban and Rural Reserves.
6. On judicial review of that order, the Court of Appeals reversed and remanded for reconsideration of the decision to approve Rural Reserves in Washington County and to include Rural Reserve Area 9D in Multnomah County and Urban Reserve Areas 4A, 4B, 4C, and 4D in Clackamas County, but otherwise affirmed the order. *Barkers Five, LLC v. LCDC*, 261 Or App 259 (2014).
7. On April 1, 2014, House Bill 4078 became effective. This bill, codified as Oregon Laws 2014, chapter 92, established and acknowledged Urban Reserves and Rural Reserves in Washington County.

Findings of Fact

1. On February 20, 2014, the Court of Appeals filed its decision on judicial review of the Commission's Compliance Acknowledgment Order 12-ACK-001819.
2. On July 30, 2014, the State Court Administrator sent a copy of the appellate judgment to the Commission and the Court of Appeals decision became effective on that date pursuant to ORAP 14.05.

3. On August 25, 2014, the matter of the Review of the Designation of Urban Reserves by Metro and Rural Reserves by Clackamas County, Multnomah County and Washington County, came before the Commission on remand from the Court of Appeals pursuant to ORS 197.651.
4. On September 4, 2014, the Department issued a Scheduling Order implementing the Commission's direction from the August 25, 2014 hearing.

Conclusion

Based on the decision of the Court of Appeals, and having considered the briefs and oral arguments of the parties following the court's decision, the Commission finds that the Reserves Submittal as amended by Oregon Laws 2014, chapter 92, complies with ORS 195.141 and 195.145, OAR chapter 660, division 27, the applicable statewide planning goals, and all other applicable rules of the Commission, except with respect to (1) Multnomah County's explanation of why its consideration of the rural reserve factors yields a rural reserve designation of all land in Rural Reserve Area 9D; and (2) Metro's explanation of why the designation of Areas 4A, 4B, 4C, and 4D as Urban Reserves is supported by substantial evidence.

THEREFORE, IT IS ORDERED THAT:

The Commission incorporates by reference the findings and conclusions of Compliance Acknowledgment Order 12-ACK-001819, except with respect to its approval of the inclusion of Rural Reserve Area 9D and Urban Reserve Areas 4A, 4B, 4C, and 4D. Accordingly, the Commission remands Rural Reserve Area 9D to Multnomah County and Urban Reserve Areas 4A, 4B, 4C, and 4D to Metro for further findings under ORS 195.141 and 195.145, and OAR chapter 660, division 27.

Before final acknowledgment, the Commission will review a resubmittal of the Metro Region urban and rural reserves designations for acknowledgement of compliance with ORS 195.141 and 195.145, OAR chapter 660, division 27, the applicable statewide planning goals, and all other applicable rules of the Commission.

DATED THIS 15 DAY OF JANUARY 2015.

FOR THE COMMISSION:



Jim Rue, Director
Dept. of Land Conservation and Development

NOTE: You may be entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 21 days from the service of this final order. Judicial review is pursuant to the provisions of ORS 197.651.