



President Tom Hughes
Metro Council
600 NE Grand Avenue
Portland, OR

Re: Remand of Stafford-Area Urban Reserves
LCDC Remand Order 14-ACK-001867 Metro Ordinance No. 11-1255

Thank you for this opportunity to testify on the matter of the remand from the Court of Appeals' and the Land Conversation and Development Commission to Metro regarding the designation of the Stafford, Rosemont, Borland, and Norwood areas in Clackamas County as urban reserves under ORS 195.145. We are unable to attend today's hearing; therefore, we are submitting written testimony and plan to appear at your next hearing on this.

While this hearing is focused on the Stafford area, our testimony addresses an issue we expect to arise: whether some or all of the area south of the Willamette River, in Clackamas County, that is currently designated as rural reserves should be changed to either undesignated or urban reserves. For legal, policy, and practical reasons we recommend that the Metro Council not change the rural reserve designation.

As a legal matter, this area qualifies as a rural reserve and does not meet the factors to be either undesignated or an urban reserve. The record of Metro's reserves decision documents extensively why this area qualifies as a rural reserve under ORS 195.137-.145 and OAR chapter 660, division 27, and we will not go into detail on that here. However, a few factual items are pertinent to summarize.

The rural reserve area south of the Willamette River consists of Foundation farm land, as designated by the Department of Agriculture and Metro. Foundation farm land is land that not only has excellent soils, but as a matter of law, it already meets all the requirements for being designated as a rural reserve: the land has already been found to be part of a larger block of farm land that possesses the soil and water characteristics, and is located such that the land is necessary, to maintain the long-term viability of the agricultural industry in the county, region, and state;¹ it also is necessary to support the agriculture industry's infrastructure of related businesses, processors, services, etc....;² and it is threatened by urbanization.³

This area of Clackamas County represents the northern portion of Oregon's fertile French Prairie area, which it shares with Marion County. Marion County is the state's #1 agricultural producing county, and Clackamas is #5. Together, they represent over \$1 billion in direct

¹ ORS 195.139(1)(a); ORS 195.141(3); OAR 227-027-0060(2)

² ORS 195.139(1)(a); ORS 195.141(3); OAR 227-027-0060(2)

³ ORS 195-141(3)(a); OAR 660-027-0060(2)(a)

agricultural sales, almost all in traded sector sales, and several times that amount in related industries.⁴ French Prairie is the heart of that irreplaceable bounty.

The designation of rural reserves is primarily a qualitative determination, not a quantitative one. That is, meeting the requirement of protecting the long-term viability of the agricultural industry is *not a matter of acres*, but of the *quality and location* of that land. And therefore, the balancing between urban and rural reserves required by law cannot be measured in acres of rural versus urban reserves or any other simply numerical comparison, or simply trading out pieces of land currently designated one or the other.

The record includes evidence from state and local agencies demonstrating that, in addition, the area does not meet the legal requirement to be designated as an urban reserve. In evaluating whether an area qualifies as an urban reserve, “Metro shall base its decision on consideration of whether [the] land” satisfies eight factors. The land south of the Willamette River fails this, as found by every elected and appointed body that evaluated it.

In particular, the evidence demonstrates the land cannot “be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments” (OAR 660-027-0050(1), and it cannot “be efficiently and cost-effectively served with public schools and other urban-level public facilities and services by appropriate and financially capable service providers” (OAR 660-027-0050(3). Crossing the River would not only destroy some of the best farm land in the country, it would also negate the River’s use as a natural urbanization barrier, and result in a situation with no natural buffer between farming and urbanization marching south down the valley. This area cannot “be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves.” OAR 660-027-0050(8)

For example, ODOT testified that the South Metro I-5 corridor and Boone Bridge are at maximum traffic-handling capacity, and that the cost to increase capacity would be “over \$500 million.”⁵ Other testimony shows that evaluating all urban services - including wastewater, water, roads, and sewage - the area is a poor candidate for urbanization. That is why, in a detailed joint letter, seven state agencies opposed an urban reserve designation for lands south of the Willamette River.

The cost of providing urban services to this area to benefit a very few speculative property owners is a hidden public subsidy that all residents of the region – and indeed of Oregon – would pay, at the cost of other needed transportation and infrastructure investments that would serve existing communities. A consortium of private industrial land interests, Metro, and the Port of Portland have documented the existing industrial sites inside the current UGB that need discrete investments – for example, in an access road, in lot consolidation, in a clean-up – as a last step to make them “development ready.” An investment in these areas would bring online hundreds, perhaps thousands, of industrial acres that are already inside the UGB. Diverting the region’s

⁴ ODA, Oregon Agriculture: Facts & Figures, July 2014.

⁵ Joint State Agency Comments on the Metro Urban and Rural Reserves of October 14, 2009. (ODOT, ODA, DLCD, OWRD, DEQ, ODFW, DSL)

very limited attention and financial resources to the area south of the Willamette River is fundamentally unfair to those private industrial land owners inside the UGB.

Every elected and appointed body that has considered this area has concluded it is appropriately designated as a rural reserve, including: the Clackamas County Board of Commissioners, the Clackamas County Reserves Advisory Committee, the Clackamas County Planning Commission, Metro's Core Four (which included a Clackamas County Commissioner), the Metro Council, the Land Conservation and Development Commission, and the Oregon Court of Appeals. It is time for the region to say "enough" to the seemingly endless attempts by a few who simply speculated over a decade ago when they knowingly bought land zoned for exclusive farm use and figured they could somehow urbanize it. The area is properly designated as a rural reserve.

Thank you for consideration of our comments.

Sincerely,

A handwritten signature in cursive script that reads "Mary Kyle McCurdy". The signature is written in black ink and is positioned above the typed name.

Mary Kyle McCurdy
Policy Director and Staff Attorney