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Via Hand Delivery

Oregon Aviation Board
3040 25th Street SE
Salem, OR 97302

Re: Aurora State Airport Master Plan-Draft Findings of Compatibility

Dear Board Members:

I am writing on behalf of Friends of French Prairie, to join in the testimony of other parties in opposition to the proposed Aurora State Airport Master Plan and staff's draft findings of compatibility with local comprehensive plan provisions and the Statewide Planning Goals. Many of the points raised in the department's "findings of compatibility" dated October 25, 2019 have already been addressed on this record. The purpose of this letter is to address points which may not have been fully discussed earlier.

ODOT COORDINATION RULES

1. **OAR 731-015-0065(2)**. The draft findings state that this provision was complied with through transmittal of the master plan to Marion County. However, this provision requires that a draft of the proposed facility plan be provided to planning representatives of "***all*** affected cities, counties and metropolitan planning organizations and shall request that they identify any specific plan requirements which apply, any general plan requirements which apply and whether the draft facility plan is compatible with the acknowledged comprehensive plan. * * *" Nonetheless, as has been explained elsewhere in the record, the City of Wilsonville, City of Aurora, and other affected jurisdictions were not contacted with respect to such compatibility. The draft findings simply fail to demonstrate compliance with this provision as to the jurisdictions in question. *See also* the discussion of OAR 731-015-0065(4), below.

2. **OAR 731-015-0065(3)**. This provision requires identification of conflicts with the Statewide Planning Goals and local comprehensive plans, and the completion of subsequent steps to resolve those conflicts. The draft findings do not begin to address conflicts identified on the record with respect to the Statewide Planning Goals or the comprehensive plans of the cities of Wilsonville and Aurora. We note that the Airport

Overlay (AO) zone does not replace underlying EFU zoning until and unless actual rezoning takes place. Marion County has not carried out any such rezoning of the AO area here. Thus, the impacts of the restrictions upon use of the affected farmland due to the AO designation and the proposed airport expansion must be, but have not been, addressed.

3. OAR 731-015-0065(4). This provision requires ODA to evaluate and write draft findings of compatibility with acknowledged comprehensive plans of affected cities and counties and the relevant Statewide Planning Goals. The draft findings describe the “affected local government” as the government having planning authority over the airport itself, and do not discuss compatibility with acknowledged comprehensive plans of other affected cities and counties. Here, the draft findings misconstrue OAR 660-031-0010(2). Marion County is not the sole unit of “local government that has comprehensive planning authority over the area where the proposed activity and use would occur.” Increased air traffic by heavier aircraft would affect the cities of Wilsonville and Aurora, as well as Clackamas County. The Charbonneau area of Wilsonville would be especially affected. In addition, there would be increased road traffic in the above jurisdictions, including but by no means limited to additional truck traffic bringing water onto the airport and transporting “groundwater” off the airport to disposal sites. Accordingly, the proposed activity and use would occur in all those jurisdictions. Traffic conditions in the other jurisdictions would also be adversely affected by increased aviation fuel truck and other truck and auto traffic.

Moreover, this interpretation of the rule directly conflicts with the agency’s rules governing coordination. For example, under ODOT’s rules applicable prior to this agency’s adoption of its own rules, “‘Affected City or County’ means a city or county that has comprehensive planning authority over a site or area which is directly impacted by a proposed Commission or Department action.” OAR 731-015-0015(2). The direct impacts upon the above jurisdictions have been addressed at great length on this record.

As stated in my letter of September 24, 2019, OAR 731-015-0065 then provides detailed coordination procedures which have not been followed with respect to said jurisdictions here. Together with that letter, I provided a copy of this agency’s rules for its coordination program, OAR 738-130-0005, *et seq.*, adopted in 2015 and containing equivalent language. Thus, it does not matter which set of administrative rules applies. Compliance has simply not occurred, and the draft findings cannot give rise to belated or retroactive compliance.

Under the circumstances, direct compliance with the Statewide Planning Goals is required. Others have identified and discussed the relevant goals on the record. The

proposed findings do not demonstrate compliance with them. Furthermore, based upon the evidence and argument contained in the record, the proposed master plan cannot be adopted without the agency taking exceptions to Goals 3, 11 and 14. No effort has been made in this regard.

THE STATEWIDE PLANNING GOALS

The draft findings attempt a statement in the alternative of compliance with the Statewide Planning Goals. Friends of French Prairie responds as follows.

1. **Goal 2, Land Use Planning.** The draft findings do not address Goal 2, which requires state agency coordination with local governments and consistency with their comprehensive plans when the agency adopts plans of its own or takes land use actions. For the reasons we and others have explained at length, this process and the proposed master plan violate Goal 2 to an extraordinary extent.

2. **Goal 3, Agricultural Lands.** Contrary to the draft findings, the record shows that the taxiway built in parallel to the runway extension will extend substantially onto EFU land, to a minimum extent of four or five acres. The area in question had been used for growing vegetables and is now used for growing grass seed. New navigation and similar structures would be constructed on farmland directly south of the 1,000 foot runway extension. Other farm impacts are addressed at length on the record, including by the oral and written testimony of Mike Iverson of Aurora Farms.

The use of farmland under the RPZ will be severely impaired by height limitations upon equipment and farm structures. It is simply incorrect to state that the “master plan is a concept document that shows where future development might go.” This is absolute nonsense. Very specific proposals were presented to the FAA, which selected one of them. If there is a revision in the plans, the agency will have to go back to the FAA for approval. The time for addressing impacts relating to Keil Road is now. While FAA guidance may allow some agricultural uses as compatible with airport operations, other agricultural uses will not be compatible. The findings lack any discussion of compatible and incompatible uses and what would or would not be allowed for the farming community.

Further, the relocation of Keil Road (*see* Master Plan Ex. 6) would move it onto prime farmland, which would thus take that farmland out of productive use. At the same time, Exhibit G to your draft findings suggests Keil Road may simply be abandoned. This in turn would further exacerbate the adverse effects described in the October 9, 2019 letter from Aurora Farms.

All these issues are required to be addressed now and not through subsequent proceedings of this or a different government body. The demonstration of goal compliance must be made prior to adoption of an airport master plan. As this record stands, there will be massive negative impacts upon EFU lands if this master plan is approved.

Finally, we would point out that House Bill 4092 (2018), drafted to override certain farmland protections for the benefit of operators of state airports and expedite airport expansion, failed to pass out of the House of Representatives. It is of no benefit to the proponents here.

The proposed master plan requires the taking of an exception to Goal 3.

3. Goal 11, Public Facilities and Services. We believe that Goal 11 has been addressed extensively by affected jurisdictions. Suffice it to say that the airport is an urban use outside any city, without public water or sewer services. The proposed expansion is intended to serve large corporate jets with significant passenger and crewing capacity, making these urban service issues even worse. The master plan cannot proceed without a goal exception first being taken.

4. Goal 12, Transportation. For the reasons set out by several opposing parties, the proposed master plan will have significant impacts upon the local transportation system. Demonstration of compliance with Goal 12 cannot be passed off to some future event or process. The requisite analysis and showing of compliance is required to be made at this master planning stage.

5. Goal 14, Urbanization. We incorporate by reference here the discussion of Goal 14 contained in the submittals of the cities of Wilsonville and Aurora. The master plan directly involves and affects areas outside Marion County's "P" zone. The localizer and other navigation and related equipment to be constructed outside the P zone fall far outside the definition of a "public utility facility necessary for public service." The necessary electrical service might fall within that definition, but the proposed structures and equipment do not.

Almost every element of the proposed airport expansion is urban in nature. It is unclear why proponents believe that airports like this one do not belong within urban growth boundaries. Proponents suggest that the City of Aurora, a duly incorporated city, cannot provide adequate services here. This argument strengthens opponents' position that the airport itself is an urban use requiring urban services under Goals 11 and 14.

Further, Goal 11 and 14 exceptions are required here because the proposed use necessarily converts what is presently farmland in the area of the extended taxiway, the above-described structures and equipment, and any relocated or abandoned segment of Keil Road, to urban land through the introduction of urban facilities and uses.¹

This master plan cannot be adopted before exceptions to Goals 11 and 14 are successfully taken.

OTHER ISSUES

- In her letter of October 4, 2019, Ms. Kellington states:

A 1000' runway extension has been included in Aurora Airport Master Plans since 1976. The only difference being that the 1976 Master Plan and subsequent master plans showed a 1000' runway extension was to the north and the 2012 update showed the runway extension to the south.

* * *

Kellington letter at 24.

In point of fact, as shown by the specific impacts identified on this record, particularly to agriculture on the south side of the airport as well as the apparent need to relocate or close Keil Road, the change in the proposed master plan compels an entirely new analysis by this board.

- As we have stated, the board cannot simply pin the tail on the donkey and call it a properly adopted airport master plan. The mandated process required the results of the coordination with affected local governments to be taken into account as the master plan was first being developed, so the concerns of those governments and their constituents

¹The draft findings misconstrue LUBA's holding in *Murray v. Marion County*, 23 Or LUBA 268 (1992). The appeal in that case was successful, and the county's decision was remanded. LUBA held that runway and runway protection zone expansion onto farmland would create urban public facility uses, requiring exceptions to Goals 11 and 14. In addition, it is not at all clear that Marion County acted following remand and readopted the remanded goal exception, comprehensive plan map change, zone change, lot line adjustment, and conditional use permit, which are relied upon by the agency herein. We also do not believe that the further-increased airport usage to be facilitated by the proposed expansion herein is either planned for in Marion County's acknowledged comprehensive plan or the subject of an acknowledged goal exception.

could be taken into account in the shaping of the plan. Belated findings simply will not cut it.

Since no master plan can be adopted without findings of compatibility, it would seem that any argument or finding that the Aurora Airport master plan was adopted in 2011 or 2012 must fall of its own weight, and that “plan” would be void. If findings of compatibility are adopted, as has been an essential element of the process all along, then the adoption of those findings would appear—as made clear by the initial Notice of Public Meeting herein—to bring about the adoption of the master plan itself.

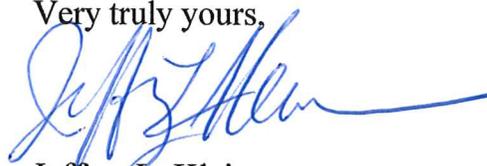
A decision to adopt a master plan in 2019 based upon evidence adduced between 2009 and 2012 would be a decision unsupported by substantial evidence in the whole record and, to the extent applicable here, lacks an adequate factual base. As others have shown, the forecasts created and relied upon through 2012 have proven to be wholly incorrect over time. They cannot be used to justify the proposed airport expansion.

CONCLUSION

For the reasons set out above, the findings, conclusions, and recommendation set out at page 7 of the draft findings are unsupportable.

For the reasons set out above as well as those presented elsewhere on the record by individual and organized opponents and the cities of Wilsonville and Aurora, the requisite findings of compatibility are not sustainable here. As a result, the proposed master plan cannot be approved, and the master planning process must be recommenced in the manner and sequence required by law.

Very truly yours,



Jeffrey L. Kleinman

cc: client