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March 3, 2021

Chair Beyer and Chair McClain
Oregon Legislature
Salem, Oregon

RE: Testimony Opposed to SB 395 and Request for Amendments

Please do not adopt SB 395 as is. Please amend SB 395 to

1. require that ODOT can **only** give grant money if the recipient proves it has all required land use permissions that are **final and without appeals**,
2. that the committee includes a farmer and a farm bureau representative, and
3. notify the public in advance of ODOT giving any grant and is allowed to comment.

We are farmers, owning some of the best farmland in Yamhill County and the world. For nearly three years, we had to fight Yamhill County to enforce important Oregon Land Use Planning laws that protect farmland and protect the public process, laws that the county and ODOT ignored. ODOT acknowledged that Yamhill County "hid" LUBA appeals "for months", and yet ODOT kept giving the county money. Clearly, ODOT was on notice there was a severe problem. Now that it is clear that the project cannot be approved, ODOT has to "claw back" that money from Yamhill County. The money the county should never have received in the first place.

The **only** reason Yamhill County disregarded Oregon's land-use laws is that ODOT dangled the promise of \$1.3+ million if the county constructed devastating improvements on farmland, all while happening on a swift timeline that

left no time for observing the land use process, which had zero land use permission, and ODOT knew it. ODOT further helped the county escape the NEPA process under a "Programmatic Categorical Exclusion" from critical environmental laws that ODOT knew or certainly had good reason to know was utterly unwarranted under federal law.

We farmers had to spend hard-earned dollars to file LUBA appeals and get LUBA to stay the county's illegal construction, all to meet ODOT's timelines and get LUBA to tell the county that EFU zone laws have to be observed (and by extension ODOT) three times. Each time, LUBA made clear that the county did not even come close.

ODOT has seriously mismanaged public grant dollars. Nothing says it will stop unless the legislature constrains ODOT's authority and legislates guardrails, so what happened in Yamhill County cannot happen again to other vital farmlands.

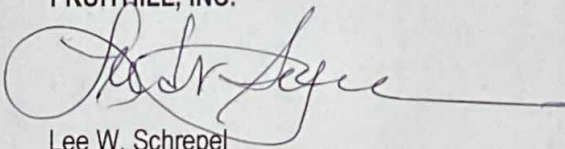
Also, please investigate this situation. It is not ok. In addition to spending a fortune on the LUBA appeals, we have also had to spend plenty of money on ODOT public records requests. ODOT did not see any public benefit to us figuring out what was going on and refused to waive public records fees. We will share the documents with you which we have uncovered.

We hope you are as disturbed by this episode as we are and hope you will not only amend SB 395 to prevent it from happening again, but also investigate ODOT's complicity.

Thank you for your consideration.

Sincerely,

FRUITHILL, INC.



Lee W. Schrepel
Vice President

cc: Senator Brian Boquist, Oregon Senate District 12
Senator Betsy Johnson, Oregon Senate District 16
Representative Ron Noble, Oregon House District 24