

March 3rd, 2021

Chair Beyer and Chair McClain and members of the committee,

RE: Testimony Opposed to SB 395; 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, without appeals**, (2) that the committee includes a farmer and a farm bureau representative, and (3) the public is notified in advance of ODOT giving any grant and given the opportunity to comment.

We are farmers, owning some of the best farmland in Yamhill County and the world. We had to fight Yamhill County for nearly three years 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 the county “hid” LUBA appeals “for months” and yet ODOT kept giving the county money. Clearly, ODOT was on notice there was a serious problem. Now that it is clear that the project cannot be approved, ODOT has to collect that money from Yamhill County. It should never have been given in the first place.

The **only** reason Yamhill County disregarded Oregon’s land use laws is because ODOT dangled the promise of \$1.3+ million dollars if the county constructed a devastating project on farmland, and on a swift timeline that left no time for observing the land use process. There was zero land use permission and ODOT knew it. ODOT further helped the county escape the NEPA process under a “Programmatic Categorical Exclusion” from important environmental laws that ODOT knew, or certainly had good reason to know, was completely unwarranted under federal law.

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

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

Also, please investigate this situation. A public audit of this project is warranted. 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 so refused to waive public records fees. We will share the documents with you we have uncovered. But we hope you are as disturbed by this episode as we are and hope that you will not only amend SB 395 to prevent it from happening again, but also investigate ODOT's complicity.

Thank you.

Mark Gaibler, Meadowridge Farms, president, Carlton, OR 97111

Greg McCarthy, Ground Zero Farms and Ground Zero Seed company, Yamhill, OR 97148

Jim VanDyke, Westview Farms, president, Yamhill, OR 97148

Bryan Schmidt, livestock operations, Carlton, OR 97111

Gordon C. Dromgoole, farmer/Yamhill co farm bureau member, Yamhill, OR 97148

Billie Jean Matthews, farmer/landowner, Yamhill, OR 97148

Ben VanDyke, VanDyke Farms, president, Yamhill, OR 97148