

**From:** [Zeigler Samuel B](#)  
**To:** [Christian Boenisch](#)  
**Cc:** [Todd Sadlo](#); [Posegate Stacy C](#)  
**Subject:** FW: Yamhelas Trail  
**Date:** Thursday, June 18, 2020 5:13:36 PM

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FYI.

**Sam Zeigler**

Oregon Department of Justice

503.947.4487

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**From:** HAVIG Erik M <Erik.M.HAVIG@odot.state.or.us>  
**Sent:** Thursday, June 18, 2020 5:12 PM  
**To:** martinc@co.yamhill.or.us  
**Cc:** Zeigler Samuel B <Samuel.B.Zeigler@doj.state.or.us>; BROWN Cooper H <Cooper.H.BROWN@odot.state.or.us>  
**Subject:** Yamhelas Trail

Dear Ms. Martin,

I understand that Yamhill County Chair Casey Kulla spoke with ODOT Director Strickler this morning. Based on that conversation, I wanted to provide more information on our amendment proposal and clarify ODOT's rationale for moving in this direction.

### **ODOT's Position**

To date, the County's effort to obtain land use approvals for the development of the Yamhelas Westsider Trail (the "Trail") and the Stag Hollow Creek bridge (the "Bridge") have together triggered no less than four appeals to the state Land Use Board of Appeals (LUBA) since 2018. While the County prevailed in one of these appeals, in all of the others LUBA remanded the County's land use decision to the County for further proceedings. And in the most recent LUBA proceeding, LUBA went further and stayed construction of the Bridge pending the outcome of that appeal. LUBA ultimately ruled in that proceeding that the County commenced the Bridge's construction without the necessary conditional use permit. In short, over the last three years LUBA has time and again repudiated the County's efforts to obtain the necessary land use approvals for the Trail and the Bridge. And we fully anticipate more LUBA appeals and hence more delays going forward.

The LUBA proceedings demonstrate the County's ongoing inability to successfully manage its own land-use approval process for the Bridge and the Trail of which it is a part. Given this demonstrated inability, ODOT is concerned that (i) the Project's successful completion—namely, the opening of the Bridge to the public as part of the Trail—is highly questionable if not improbable and (ii) the Project will not produce results commensurate with ODOT's further expenditure of limited Connect Oregon funds.

ODOT takes its responsibility of being good stewards of public dollars very seriously and, for this reason and the reasons listed above, the department offers the following proposal. If the county decides not to accept this proposal, ODOT will terminate the grant agreement.

### **ODOT's Proposal**

The county will set forth a timeline for opening the subject 2.78-mile segment of the trail to the public. Since the land-use approval process is at the county level, we're asking the county to set a reasonable date for the completion of the trail and subsequent opening to the public, by which time if said opening does not occur ODOT will have the right to recover all grant funds received by the county. This date of opening and potential recovery of funds will be amended into the current grant agreement.

### **Timeline for Decision**

To allow adequate time for your commission to consider this amendment, we are asking for an agreement in principal to this amendment approach no later than 5pm next Friday (June 26, 2020) and a formal commission approval of this amendment no later than 5pm July 3, 2020.