



# Oregon

Theodore R. Kulongoski, Governor

Department of Transportation

ODOT District 5

644 'A' Street

Springfield, OR 97477

(541) 744-8080

Fax: (541) 726-2509

Aaron.J.KETCH@odot.state.or.us

September 28, 2009

File Code: PMT 4-16

**VIA CERTIFIED MAIL**

Damien Gilbert  
Branch Engineering, Inc  
310 5th Street  
Springfield, OR 97477

**Subject: Mitigation and Construction Drawings and Plans Required for Issuance of *Permit to Construct a State Highway Approach* Highway Number 009, (Oregon Coast), at Mile Point 187.84 Application Number 9295**

Dear Damien:

I am pleased to inform you that the Oregon Department of Transportation (ODOT) has approved the location and a development concept for your requested State Highway Approach. However, the Department's approval requires mitigation measures that are described below. Several administrative steps remain before ODOT can issue the *Permit to Operate, Maintain and Use a State Highway Approach*, which is the final step in the permitting process.

Before you begin any work in the highway right of way, the Department must approve your construction drawings and plans and issue a construction permit. This letter provides instructions for submittal of your construction drawings and plans and your appeal rights regarding the mitigation measures.

The following mitigation measures will become terms and conditions of your construction permit:

1. Completely remove the existing sub-standard right-turn deceleration lane.
2. Remove the existing 4.5-foot wide substandard sidewalk and 6-inch curb in front of the Munsel Lake Village/Plaza properties. Construct a new 6-foot wide sidewalk and 6-inch curb along the entire Munsel Lake Village/Plaza highway frontage at the ODOT approved location.

3. Extend the two existing southbound travel lanes northerly up to Munsel Lake Road intersection, without impacting the City of Florence/Heceta Beach Water District water vault. The exact location of the two lane extension shall be based on the preliminary construction drawings / solution proposed by Damien Gilbert dated 9/18/2009. The intent is to give drivers more time to choose a travel lane prior to reaching the approved approach.

Applicant shall provide construction drawings and plans stamped by a registered Professional Engineer for all required mitigation, which shall be designed and constructed in accordance with ODOT design standards and specifications for this highway segment.

A permit to construct the required mitigation (miscellaneous permit) will not be issued to the applicant until a final set of construction drawings has been submitted, reviewed and accepted by ODOT.

Prior to the issuance of a Permit to Operate, Maintain and Use an Approach, applicant shall comply with all State and Local jurisdiction conditions of approval.

If you accept these mitigation measures, please submit your construction drawings and plans by 5:00 p.m. on November 01, 2009 to the address below. Our approval of your application will become void, if your construction drawings and plans are not returned within 60 days from the date of this letter. I have attached a detailed explanation of what the construction drawings must include.

Aaron Ketch, Permit Specialist  
ODOT District 5  
644 'A' Street  
Springfield, OR 97477

Under Oregon Administrative Rule (OAR) 734-051-0070, you are required to submit your construction drawings and plans by the date specified above or the approval of your application is void. If necessary, the Department may extend the time for your submittal of drawings and plans if both you and the Department agree in writing before the deadline listed above. Please contact me at (541) 744-8080 if you would like to request an extension of time.

After you submit construction drawings and plans, the Department will contact you if any additional information is needed for approval. We will notify you when your drawings and plans are approved and provide instructions for you to obtain a *Permit to Construct*.

You may not begin any work in the highway right of way until you receive a *Permit to Construct* signed by the Department.

### **Options to Appeal Mitigation Measures**

If the mitigation measures are not acceptable to you, then you may appeal them by submitting a request in writing for either a Region Review or a Contested Case Hearing.

A Region Review is conducted under OAR 734-051-0345. It is an informal process that allows you to explain your objections and to present additional information in writing or in person to a panel of ODOT staff who were not involved in approving your *Application for State Highway Approach*. The provisions of OAR 734-051-0345 require that you include in your request for a Region Review the documentation that you will rely upon during the Region Review. The Region Review panel will consider all of the information presented and may recommend either upholding the original decision or considering alternative decisions to resolve the disagreement. The Region Manager reviews the panel's recommendations and makes the final decision to approve, modify, or reverse the original decision.

A Contested Case Hearing is a formal hearing conducted by a Hearing Officer of the Office of Administrative Hearings under OAR 137-003-0501 through 137-003-0700. The Office of Administrative Hearings is not a part of the Department of Transportation. The Hearing Officer will consider all information presented and decide whether the Department's original decisions are consistent with the requirements of OAR 734-051. The Hearing Officer usually decides in favor of, or against, the Department's original decision and does not offer alternative solutions to resolve any disagreements.

If you request a Region Review and are not satisfied with the outcome, you may request a Contested Case Hearing at that time. You may also choose to skip the Region Review altogether and proceed directly to a Contested Case Hearing.

The Department must receive your request for either a Region Review or a Contested Case Hearing within twenty-one (21) calendar days of the date of this letter. If your request is not received within this time period, your right to a Region Review or a Contested Case Hearing is considered waived. If you withdraw a request for a hearing, if you notify the Hearing Officer that you will not appear, or if you fail to appear at a scheduled hearing, then ODOT's Executive Deputy Director may issue a final order by default. In that case, ODOT designates its files on this matter as the record.

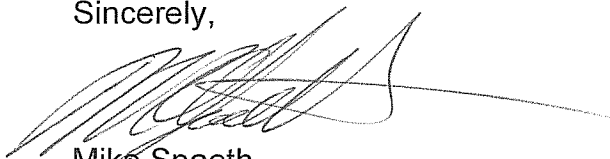
If you wish to request either a Contested Case Hearing or a Region Review, please send your request to:

Jane S. LEE  
ODOT Region 2 Manager  
455 Airport Rd Bldg #B  
Salem, OR 97301

ODOT's Appeals Coordinator will contact you after the request is received.

If you would like to discuss the required mitigation measures further without requesting a Contested Case Hearing or a Region Review, or even after making a request, please feel free to contact Aaron Ketch, Permit Specialist at (541) 744-8080.

Sincerely,



Mike Spaeth  
District 5 Manager

c: David Knitowski, Regional Access Management Engineer  
Aaron Ketch, Permit Specialist  
Ann Zeltmann, Access Management Appeals Coordinator  
Hearing Officer Panel, Transportation Section  
Sandra Belson, Local Government Official