



Oregon

Theodore R. Kulongoski, Governor

DATE

VIA CERTIFIED MAIL

ADDRESSEE

Subject: Removal of Approaches within Highway Project Limits and Appeal Options
Hillsboro - Silverton Highway, (OR 219), No. 140 at Milepoint _____
Permit Number _____

Dear Mr. Addressee:

ODOT is currently engaged in a highway improvement project known as OR219: Springbrook Rd. – Wynooski Rd. (Newberg). This project will result in a number of changes:

- Construction of a new 3-lane alignment that will connect OR 219 with Springbrook Road;
- Disconnection of Wilsonville Rd. from OR 219 and rerouting of Wilsonville Road to the north where it will intersect with the new extension of Springbrook Road;
- Closure of the intersection of Adolph Road and Sandoz Road at OR 219;
- Disconnection of 9th St. at OR 219 and realignment to the new intersection at 8th Street via a new connector to be called Industrial Way;
- Installation of a new traffic signal at the new connection with OR 219 at 8th Street; and
- Construction of new curbs, gutters and storm drainage on Springbrook Road and Industrial Way.

You have a private road approach located on the Hillsboro - Silverton Highway (OR219) at milepoint _____. **This approach is within the project limits.** The approach has been evaluated in the context of OAR 734-051-0285(5), (Project Delivery). The Region Manager has determined that **this approach shall be closed (removed).**

Application of Administrative Rule

ODOT has the responsibility of providing the traveling public with a safe and efficient transportation facility. ORS 374.310(2) charges the state with managing its highways “in the best interest of the public for the protection of the highway or road and the travelling public.” ORS 374.305 states that certain actions may be taken, including removal, alteration or change of an approach road when “the public safety, public convenience and general welfare” require such action.

OAR 734-051-0285(5) provides the following instructions regarding removal of approaches.

The Region Manager may require modification, mitigation, or removal of approaches within project limits:

(a) Pursuant to either:

(A) An Access Management Plan or an Access Management Plan for an Interchange adopted by the Department; or

(B) An approved Access Management Strategy; and

(b) If necessary to meet the classification of highway or highway segment designation, mobility standards, spacing standards, or safety factors; and

(c) If a property with an approach to the highway has multiple approaches and if a property with an approach to the highway has alternate access in addition to the highway approach.

(d) The determination made under sections (a) through (c) above must conclude that the net result of the project including closures, modifications and mitigations will be that access will remain adequate to serve the volume and type of traffic reasonably anticipated to enter and exit the property, based on the planned uses for the property.

The statutes and rules cited above were applied to the project in the following manner: This project was initiated by ODOT Region 2 Traffic in an effort to reduce fatal and severe injury crashes at the Wilsonville Road / Sandoz Road intersection. Of the 148 worst crash sites in Region 2, this intersection is ranked number 10 – which puts it among the top 10% of worst crash sites in Region 2. During the peak hour, the existing volume to capacity ratio of traffic at Hwy 219 and Wilsonville Rd. is 1.66, which is failing in ODOT's system. In response to these problems, the primary objective of the project was identified as improving the safety and operational aspects of this section of highway. After identifying the objective ODOT, in partnership with City and County staff, developed an Access Management Strategy to address access management issues within the project limits. The following Strategy was approved and was consistently applied throughout the project.

Close private road approaches (driveways) that meet one or more of the following criteria:

1. Accesses located within the radius improvements of the OR219 – Industrial Way intersection.
2. Accesses that serve properties that have alternate access that is reasonable to serve the current use of the property.
3. Field accesses located within a left turn refuge.
4. Accesses that are no longer in use.

Because your property has multiple accesses and the alternate access is reasonable to serve the current use of the property, item criteria number 3 on the Strategy applied and, as a result, the approach from your property to OR 219 will be closed.

Options to Appeal Closure

Because the approach that ODOT intends to close possesses a valid road approach permit, you are entitled to appeal this decision 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 to explain your objections to the closure and to present additional information in writing or in person to a panel of ODOT staff who were not involved in the project design. 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 to close your approach.

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 a Contested Case Hearing, send your request to:

Hearing Officer Panel
Transportation Section
1905 Lana Avenue
Salem, OR 97314

The Hearing Officer will notify you of the time and location of the hearing. Prior to the hearing, the Hearing Officer will provide you with information concerning administrative hearing procedures, your right to representation, and other rights relating to the conduct of the Contested Case Hearing.

If you wish to request a Region Review, send your request to:

ODOT Region 2 Manager
455 Airport Road SE, Bldg. B
Salem, Oregon 97301-5395

ODOT's Appeals Coordinator will contact you to establish a time and place for the meeting.

If you would like to discuss the closure of this approach further without requesting a hearing, or even after requesting a hearing, please feel free to contact me directly at xxx-xxx-xxxx.

Thank you for your prompt attention to this matter.

Sincerely,

Don Jordan
District Manager
ODOT District 3

cc: David Warren, P.E., Region 2 Access Management Engineer
Alan Fox – ODOT, Project Leader
Ann Zeltmann - ODOT Appeals Coordinator