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November 26, 2002

Randall Dean La Marr, SID #4621656
Snake River Correctional Institution
777 Stanton Blvd.
Ontario, OR 97914-0595

Re: *Public Records Disclosure Order and*
Petition for Review of Denial of Fee Waiver:
Oregon Department of Administrative Services, Risk Management Division

Dear Mr. La Marr:

This letter is the Attorney General's order on your petition for disclosure of records and waiver of fees under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on November 19, 2002, asks the Attorney General to direct the Oregon Department of Administrative Services, Risk Management Division (RMD) to disclose to you "any and all records concerning the investigation into Tort Claim Number L90309," and to waive its fees for doing so. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to access any public record of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. Any person denied the right to inspect or to receive a copy of any public record of a state agency may petition the Attorney General to review the public record to determine if it may be withheld from public inspection. ORS 192.450(1). A public body does not constructively deny a request for public records merely because it fails to provide access to nonexempt records within the timeframe set by the requestor. *Morse Bros., Inc. v. ODED*, 103 Or App 619, 798 P2d 719 (1990).

Your petition states that you directed your records request to Michael Baird at RMD, by letter dated October 9, 2002, but that as of the date of your petition you had not received a response.

Mr. Baird, RMD's Claims Manager, told us that RMD's Claims Management Section received your request on October 18, 2002. According to Mr. Baird, since his section has been in possession of your request it has been addressing an unusually high workload in the context of

tightening budget constraints. For this reason, Mr. Baird's staff has not yet responded to your request. Mr. Baird anticipates that his staff will be able to respond to your request for public records within the next week to ten days.

A public body has a "'reasonable' time to respond to a records request." ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2001) at 9. One of the considerations in determining whether a public body has exceeded a reasonable response time and effectively denied a request is the staff available to respond to the request. *Id.* In light of the fact that RMD has recently been faced with a heavy workload and the need to adhere to budgetary limitations, we conclude that the time it has taken to respond to your request is not unreasonable. Therefore, we conclude that RMD has denied neither your request for records nor your request for a fee waiver.

Based on our analysis, we deny your petition as premature.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS11375
c: Michael Baird, Claims Manager, Claims Management Section, RMD