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DEPARTMENT OF JUSTICE

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October 7, 2002

Ms. Jeanyse R. Snow
Snow & Snow Attorneys
P.O. Box 508
Astoria, Oregon 97103

Re: *Petition for Public Records Disclosure Order:*
Division of State Lands Records

Dear Ms. Snow:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on October 3, 2002, asks the Attorney General to direct the Division of State Lands (DSL) to make available the Removal-Fill Complaint/Violation Form, dated September 3, 2002, regarding DSL Permit # 4969-RP. For the reasons that follow, we respectfully deny your petition.

According to your petition and the appended materials, in response to its request, the City of Warrenton received from DSL a copy of the form that is the subject of your petition, with the "Complainant Information" redacted as exempt information. On behalf of the City of Warrenton, you are petitioning for an order to disclose the redacted information.

The Public Records Law confers a right on "[e]very *person*" to inspect public records of a public body in Oregon, subject to certain exemptions and limitations. ORS 192.420(1) (emphasis added). Also, "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 * * *." ORS 192.450(1) (emphasis added). The Public Records Law defines "person" as including "any natural person, corporation, partnership, firm, association or member or committee of the Legislative Assembly." ORS 192.410(2). The definition does not list "public bodies," the entities required to disclose public records under the law. "Public body" is separately defined in ORS 192.410(3):

> "Public body" includes every state officer, agency, department, division, bureau, board and commission; every county and *city governing body*, school district, special district, municipal corporation, and any board, department, commission,

> council, or agency thereof; and any other public agency of this state. (Emphasis added.)

Based on the fact that the definition of "person" does not include public bodies, we have concluded that a public body "may not use the remedies created by the Public Records Law to obtain public records from another public body." Letter of Advice dated June 26, 1987 to Wanda Clinton, Department of Revenue (OP-6049) 8. *See also* ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2001) 1. Because the City of Warrenton clearly falls within the definition of a public body under ORS 192.410(3), we conclude that it is not a "person" for purposes of the Public Records Law and therefore may not use the Public Records Law to obtain records from another public body, such as DSL.[1]

For these reasons, the Attorney General does not have jurisdiction to consider your petition. Therefore, we respectfully deny your petition.

Sincerely,

Peter D. Shepherd

PETER D. SHEPHERD
Deputy Attorney General

AGS11129
c: Lori J. Warner, Western Region Manager, Field Operations, DSL
Kirk D. Jarvie, Resource Coordinator, Field Operations, DSL

[1] A public official, when acting in his or her private capacity, is, of course, a natural person and, therefore, a "person" possessing the same rights under the Public Records Law held by all other natural persons. We do not intend to suggest that an officer or employee of a public body, acting in his or her capacity as a private citizen, may not use the Public Records Law's remedies to obtain public records from a public body.