HARDY MYERS
ATTORNEY GENERAL

PETER D. SHEPHERD
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400
TTY: (503) 378-5938

May 7, 2002

Rhonda J. Fenrich
Attorney at Law
Garrettson Goldberg Fenrich & Makler
423 Lincoln Street
Eugene, OR 97401

Re: *Petition for Public Records Disclosure Order*:
Department of Transportation, Driver and Motor Vehicle Services

Dear Ms. Fenrich:

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 May 1, 2002, asks the Attorney General to order the Department of Transportation, Driver and Motor Vehicle Services (DMV) to disclose records requested on or about March 15, 2002 by your client, Debora McDonald. You describe the records she requested as:

1. A complete copy of all correspondence by and to the Department of Transportation – Motor Vehicles Division with Jackson County and the Jackson County Sheriff's Office regarding the suitability of Ms. McDonald to retain her valid Oregon Driver's License; and

2. A complete copy of all correspondence by and to the Department of Transportation – Motor Vehicles Division with any other reporting party regarding the suitability of Ms. McDonald's retention of a valid Oregon Driver's License.

For the following reasons, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. Any

person who is 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 record and determine if it may be withheld from disclosure. ORS 192.450(1). The Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. *See* ORS 192.450(1).

According to your petition, as of April 30th, DMV had not responded to your client's request. However, Cathy Toledo, manager of DMV Record Services, informs us that she has no knowledge of your client making the request identified in your petition, and has found no evidence of DMV having received such a request for records. Ms. Toledo states that, upon receipt of a written request for records and payment of the required fee, DMV will provide Ms. McDonald with responsive records that are not exempt from disclosure. You or your client may contact Ms. Toledo at (503) 945-5426 if either of you have any questions about making a records request of DMV.

The Attorney General may order a state agency to disclose records only when the agency has denied a request for records. *See* ORS 192.450(1). Because DMV has not denied your client's request, the Attorney General does not have jurisdiction to order disclosure at this time. We therefore respectfully deny your petition as premature.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

c: Cathy Toledo, Manager, DMV Record Services

PDS/mch/AGS10147