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April 9, 2002

Michael Schrier
Liability Claims Representative
USF Reddaway
PO Box 1035
Clackamas, OR 97015-1035

Re: Petition for Public Records Disclosure Order:
Risk Management Division Records

Dear Mr. Schrier:

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 April 3, 2002, asks the Attorney General to direct the Risk Management Division of the Department of Administrative Services (Risk Management) to make available all reports relating to a landslide that occurred on 1/18/01 at Mile Post 109 on I-5 South near Myrtle Creek, and specifically a report prepared by State Geologist, Curran Mohney. For the reasons that follow we respectfully deny your petition.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. The duty to make nonexempt public records available for inspection under the Public Records Law is on the "custodian" of the public records. "Custodian" is defined as that public body mandated to create, maintain, care for or control the records. ORS 192.410(1)(b).

Michael Baird at Risk Management has informed us that his office is not the custodian of the records you have requested. Rather, the Oregon Department of Transportation is the

custodian of those records. Accordingly, because only a "custodian" of public records has a duty to disclose those records, the Attorney General has no authority to order disclosure by Risk Management. For this reason, your petition is respectfully denied.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

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c: Michael Baird, Risk Management Department