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

April 3, 2002

Mel Stewart
5180 Zosel Ave. So.
Salem, OR 97306

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

Dear Mr. Stewart:

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 March 27, 2002, asks the Attorney General to direct the Division of State Lands (Division) to make available a tape of the public hearing held March 11, 2002, on the Division's proposed amendments to removal-fill rules. For the reason that follows, we respectfully deny your petition.

Your petition relates to the same record for which you petitioned earlier last month. In an order issued March 19, 2002, we denied your earlier petition because the Division had not denied your request, but had agreed to provide the tape to you upon receipt of payment of its costs for doing so. According to Gail Lowry, Executive Assistant to the Division Director, the Division mailed a copy of the requested tape to you today. Ms. Lowry also informs us that earlier in the week you paid the Division $20 of a $25 fee, explaining that you had enclosed a check for $5.75 with your petition to this office. The Division has requested that we return your $5.75 check to you and will not seek payment of the remaining five dollars of the $25 fee. Your check is enclosed with this order.[1]

You state in your petition that you "would also like to know who has been in custody of the tape since the 11th and if the tape has been compromised in any way." The Public Records Law authorizes the Attorney General to review decisions by state agencies to deny requests for records. ORS 192.450(1). His jurisdiction does not encompass answering questions about the

[1] For future reference, please note that it is not appropriate to send payment of fees imposed by other agencies to the Department of Justice.

requested records. The Division would be the appropriate agency to which to address your questions about the tape.

Because the Division has provided you with the record you requested, we deny your petition as moot.

Sincerely,

Peter D. Shepherd

PETER D. SHEPHERD
Deputy Attorney General

AGS09915
c: Gail Lowry
Enclosure (check)