HARDY MYERS
ATTORNEY GENERAL

DAVID SCHUMAN
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97310-0506
Telephone: (503) 378-4400
TDD: (503) 378-5938

October 23, 2000

Linda M. Sweeney
10590 NW LaCassel Crest Lane
Portland, OR 97229-4864

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

Dear Ms. Sweeney:

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.[1] Your petition, asks the Attorney General to direct the Oregon Department of Transportation, Driver and Motor Vehicle Services Division (DMV) to make available an accident report filed by Kerry Rupp concerning an accident that occurred on August 22, 2000. You specifically request Ms. Rupp's account of the accident and do not request her personal data. For the reasons that follow, we respectfully deny your petition.

On October 20, 2000, we spoke to Craig Daniels, DMV Records Policy Unit. After checking with the DMV Accident Reporting Unit of DMV, Mr. Daniels informs us that Kerry Rupp has not filed an accident report concerning this accident. The Attorney General cannot

[1] On October 3, 2000, this office received a letter from you asking for the Attorney General's assistance in obtaining an accident report from DMV. On October 19, 2000, you informed this office that you would like us to treat your letter as a petition for a Public Records Order.

order an agency to disclose a record that does not exist.[2] Because the record you requested does not exist, we respectfully deny your petition.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

AGS05638

[2] Even if Ms. Rupp does file an accident report with DMV, accident reports are exempt from disclosure under ORS 192.502(9), which exempts records that are otherwise made confidential by Oregon law. Under ORS 802.220(5), an accident report is for the confidential use of state administrative and enforcement agencies. DMV is authorized to disclose from the accident report only the identity of the vehicle's owner, driver and occupants, the registration number of the vehicle, the name of the company insuring the vehicle and the names of any witnesses to the accident. ORS 802.220(5)(a). DMV is not authorized to disclose the information you seek.