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DAVID SCHUMAN
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June 26, 2000

Terry Gustafson
District Attorney
Clackamas County Courthouse
807 Main Street, Room 7
Oregon City, OR 97045

Re: Petition for Public Records Disclosure Order:
Governor's Records

Dear District Attorney Gustafson:

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 June 26, 2000, asks the Attorney General to order the Governor's office to provide you with documents that were not disclosed in response to a request made on April 28, 2000, by Leif Bentsen to the Governor for:

> the reports for the governor and all correspondence, notes, emails, voice recordings, all written materials, minutes of any consultations or meetings that may have occurred between members of the Governor's Office, with members of the [Harrang Long Gary Rudnick] law firm, the Governor, the Attorney General's Office, the Oregon State Bar Association and its representatives, attorneys John Foote and Steve Houze, and any records, written materials, notes, emails, voice recordings, of Chip Lazenby in the [matter of State vs. Gustafson].

By letter dated June 5, 2000, Henry H. Lazenby, Jr., Legal Counsel for the Governor, informed you that the Governor's Office had complied with the above request for documents except for two memoranda from Mr. Lazenby to the Governor, which were being withheld as subject to the attorney-client privilege. Thus, the Governor's legal counsel effectively denied your request for the records that are the subject of your petition.

ORS 192.480 provides in relevant part:

> In any case in which a person is denied the right to inspect or to receive a copy of a public record in the custody of an elected official, or in the custody of any other person but as to which an elected official claims the right to withhold disclosure, no petition to require disclosure may be filed with the Attorney General * * * or if a petition is filed it shall not be considered by the Attorney General * * * after a claim of right to withhold disclosure by an elected official. In such a case a person denied the right to inspect or to receive a copy of a public record may institute proceedings for injunctive or declaratory relief in the appropriate circuit court, as specified in ORS 192.450 or 192.460[.]

The Governor is an elected official. Because the Governor, through his legal counsel, has claimed the right to withhold disclosure of the records that are the subject of your petition, the Attorney General declines to consider your petition.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

AGS05082
c: Henry H. Lazenby, Jr.
Legal Counsel to the Governor
The State Capitol
Room 160
Salem, OR 97310-0370