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April 20, 2000

John A. DiLorenzo, Jr.
Hagen Dye Hirschy & DiLorenzo, PC
Pioneer Tower
888 SW Fifth Avenue
Portland, OR 97204-2024

Re: *Petition for Public Records Disclosure Order*
SAIF Corporation Records

Dear Mr. DiLorenzo:

This letter is the Attorney General's order on a petition for disclosure of records that you filed on behalf of your client, Oregonians for Sound Economic Policy (OSEP). Your petition, which we received on April 6, 2000,[1/] requests the Attorney General to order SAIF Corporation to produce for inspection and copying nine categories of documents. For the reasons that follow, we respectfully deny your petition as premature.

ORS 192.450(1) provides: "[A]ny person denied the right to inspect or receive a copy of *any public record* of a state agency may petition the Attorney General to review the public record to determine if it may be withheld from public inspection." (Emphasis added.) ORS 192.410(4) defines "public record" to include "any writing containing information relating to the conduct of the public's business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics." The SAIF records that OSEP seeks come with this definition.

[1/] We appreciate your extending the time within which the law would have otherwise obligated us to respond.

We understand that OSEP requested SAIF to produce records under ORS 656.702,[2/] rather than the Public Records Law, ORS 192.410 to 192.505.[3/] We have reviewed the Public Records Law and find nothing in ORS 192.450 or any other provision of that law that limits the Attorney General's authority to review the denial of a request for public records to those requests made under ORS 192.410 to 192.505. Accordingly, we conclude that the Attorney General does not lack jurisdiction over your petition solely because the underlying records request was not made under the Public Records Law.

The Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. ORS 192.450(1); *see also Morse Bros., Inc. v. ODED*, 103 OR App 619, 798 P2d 719 (1990) ("The Public Records Law clearly contemplates that agencies have the opportunity to review the requested records and to act on the request before the Attorney General or the court can review the matter."). In a letter to you dated March 23, 2000, Harlan Jones, SAIF Vice President for Legal and Administrative Services, stated that SAIF will produce all non-exempt documents to OSEP. Mr. Jones informs us that SAIF has not denied OSEP's request.

We do not view SAIF's delay in producing the documents as a constructive denial of OSEP's request. The Public Records Law allows a public body a "reasonable" time to respond to a records request and imposes no specific deadline for release of requested records. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL at 8 (1999). What is reasonable depends on many factors, some of which include the volume of records requested, the staff available to respond to the records request and the difficulty in determining whether any of the records are exempt from disclosure. *Id.* Mr. Jones informs us that SAIF estimates that OSEP's request covers thousands of documents. Mr. Jones further informs us that SAIF is diligently reviewing the requested records to prepare an estimate of the costs of providing the nonexempt records, but that the magnitude of OSEP's request has delayed SAIF's response. Because SAIF has not denied OSEP's request and is still in the process of responding to OSEP's inspection request, we deny your petition as premature.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

AGS4643
c: Harlan Jones, Vice President for Legal and Administrative Services, SAIF

[2/] ORS 656.702 provides in relevant part: "The records of [SAIF] Corporation, excepting employer account records and claimant files, shall be open to public inspection."

[3/] We base this understanding on our review of your petition and the correspondence between OSEP and SAIF. In a telephone call with Assistant Attorney General David B. Hatton on April 10, 2000, you confirmed that OSEP's inspection request is based on ORS 656.702.