THEODORE R. KULONGOSKI
ATTORNEY GENERAL

THOMAS A. BALMER
DEPUTY ATTORNEY GENERAL

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

May 23, 1995

RECEIVED
MAY 24 1995
GENERAL COUNSEL
DEPT. OF JUSTICE
SALEM, OREGON

Sheri A. Speede, D.V.M.
700 Southwest 126th Avenue
Beaverton, OR 97005

Re: ***Petition for Public Records Disclosure Order: Oregon Health Sciences University***

Dear Dr. Speede:

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 May 19, 1995, asks the Attorney General to direct Oregon Health Sciences University (OHSU) to make available videotapes that served as data supporting the conclusions published by Reisbick, Neuringer, Hasnain and Conner in Physiology and Behavior, Volume 55, No. 2, pp. 231-39, 1994. For the reasons that follow, we respectfully deny your petition.

Dennis Borden's letter to you dated April 20, 1995 was not a denial of your records request, but rather a statement that the matter has been directed to legal counsel for advice and clarification. After receipt of a public records request, an agency needs time to facilitate effective review of the request, to consult with counsel and to evaluate and act upon counsel's advice. We understand from Dr. Borden that the agency has not yet completed that process.

An agency does not constructively deny a records request either because it first consults with legal counsel, or because it fails to comply with a deadline the requester seeks to impose. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (1993) at 12. Since OHSU has not denied your request, your petition to disclose is premature. Accordingly, we deny your petition.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to
the Attorney General

ESH:JMM:AV:jpl:cro/JGG0BA5D
c: Dennis Borden, OHSU