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MARY H. WILLIAMS
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DEPARTMENT OF JUSTICE

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Salem, Oregon 97301-4096
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May 11, 2009

SENT VIA E-MAIL

William T. Harbaugh
538 PLC
1285 University of Oregon
Eugene, OR 97403-1285
(wtharbaugh@gmail.com)

Re: Petition for Public Records Disclosure Order:
Request for reconsideration of denial of fee waiver

Dear Professor Harbaugh:

On May 4, 2009, you emailed the Attorney General seeking a Public Records Order directing the University of Oregon ("UO") to waive a $10 fee for public records under the Oregon Public Records Law. The email requests reconsideration of the February 26, 2009 order of this office which denied your request for waiver of the fee. We decline to reconsider our prior Order, as we explain below.

As we noted in Public Records Order, Harbaugh, February 26, 2009, you have articulated a public interest that is "sufficient" to permit UO to waive the $10 fee. However, a public body has discretion whether or not to grant a fee waiver or reduction. ***In Defense of Animals v. Oregon Health Sciences University***, 199 Or App 160, 189-90, 112 P3d 336 (2005). Based on the relevant circumstances, including those listed in the ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2009) and the fact that you have made numerous requests for public records from UO, we determined that UO's decision was reasonable. Although we acknowledged that some factors might favor requiring UO to waive its fee, we could not find overall that insisting on payment of the $10 fee significantly impedes the public's interest in disclosure of the record you are seeking.

You ask us to reconsider our prior Order on the basis that "UO is required to make the AA plan freely available to the public and that the date showing when the plan was actually prepared, signed off on, and effective is an integral part of that plan and a component of the material which is legally required to be made freely available to the public and posted on the

web" (emphasis removed). Both your request for the record and your request for a fee waiver, however, arise under the Public Records Law. Your petition offers no basis for believing that the Order of February 26, 2009 incorrectly applied the Public Records Law, and does not identify any changes of law or fact that would suggest reconsideration is appropriate. We therefore decline to reconsider our prior Order. We express no view regarding your assertions that laws apart from the Public Records Law require UO to make the information you are seeking freely available to the general public.

Your petition is respectfully denied.

Sincerely,

MARY H. WILLIAMS
Deputy Attorney General

DM1397474-v2
c: Doug Park, UO