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DEPARTMENT OF JUSTICE

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January 31, 2006

Russell L. Baldwin
PO Box 1242
Lincoln City, OR 97367

Re: Petition for Public Records Disclosure Order:
Oregon Department of Transportation Records

Dear Mr. Baldwin:

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 asks the Attorney General to order the Oregon Department of Transportation (ODOT) and its employees to produce copies of 12 categories of records relating to property of your client at the corner of SE 16th Street and U.S. Highway 101 in Lincoln City, or to communications within ODOT regarding that property or your client's application for an approach. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. If a state agency denies a request for disclosure of records, the requestor may petition the Attorney General for review of the denial.[1] However, the Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. *See* ORS 192.450(1).

Your petition states that, subsequent to receiving ODOT's response to discovery requests you submitted in the access management administrative hearing case, *Drayton v. ODOT*, OAH Case No. 122684, you requested the records which are the subject of your petition on November 7, 2005. Your petition also states that your request has been "effectively denied" because the agency has not provided either the requested records or a cost estimate for doing so.

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[1] Your petition, dated January 23, 2006, is addressed to three Department of Justice officials: Attorney General Hardy Myers, Solicitor General Mary Williams, and Assistant Attorney General Kathryn Lincoln. While AAG Lincoln received your petition on Tuesday, January 24, the Attorney General did not receive it until Monday, January 31. Pursuant to ORS 192.450(1), a petition for a public records order pertaining to the records of a state agency should be sent to the Attorney General.

Kathryn Lincoln is the Assistant Attorney General representing ODOT in relation to the administrative matter regarding your client. On ODOT's behalf, AAG Lincoln is sending you the records maintained by ODOT that are responsive to your request, excepting the records ODOT has already disclosed in response to your discovery requests in *Drayton v. ODOT*, OAH Case No. 122684. As you will note when you receive the records, ODOT has very little information responsive to your request beyond that which it previously disclosed.

Because ODOT has agreed to disclose its records that are responsive to your request, we deny your petition as moot.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

PDS/gvk:AGS16924
c: Ann Zeltmann, ODOT Access Appeals Coordinator