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August 5, 2005

Scott Forrester
2030 NW 7th Place
Gresham, Oregon 97030

Re: Petition for Public Records Disclosure:
Oregon Department of Environmental Quality

Dear Mr. Forrester:

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 August 2, 2005, asks the Attorney General to direct the Department of Environmental Quality (DEQ) to produce a copy of all documents withheld from the Smurfit file, which relates to the "Responsible Party" identified by DEQ in an enforcement case.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. ORS 192.420. The law requires generally that the custodian of public records furnish proper and reasonable opportunities for their inspection or copying in the office of the custodian. ORS 192.430. Any person denied the right to inspect or to 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 disclosure. ORS 192.450(1). However, the Attorney General may order a state agency to disclose records only when the agency has denied a request for the records.

We respectfully deny your petition. Your request is dated August 1, 2005. The agency did provide some of the requested documents. It withheld others because further review was required to determine their status under the Public Records Law. That review is underway by the agency.

An agency is entitled under law to a reasonable time within which to determine the status of records requested and the Public Records Law. We conclude that the agency has not yet denied your request for any documents.

We suggest that you contact Mr. Carlough and ask when their review will be finished and when you can come in to get copies of the documents that are subject to release. At that time, he should be able to tell you if any documents are exempt from disclosure and the basis for the exemption. If you are not satisfied at that point, then you may petition our office for review. However, at this point, there is no denial for us to review.

Sincerely,

Peter D. Shepherd
Deputy Attorney General

PDS:gvk/AGS16053
cc: Les Carlough