5/31/05
C. Kelly Carlson
SR

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ATTORNEY GENERAL

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DEPARTMENT OF JUSTICE

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May 27, 2005

Anthony L. Dirks
P.O. Box 1372
Hood River, Oregon 97031

Re: *Petition for Public Records Disclosure*:
Oregon Parks and Recreation Department

Dear Mr. Dirks:

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 18, 2005,[1] asks the Attorney General to direct the Oregon Parks and Recreation Department (OPRD) to make available all records made by or in the control of the agency as they relate to your application for employment. You asked specifically for application forms and supplements, interview notes and forms, reference checks notes and forms, and any and all correspondence between the Department and anyone as it relates to your employment application.

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. Any person who is 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 record and determine if it may be withheld. ORS 192.450(1). 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).

In your petition, you state that your request has been denied by Kevin Price, an Assistant Area Manager in OPRD's Field Operations Division, and by Debara Robertson of OPRD's Personnel and Safety Services. Mr. Price states that he did not deny your request but that he

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

referred you to Ms. Robertson. Ms. Robertson states that she did ask you to make your request to us. However, she has explained that she based that request on a misunderstanding about the mechanism for processing and responding to public records requests, and did not intend it to be a *denial* of your request. Absent a denial of a records request by an agency, the Attorney General has no authority to order disclosure. *See* ORS 192.450(1). Because OPRD has not denied your request, we must deny your petition as premature.

However, we have spoken with Ms. Robertson, and she has told us that OPRD will respond to your request and provide copies of non-exempt records within seven days of the date of this order.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

PDS:gvk/AGS15566
c: Debara Robertson, OPRD Personnel and Safety Services