JOHN R. KROGER
ATTORNEY GENERAL

MARY H. WILLIAMS
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400

April 10, 2012

Robert Woodroffe
82911 Beach Access Road
Umatilla, OR 97882

Re: Petition for Public Records Disclosure, Two Rivers Correctional Institution
Oregon Department of Corrections

Dear Mr. Woodroffe:

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. We received your petition on April 4, 2012. The petition asks the Attorney General to direct the Two Rivers Correctional Institution (TRCI) to make available the records identified in your request to TRCI dated February 8, 2012. 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. A custodian of public records must provide "proper and reasonable opportunities for inspection and examination." *See* ORS 192.430. The law also authorizes a public body to establish fees "reasonably calculated to reimburse it for its actual cost" in making records available. ORS 192.440(3). A public body may require pre-payment of estimated fees before acting on a request. ATTORNEY GENERAL'S PUBLIC RECORDS AND PUBLIC MEETINGS MANUAL (2008) at 15.

According to your petition and the materials you submitted in support of it, you submitted a records request to TRCI on February 2, 2012, to inspect or copy an email from Dr. Ruthven to Mr. T. Chase. You stated that Vicky Reynolds, Executive Assistant to the Superintendent of TRCI, denied your request but said you would receive the document once you had funds in your account. You further stated that Ms. Reynolds refused to tell you the cost of providing the record.

We have reviewed Ms. Reynolds' Acknowledgement of Receipt of your request. In it, Ms. Reynolds informed you that the Department of Corrections' fee for providing photocopies of public records is $0.50 per page and $1.25 per page if redaction is needed. She stated that the cost of copying will be based on the actual cost, including staff time to locate, review and copy

the records. Staff time can range from $20.00 to $70.00 an hour. Ms. Reynolds also told you that you did not have any funds in your inmate trust account, and public records must be paid for before they are issued. She asked you to let her know when you had funds in your account, and she would tell you the cost of complying with your request.

We have also reviewed your Inmate Communication Form to Ms. Reynolds dated March 15, 2012, asking her, instead, to tell you the cost *before* you had money in your account. Ms. Reynolds responded to you on March 20, 2012: "No research or time can be spent on a request until we receive payment. Therefore I cannot tell you how much it will cost."

As explained above, a public body may require pre-payment of estimated fees before acting on a request. TRCI requires that you have funds in your account to pre-pay the estimated cost, before providing the requested record. Ms. Reynolds informed you what the department charges per copy and per hour of staff time. She has told you she will give you the estimated cost of complying with your request when you let her know that you have funds available to pre-pay, as TRCI requires.

TRCI has not denied your request. TRCI has no legal duty to process your request without pre-payment. As a result, this office lacks authority to order disclosure. ORS 192.450(1). Accordingly, we respectfully deny your petition to compel disclosure as premature.

Sincerely,

MARY H. WILLIAMS
Deputy Attorney General

JUSTICE-#3330067-V2.
c: Jef Van Valkenburgh, DOJ
Steve Franke, ODOC