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December 2, 2019

VIA EMAIL ONLY: sstoddard@thedailycourier.com

Scott Stoddard
Grants Pass Daily Courier
409 SE 7th St
Grants Pass, OR 97526

Re: Petition for Public Records Disclosure Order
Oregon Department of Forestry
DOJ File No. 629001-GA0146-19

Dear Mr. Stoddard:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition, which we received on November 22, 2019, asks the Attorney General to order the Oregon Department of Forestry (ODF) to disclose an initial aircraft report regarding a forced landing incident on August 9, 2019. For the following reasons, we respectfully deny your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). The law is a disclosure law, and agencies are obligated to respond to records requests "as soon as practicable and without unreasonable delay." ORS 192.329(1). An agency that is unable to complete its response within fifteen business days of receiving a written request is required to provide the requester with a reasonable estimated completion date. ORS 192.329(5).

A requester may petition the Attorney General if they believe an agency has failed to comply with the processing timelines contained in ORS 192.329. ORS 192.407(1). An agency's failure to provide a timely response shall be treated as a denial of the request, unless the agency can demonstrate that compliance was not required under ORS 192.329. ORS 192.407(1)(a). The agency carries the burden to sustain its actions. ORS 192.411(1). If the Attorney General grants a petition, the order granting the petition may require the agency to pay a $200.00 penalty

to the requester if the agency responded to the request with undue delay or otherwise failed to respond to the request. ORS 192.407(3)(c) *as amended by* House Bill 2353 (2019).

Your petition explains that you requested the aircraft incident report on October 30, 2019 and thereafter ODF failed to complete its response or provide you with an estimated completion date within fifteen business days. Your petition explains your position that this is not the first time ODF has failed to respond to one of your public records requests within fifteen business days. Accordingly, you ask us to order ODF to disclose the report to you and to assess a $200.00 penalty because ODF has responded with undue delay.

We contacted Bobbi Doan, ODF Public Affairs Specialist, who informed us that ODF disclosed the report to you on November 22, 2019. Because ODF has completed its response and has not otherwise denied your request, we must deny your petition as moot. And because we are unable to grant your petition to order disclosure, we cannot order ODF to pay a $200.00 penalty in this instance. *See* ORS 192.407(3)(c) *as amended by* House Bill 2353 (2019) (agencies may be ordered to pay a penalty only if the Attorney General grants the petition). We therefore respectfully deny your petition.

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:pjn/DM9966644
c via email only: Bobbi Doan, ODF