ELLEN F. ROSENBLUM
ATTORNEY GENERAL

LISA M. UDLAND
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-6002

June 22, 2022

VIA E-MAIL ONLY: cerickson97838@yahoo.com

Chuck Erickson
P.O. Box 1083
Coos Bay, OR 97459

Re: Petition for Public Records Disclosure Order
Oregon Department of Fish and Wildlife
DOJ File No.: 635020-GA052-22

Dear Mr. Erickson:

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 June 15, 2022, asks the Attorney General to order the Oregon Department of Fish and Wildlife (ODFW) to disclose copies of non-resident commercial salmon troll and Columbia River gill net permits. Your petition states that you requested these records on May 10, 2022, but that ODFW has not completed its response to your request.[1] For the reasons discussed below, 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 or other provisions contained in ORS 192.329. ORS 192.407(1). The agency carries the burden to sustain its actions. ORS 192.411(1).

[1] Your petition also references a separate request for the number of non-resident commercial salmon troll and Columbia River gill net permits issued by ODFW. ODFW informed us that it received that request from you on May 19, 2022 and completed its response to you on May 24, 2022. If you intended to appeal ODFW's processing of that request, we respectfully deny your petition because the available record demonstrates that ODFW provided a timely response to you and did not deny any aspect of your May 19, 2022 request.

We contacted Michelle Tate, an Executive Assistant in the ODFW Director's Office, regarding your petition. She informed us that although ODFW has received several records requests from you since April 2022, ODFW has no record of a May 10, 2022, request from you seeking copies of fishing permits. She indicated that ODFW did receive a request from you for copies of the fishing permits at issue on June 13, 2022.[2] She explained that ODFW is currently processing that request. She also explained that, insofar as your petition may relate to your June 13, 2022 request, it is ODFW's position your petition is premature because it was filed only two business days after ODFW received your request.

Under the circumstances, we have no reason to second-guess Ms. Tate's representation that ODFW did not receive a records request from you on May 10, 2022, seeking copies of the fishing permits at issue. It follows that ODFW did not deny or fail to process such a request in a timely manner. *See* ORS 192.407 and 192.411 (in general, the Attorney General may order disclosure only when a records request has been denied or when an agency fails to provide a timely response). And although your petition does not ask us to address your June 13, 2022, request for the same records, the available record discloses no basis for us to conclude that ODFW has failed to comply with the processing timeframes in ORS 192.329 to date. We therefore respectfully deny your petition.

Sincerely,

Lisa M. Udland

LISA M. UDLAND
Deputy Attorney General

ACF:pjn
c via e-mail only: Michelle Tate (ODFW)

[2] That request was e-mailed to ODFW on June 11, 2022, a non-business day, and was therefore not received by ODFW until June 13, 2022.