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December 23, 2024

VIA E-MAIL ONLY: abeyhawck@gmail.com

Alek Beyhawck
11575 SW Pacific Hwy
Tigard, OR 97223

Re: Petition for Public Records Disclosure Order and Fee Waiver
Oregon Department of Transportation
DOJ File No.: 731020-GA0130-24

Dear Mr. Beyhawck:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.478. We understand your petition to be asking the Attorney General to find that the Oregon Department of Transportation (ODOT) has failed to disclose records for which you believe you have already paid. For the following reasons, we respectfully deny your petition.

Your petition relates to a November 20, 2024 request that initially sought the entire file of ODOT's recent investigation against your trucking company, including the initial complaint, all evidence gathered by the investigator, and the rationale for the final decision made by ODOT's Commercial Vehicle Registration Manager. ODOT informed you that the cost to furnish the entire investigative file was $100.00, but that that for the reduced cost of $20.00, ODOT could furnish the 55-page final report, which includes the initial complaint and relevant evidence considered by the investigator. You requested a public interest fee waiver for the entire file, which ODOT denied and which this office denied upon your appeal. *See* Public Records Order, Dec 10, 2024, Beyhawck.

Thereafter, on December 11, 2024 you modified your request to encompass only "the 55 page report * * * the final report by [the Commercial Vehicle Registration Manager], and the original unredacted complaint made to initiate this investigation * * * and the evidence used." ODOT then modified its fee estimate from $100.00 to $20.00, you paid the $20.00 fee, and ODOT furnished you with the 55-page report, including the initial complaint and all of the evidence considered by the investigator. ODOT also informed you that there was no separate report prepared or considered by the Commercial Vehicle Registration Manager. You responded that you believe there is additional evidence that was not included in the final report and that

your request encompassed the entire investigative file. ODOT responded that it had disclosed all of the records for which you paid and that the cost for the remainder of the investigative file was $80.00, the outstanding balance of ODOT's original $100.00 estimate for the entire file. Your new petition followed, and you assert that ODOT's response was incomplete and that you believe you have already paid for the entire file.

We discussed your new petition with Winnie Dawn, ODOT's Public Records and Administrative Rules Coordinator. She explained ODOT's position that the $20.00 fee only covered the cost of the final report, which encompassed the additional information you specified. She also explained that ODOT informed you of this fact on several occasions and that after receipt of your $20.00 payment, ODOT furnished you with all of the records responsive to your modified request. To the extent you now seek the entire investigative file, ODOT believes it is still entitled to recover the cost of locating, processing, and disclosing the remaining records, which it estimates to be $80.00.

After discussing your petition with Ms. Dawn and reviewing the correspondence between ODOT and yourself, we cannot conclude that ODOT failed to disclose records responsive to your modified request and for which you paid $20.00. And because your new petition does not provide any basis for us to reconsider our prior determination that your initial request did not qualify for a public interest fee waiver, we conclude that ODOT is permitted to recover the costs associated with producing any additional records to you. *See* ORS 192.324(4). We therefore respectfully deny your petition.

Sincerely,

Lisa M. Udland

LISA M. UDLAND
Deputy Attorney General

ACF:pjn
c via e-mail only: Winnie Dawn (ODOT)