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February 3, 1994

Harry M. Demaray
576 Welcome Way, S.E.
Salem, OR 97302

Re: *Petition for Public Records Disclosure Order: Department of Environmental Quality Records*

Dear Mr. Demaray:

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 January 28, 1994, asks the Attorney General to direct the Department of Environmental Quality (DEQ) to make available the "WQ [water quality] files for the gold mine at Jawbone on Opal Cr. sometimes known as Atiyeh mine." 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. Berta Bodi, of DEQ, advises us that DEQ's Salem office provides opportunity for inspection and examination of records at designated and posted hours. Those hours are: 8:30 a.m. to 12:00 noon Monday through Friday and 1:00 p.m. to 4:00 p.m. Monday through Thursday. Friday afternoon is excluded from those hours because DEQ's records custodian has other duties to perform during that time. Your petition indicates that you requested to inspect those records on Friday at 2:00 p.m. Ms. Bodi informs us that you were advised of the hours available for reviewing files, and that she pointed to the clearly posted sign listing those hours.

We believe that DEQ's conduct in this instance constitutes "proper and reasonable opportunities for inspection and examination of the records." ORS 192.430(1). We are further advised by DEQ personnel that they do not believe there are any exemptions

applying to disclosure of the above described records, and that the agency would intend to make them available during the posted, designated hours.

Therefore, we conclude that the agency has not denied you access to the records. Absent a denial by the agency, the Attorney General lacks authority to order disclosure. See ORS 192.450(1). Your petition is denied.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel
to the Attorney General

CAR:MBH:dld:tmt/JGG08D8B
c: Berta Bodi, Salem office, DEQ
Gil Hargreaves, Salem office, DEQ