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DEPARTMENT OF JUSTICE

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May 9, 1989

Paul R. Hribernick
Rappleyea, Beck, Helterline & Roskie
1200 The Bank of California Tower
707 S.W. Washington St.
Portland, OR 97205

Re: **Petition for Public Records Disclosure Order; Economic Development Department Records**

Dear Mr. Hribernick:

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 May 3, 1989, asks the Attorney General to direct the Economic Development Department (EDD) to disclose various records related to the proposed Precision Castparts Corporation plant and facility located in Clackamas, Oregon. For the reasons stated below, we deny your petition.

The essence of your petition is that, although you "made it clear to the department employees that time was of the essence," the department has not furnished the records you have requested with the alacrity you desire. Moreover, you state that no EDD officer or employe "will confirm or deny the availability or the nonavailability of the records," because EDD has referred your request to the Attorney General's office. On that basis, you claim that EDD has denied your request. You are mistaken.

The Public Records Law requires that a custodian of public records "shall furnish proper and reasonable opportunities for inspection and examination" of the records in its custody. ORS 192.430 (emphasis added). The Public Records Law imposes no specific deadline for release of requested records; the public body must release nonexempt records within a "reasonable" time. The reasonableness of the time may vary with, for

instance, the extensiveness of the request and the complexity of the legal and factual issues that arise in determining whether the request encompasses documents that are exempt from disclosure. See 44 Op Atty Gen 239, 276 (1984)(Attorney General's Public Records and Meetings Manual). When a public body has a question about its legal duty to disclose requested records, it is reasonable for that public body to consult its legal counsel. See id. at 241, 256. When a public body does so, it does not thereby actually or constructively deny the request. Nor does a public body deny a request merely because it fails to comply with a deadline that a requestor seeks to impose.

In response to your request, the Economic Development Department has sought legal advice from its assigned counsel concerning legal issues arising from your request. That counsel, Assistant Attorney General Wendy Robinson, will review the requested records and advise EDD in a timely fashion. Until that review is completed and unless EDD denies all or part of your request, it will be premature for you to file a petition with the Attorney General. See ORS 192.450(1) (Attorney General may consider petition only where person has been denied right to inspect or receive copy of public record). Accordingly, we deny your petition as premature.

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:RDW:WAR/1496Y
cc: Brad Fletcher
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