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November 16, 2026

VIA E-MAIL ONLY: sleepyinseattlezzz@proton.me

Citizen #37,284
sleepyinseattlezzz@proton.me

Re: Petition for Public Records Order
Oregon State Marine Board
DOJ File No.: 250001-GA0233-26

Dear Citizen #37,284:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.431. Your petition asks the Attorney General to order the Oregon State Marine Board (OSMB) to waive the fees associated with producing records to you. You also challenge the amount of the fee quoted by OSMB. 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). Agencies may establish fees reasonably calculated to recover actual costs in making public records available, but "may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." ORS 192.324(4)–(5). The furnishing of public records primarily benefits the general public when its greatest utility is to the community or society as a whole. *See In Defense of Animals*, 199 Or App 160, 189 (2005). Pertinent factors include the requester's identity, the purpose for which the information will be used, the character of the information, whether the requested information is already in the public domain, and whether the requester can meaningfully disseminate the information to the general public. *Attorney General's Public Records and Meetings Manual* at 19 (2024). And regardless of how interested the public may be in a particular matter, if the requester fails to demonstrate the ability to meaningfully disseminate the requested information, disclosure will not primarily benefit the general public. *Id*. A requester who believes there has been an unreasonable denial of a fee waiver or reduction may petition the Attorney General for review. ORS 192.324(6).

On August 12, 2026, you submitted a seven-part records request to OSMB for various kinds of OSMB records related to "permit fees on non-motorized, manually propelled watercraft-including stand-up paddleboards (SUPs), kayaks, canoes, and inflatable toys-under the premise of Aquatic Invasive Species (AIS) mitigation and infrastructure funding." In connection with that request, you asked OSMB to waive any processing fees because the request "concerns the public interest, administrative transparency, and the fiscal justification for taxing recreational paddlers." You make no mention of whether you have the ability to meaningfully disseminate the records to the general public. OSMB granted your fee waiver request as a "one-time fee waiver" and provided notice that "any additional request will have a cost due to the substantial amount of staff time required to gather the information." OSMB provided responsive records to you on September 21, 2026.

Then, on September 23, 2026, you broadened the original records request to include a time period dating back to January 2012. OSMB subsequently notified you that it would provide a fee estimate and proposed a number of ways you could narrow your request to reduce estimated fees. You did not narrow portions of your expanded request. On September 30, 2026, OSMB provided a fee estimate of $357.50 to produce the requested records and on November 5, 2026, denied your fee waiver request.

We reviewed the correspondence between you and OSMB pertaining to your records request. You requested seven categories of records over a nearly 15-year period of time. Based on the record before us, we cannot conclude that OSMB unreasonably denied your fee waiver. OSMB has already granted you a fee waiver on the original request. Furthermore, the information you have provided does not show that you currently have the ability to meaningfully disseminate the records to the general public. We therefore conclude that OSMB's fee-waiver decision was reasonable, and we respectfully deny your petition.

To the extent your petition asserts that OSMB's estimated fee of $357.50 constitutes a constructive denial of your request, we consider that argument next. Agencies may establish fees reasonably calculated to recover actual costs in making public records available. ORS 192.324(4)–(5). Although the Attorney General generally does not have the authority to review the reasonableness of a fee estimate, the Attorney General may evaluate claims that "the amount of the fee in comparison to the nature of the request suggests that the true purpose of the fee is to constructively deny the request, rather than to recoup the agency's actual costs." *Attorney General's Public Records & Meetings Manual* 18 (2024). This evaluation requires the public body to explain how it calculated its fee.

Your records request to OSMB seeks seven separate categories of records within a 15-year time period. Some of the categories on this request are quite broad and OSMB has received 28 different records requests from you in the previous three months in addition to hundreds of requests received this past weekend. OSMB calculated the fee on this records request based on a projection of OSMB personnel time required to conduct this work, half of which would be completed at an administrative rate and half at a managerial rate. OSMB waived a total of an hour of this personnel time. And OSMB indicates that those records need to be reviewed and redacted to segregate exempt material. Based on our review of the estimate, OSMB's fee

appears reasonably calculated to recoup OSMB's actual costs of processing your request and does not appear excessive given the breadth of your request. Therefore, we cannot conclude that OSMB has constructively denied your request and we respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

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c via e-mail only: Jennifer Cooper (OSMB)