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November 17, 2026

VIA E-MAIL ONLY: rsw@rswfire.com

Robert White
rsw@rswfire.com

Re: Petition for Public Records Order
Department of State Lands
DOJ File No.: 141090-GA0245-26

Dear Mr. White:

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 examine the denial of a fee waiver request by the Department of State Lands (DSL) and to order DSL to waive or reduce the fees associated with producing records to you. You also challenge the search for records run by DSL and ask the Attorney General to order DSL to produce records and pay a penalty. For the reasons discussed below, we respectfully deny your petition in part and dismiss your petition in part.

Your petition stems from two different public records requests that you made to DSL. On October 27, 2026, you submitted a records request to DSL for certain email records and also requested a waiver of fees associated with producing the records. On November 2, 2026, DSL agreed to waive fees and on November 6, 2026, notified you that DSL had no records responsive to your request.

On November 3, 2026, you submitted a second records request to DSL that contained three parts and requested a waiver of fees on all three parts. On November 6, 2026, DSL denied your fee waiver request with respect to part one of the records request. DSL subsequently notified you that it would provide a fee estimate by November 19, 2026. On November 10, 2026, DSL produced records responsive to parts two and three of this request and waived associated fees.

We reviewed the correspondence between you and DSL pertaining to your records request. Because DSL has completed its response to, and waived fees associated with, your first

records request and parts two and three of your second records request, we respectfully dismiss the portions of your petition related to those requests as moot.

With respect to the portions of your petition that ask the Attorney General to order DSL to re-run its searches or to order DSL to produce records that it says it does not have, we respectfully deny those requests because we have reviewed the searches run by DSL and have no reason to second-guess the appropriateness of the searches and results.

Because DSL has not yet denied part one of your second request or provided a fee estimate related to part one of your second request, and we have not yet reached the fifteenth business day since your request, the only issue in your petition that is ripe for review is whether DSL's decision to deny your related fee waiver request was reasonable. We consider that portion of your petition next.

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 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). Even if waiving or reducing the fee is in the public interest, agencies retain discretion whether to grant a waiver or reduction. *See In Defense of Animals v. OHSU*, 199 Or App 160, 189 (2005). However, an agency's decision to deny a fee waiver or reduction must be reasonable under the totality of the circumstances. *Id*. at 190. Any person denied a fee waiver or reduction by a state agency may petition the Attorney General for review. ORS 192.324(6). The agency carries the burden to sustain its decision. ORS 192.411(1).

You contend that DSL unreasonably denied your request for a fee waiver because disclosure of the requested records would benefit the general public. You claim a public interest generally in showing "the public what a public records officer does with a request" and in "whether a member of the public can write to a state agency without being sent to the police." And, lastly, you note that you publish all public records received from state agencies on a website that you curate but provide no additional information about your ability to effectively disseminate information to the public through that website.

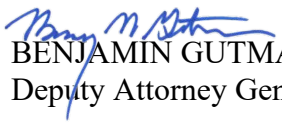
Agencies considering a request for a fee waiver or reduction must first determine whether making the records available primarily benefits the general public. *See* ORS 192.324(5). The furnishing of public records primarily benefits the public when its greatest utility is to the community or society as a whole. *See In Defense of Animals v. OHSU*, 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* (*Manual*) at 19 (2024). If waiving or reducing processing fees is in the public interest, agencies nevertheless have discretion whether to do so. When evaluating whether an agency's denial of a fee waiver or

reduction was reasonable, we consider the character of the public interest in the particular disclosure, the extent to which the fee impedes that public interest, and the extent to which a waiver would burden the public body. *Id*.

Based on the record before us, we cannot conclude that DSL unreasonably denied your fee waiver. DSL has already granted you fee waivers on the first request and the other two parts of your second request. Although you have identified a public interest in disclosure, it is difficult to discern whether any public benefit would ultimately outweigh the clearly identified, and likely overriding, private benefit to you derived from the disclosure. Moreover, the information you have provided does not show that you currently have the ability to meaningfully disseminate the records to the general public. In addition, the request is not well targeted at a specifically identified matter as it seeks a wide array of records that are not tailored to the regular work of DSL. As a result, we cannot find that the public interest served by disclosure would be greater than the burden to DSL. We therefore conclude that DSL's fee-waiver decision was reasonable, and we respectfully deny this portion of your petition.

Because we do not grant any portion of your petition, we need not address your request of the Attorney General to order DSL to pay a penalty under ORS 192.407(3)(b).

Sincerely,



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c via e-mail only: Heather Klebs (DSL)