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DEPARTMENT OF JUSTICE

Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400

May 30, 1989

Larry Caldwell
Route 5, Box 5945 #5
Hermiston, OR 97838-9671

Re: Petition for Public Records Disclosure Order; Emergency Management Division Records

Dear Mr. Caldwell:

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 24, 1989, asks the Attorney General to order the Emergency Management Division (division) to provide copies of all records concerning a hazardous waste workshop attended by Dan Loomis on April 10-14, 1989, and to provide a copy of a document entitled "Proposal for the Development of an Emergency Preparedness Plan and System for the Chemical Demilitarization of the Umatilla Military Army Depot." For the reasons stated below, we deny your petition.

Under ORS 192.450(1), denial of the right to inspect or receive a copy of a public record is a condition precedent to the Attorney General's review of agency action. From the information we have received, the Emergency Management Division has not denied you those rights. Mr. Loomis has informed us that he told you by telephone that notebooks from the workshop he attended (which involved mitigation of hazards after a major disaster, not hazardous waste) were available for your inspection at the Salem office. He also offered to provide you copies upon payment of the division's established photocopying fee. See ORS 192.440(2) (agency may establish fees reasonably calculated to reimburse it for actual costs in making records available). Because the division has not denied your request, the Attorney General lacks authority to direct the division to provide you copies.

The "Proposal for the Development of an Emergency Prepardness Plan and System for the Chemical Demilitarization of the Umatilla Military Army Depot" does not exist. If the legislature provides the appropriate authorization, the Emergency Management Division will draft this proposal and forward it to FEMA, probably sometime in June. Mr. Loomis informs us that he told you that the proposal, if developed, will be available for inspection, and that a copy will be furnished to you upon payment of copying fees. Again, the division has not denied your request.

For these reasons, we deny your petition.

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:RDW:JGR:aml/6488G

cc: Dan Loomis, Manager
Federal Programs
Emergency Managements Division
43 State Capitol
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