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ATTORNEY GENERAL

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

March 31, 1992

Daniel J. Stotter
Attorney at Law
2408 Harris St.
Eugene, OR 97405

Re: Request for Public Records Disclosure Order: Department of Fish and Wildlife

Dear Mr. Stotter:

This letter is the Attorney General's order on your petition for disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on March 24, 1992, asks the Attorney General to direct the Oregon Department of Fish and Wildlife (ODFW) to make available for inspection and copying all public records concerning a bear killing incident involving ODFW staff which occurred January 8, 1992, and any records indicating the bear caused, or threatened to cause, damage to property or posed a danger to public safety. For the reasons that follow, we respectfully deny your petition as premature.

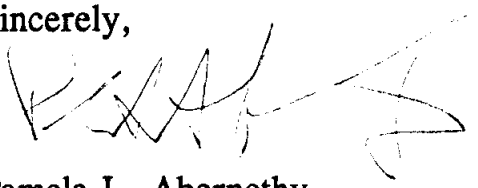
The Attorney General is authorized under the Oregon Public Records Law to order disclosure of records held by state agencies if the records have been withheld from disclosure without proper legal authority to do so. In order for the Attorney General to have jurisdiction to issue a disclosure order, the requestor first must have been denied access to the requested records. See ORS 192.450(1).

You have provided no information that the agency has denied your request. In fact, your statement in your petition that you received some information from Mr. Greer on February 21, 1992, and that Mr. Greer stated

that he has requested additional information from regional and district personnel, indicates that Mr. Greer has complied with one part of your request and is in the process of attempting to comply with the rest of your request. Mr. Greer informs us that he is still awaiting the information from the regional and district personnel and plans to send you any nonexempt records that may exist. A public body has not denied a request for disclosure of public records merely because it fails to comply with a deadline the requestor seeks to impose. Public Records Order, May 9, 1989 (Heibernick).

Under these circumstances, there is no agency denial of a request for public records. Therefore, we deny your petition as premature.

Sincerely,



Pamela L. Abernethy
Special Counsel
to the Attorney General

cc: Jim Greer

PLA:PHH:AV:jpl:jaa006BD