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September 7, 1993

William Bowsman
P.O. Box 1306
Cave Junction, OR 97523

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

Dear Mr. Bowsman:

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 September 1, 1993, states that you requested information from the Oregon Department of Fish and Wildlife (ODFW) in January 1993, and that the information you received in response to that request "did not specifically answer my request." For the reasons that follow, we respectfully deny your petition.

Your petition, along with the correspondence enclosed with that petition, reveals that you first requested information regarding ODFW's authority relative to suction dredge mining on January 28, 1993, and that on February 9, 1993, the department responded to your request with a letter detailing the department's legal authority and role in this permitting process. Also included with that letter were copies of the relevant statutes and a bibliography of the relevant studies. In late February 1993, you requested additional information in regard to these issues. At that time, ODFW did not realize that Oregon Administrative Rules 635-425-000 to 635-425-050 may come within the scope of your request, but the department has now

provided us with a copy of the referenced rules to forward to you. That copy is enclosed with this order.

Patty Snow, Wetlands Coordinator, Habitat Conservation Division, ODFW, has assured us that the department has no other documents relevant to your request. Because ODFW has provided copies to you of all the records in the custody of the department that are relevant to your request, we deny your petition as moot.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. See ORS 192.420. The "public records is "any writing containing information relating to the conduct of the public's business." ORS 192.410(4). In view of your correspondence with ODFW, your petition appears to be, in part, a request that we order ODFW to justify recommendations it has made, or to create records that do not exist. This office has no authority under the Public Records Act to issue such an order. See ORS 192.450.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the Attorney General

BSH:jpl/JAA00DE2.W51

Enclosure
cc: Patty Snow, ODFW