DAVE FROHNMAYER
ATTORNEY GENERAL
STATE OF OREGON

JAMES E. MOUNTAIN, JR.
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

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

August 31, 1990

Wayne E. Nickerson
943 La Fiesta Way
Lake San Marcos, CA 92069

Re: **Petition for Public Records Disclosure Order; Harney County Circuit Court Records**

Dear Mr. Nickerson:

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 August 28, 1990, asks the Attorney General to order Judge Yraguen of the Harney County Circuit Court to make available for inspection the hearing tapes and court reporter logs from a hearing on July 6, 1990, Case No. 90-07-9845-E.

Judge Yraguen, through Court Clerk Dorothy George, provided complete copies of the hearing tapes to you. That request is now moot.

For the reasons that follow, the court reporter logs are subject to a "claim of right to withhold disclosure by an elected official." ORS 192.480. That statute, therefore, requires the Attorney General to decline consideration of your petition.

ORS 192.480 provides in relevant part:

> "In any case in which a person is denied the right to inspect or to receive a copy of a public record in the custody of an elected official, or in the custody of any other person but as to which an elected official claims the right to withhold

> disclosure, no petition to require disclosure may be filed with the Attorney General * * *, or if a petition is filed it shall not be considered by the Attorney General * * * after a claim of right to withhold disclosure by an elected official."

It is unnecessary to determine the custodian of the court reporter's logs. ORS 192.480 requires the Attorney General to decline consideration of a petition to disclose a public record "as to which an elected official claims the right to withhold disclosure" regardless of whether the elected official has custody of the record.

Judge Yraguen has denied disclosure of the record through his court clerk. The judge is an elected official. See Or Const Art VII (Amended), § 1. Thus, an elected official has claimed the legal right to withhold disclosure of this record. Under these circumstances, ORS 192.480 prohibits the Attorney General from considering your petition.

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:cm
c: The Honorable Frank J. Yraguen
Circuit Court Judge
Harney County Courthouse
450 N. Buena Vista
Burns, OR 97720

Linda Zuckerman, Legal Counsel
Office of State Court Administrator
Supreme Court Building
Salem, OR 97310
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