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

December 20, 1989

Nancy L. Nesewich
2373 N.W. Johnson
Portland, OR 97210

Re: Petition for Public Records Disclosure Order; Department of Environmental Quality Records

Dear Ms. Nesewich:

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. The petition, which we received on December 13, 1989, asks to inspect records and files pertaining to asbestos in houses on the 2300 block of N.W. Overton/Pettygrove, owned by Phil Morford, Metropolitan Homes, Inc.; Harold U'ren, M.D.; and Catherine U'ren. You also ask this office to identify any records for which inspection is denied and the basis for such denial. For the reasons stated below, we deny your petition as premature.

Your petition is apparently the result of a misunderstanding about the procedure to inspect public records in the custody of the Department of Environmental Quality (DEQ). We understand that DEQ did not deny your request to inspect the records at issue. Rather DEQ staff invited you to make reasonable arrangements with agency personnel to inspect the records. Under ORS 192.450(1), agency denial of the right to inspect public records is a condition precedent to the Attorney General's review of agency action. Because you were not denied a reasonable opportunity to inspect DEQ records, we must deny your petition as premature.

I suggest that you return to DEQ to follow up on your records request. DEQ must disclose all non-exempt documents within a reasonable time.

In denying your petition as premature, we are confident that DEQ will undertake to honor any reasonable request of yours to inspect all non-exempt documents in their possession pertaining to your inquiry. You should contact Larry Schurr at 229-6932, to make arrangements for such inspection.

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:ABS:cm
cc: Fred Hansen, Director, DEQ
Larry Schurr, Environmental Law Specialist, DEQ