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August 21, 1996

Brent C. Whitmore, SID # 8409080
Oregon State Penitentiary
2605 State Street
Salem, OR 97310-0505

RE: *Petition for Public Records Order: Legislative Commission on Indian Services*

Dear Mr. Whitmore:

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 14, 1996, asks the Attorney General to direct Douglas Hutchinson (the former Assistant to the Legislative Commission on Indian Services) to make available the following records:

> To "enforce" rule ORS 172.100 under the Commission Responsibility for Coordinating Issueing of culture resources "protection" my mineral rights par my "family at home." (Under law native blood rights.) Allotments, property ben box to be secured from state official and employees of such "culture resources protection." Also from federally recognized or unrecognized allotment licensing under the "names" above 25.2 billion and above estimate.

You also ask that other records be seized by the Commission. It does not appear that you are seeking an order from the Attorney General to have public records in the custody of the Legislative Commission on Indian Affairs available to you for inspection and copying. Instead, it appears that you are asking the Attorney General to issue an order requiring the Commission to take enforcement or seizure action to protect certain rights you see as threatened. The Attorney General has no authority to issue such an order.

Assuming that your request is for an order compelling the Commission to disclose public records, we deny your request. We have spoken with Commission Assistant Gladine Ritter and have been informed that the agency has no record of having received a request from you for

such records. The Commission, therefore, has never had the opportunity to honor or deny your request.

The Attorney General has no authority to order disclosure unless the agency has first denied a request to disclose the records. *See* ORS 192.450. Accordingly, we deny your petition as premature.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

ESH:JGR:AV:prv/JGG0E573.W51
c: Gladine Ritter
Legislative Commission on Indian Services