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VIA E-MAIL ONLY: rsw@rswfire.com

Robert White
rsw@rswfire.com

Re: Petition for Public Records Disclosure Order
Oregon Parks and Recreation Department
DOJ File No.: 634900-GA0226-26

Dear Mr. White:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon Parks and Recreation Department (OPRD) to waive the fees associated with producing records to you. You also challenge the amount of the fee quoted by OPRD. For the reasons set forth below, we respectfully dismiss your petition in part, and we deny your petition in part.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). Agencies may establish fees reasonably calculated to recover actual costs in making public records available, but "may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." ORS 192.324(4)–(5). The furnishing of public records primarily benefits the general public when its greatest utility is to the community or society as a whole. *See In Defense of Animals*, 199 Or App 160, 189 (2005). Pertinent factors include the requester's identity, the purpose for which the information will be used, the character of the information, whether the requested information is already in the public domain, and whether the requester can meaningfully disseminate the information to the general public. *Attorney General's Public Records and Meetings Manual* at 19 (2024). And regardless of how interested the public may be in a particular matter, if the requester fails to demonstrate the ability to meaningfully disseminate the requested information, disclosure will not primarily benefit the general public. *Id*. A requester who believes there has been an unreasonable denial of a fee waiver or reduction may petition the Attorney General for review. ORS 192.324(6).

On September 5, 2026, you submitted a five-part records request to OPRD for various kinds of OPRD records that relate to yourself. In connection with that request, you asked OPRD to waive any processing fees. On September 18, 2026, OPRD submitted a fee estimate in the amount of $1,728 to process your request. In accordance with OAR 736-001-0030(2)(b)(B), that fee estimate included a partial fee waiver such that each hour of staff time was charged at the reduced rate of $32 per hour instead of $40 per hour. Because OPRD has granted your fee waiver request in part, we respectfully dismiss this portion of your request as moot. Based on this new information, you are of course free to renew your request for a complete fee waiver or further reduction.

We turn next to your argument that OPRD's estimated fee of $1,728 constitutes a constructive denial of your request. Agencies may establish fees reasonably calculated to recover actual costs in making public records available. ORS 192.324(4)–(5). Although the Attorney General generally does not have the authority to review the reasonableness of a fee estimate, the Attorney General may evaluate claims that "the amount of the fee in comparison to the nature of the request suggests that the true purpose of the fee is to constructively deny the request, rather than to recoup the agency's actual costs." *Attorney General's Public Records & Meetings Manual* 18 (2024). This evaluation requires the public body to explain how it calculated its fee.

Your records request to OPRD seeks five separate categories of records and some of the requests are quite broad. OPRD states that it has conducted similar searches for records in the past and is basing its estimate on the time taken in those searches. OPRD indicates that the records would then need to be subsequently reviewed and redacted to segregate exempt material. OPRD calculated the fee based on a projection of OPRD personnel time required to conduct this work, including a reasonably sizeable portion of time to search through physical and electronic databases. OPRD has also offered to work with you to narrow the request in order to strategically reduce this fee. And, as a reminder, if the actual charges end up being less than the prepayment of this fee, then any overpayment will be promptly refunded to you.

Based on our review of the fee estimate, OPRD's fee appears reasonably calculated to recoup OPRD's actual costs of processing your request, and we cannot conclude that OPRD has constructively denied your request. The fee does not appear excessive given the breadth of your request. For these reasons, we respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

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c via e-mail only: Katie Gauthier (OPRD)