

PRINEVILLE REVIEW

September 8th, 2026

Via email to Kari.Hathorn@crookcountyor.gov

Crook County District Attorney
260 NW 2nd Street, Ste 200
Prineville, Oregon 97754

Subject: Public Records Appeal Petition – Crook County Vector Control District

Petition Pursuant to ORS 192.407 & ORS 192.415

Pursuant to ORS 192.324(6) and ORS 192.407(1), a requester of public records from a public body other than a state agency, elected official, or city may petition the district attorney in the county where the public body is located to review the denial of a public records request.

This petition is therefore properly submitted to the Crook County District Attorney under ORS 192.415, as the Crook County Vector Control District ("CCVCD") is a local government body within Crook County.

1. Introduction

This is now the third occasion on which I have been required to petition the District Attorney concerning CCVCD's failure to timely process a public records request. In this instance, the District has not merely delayed production. It has failed to provide even the acknowledgment expressly required by ORS 192.324(2).

The District's complete silence constitutes a statutory denial under ORS 192.407(1)(a). I therefore respectfully request that the District Attorney grant this petition and exercise the remedial authority provided by ORS 192.407(3), including expedited production, imposition of the \$200 penalty authorized for undue delay or failure to respond, and waiver of any fees associated with production.

2. Public Records Request (PR-260723A)

On July 23, 2026, I submitted Public Records Request ("PR-260723A") to CCVCD pursuant to the OPRA. A copy of the Request is attached as Exhibit A and incorporated herein by reference.

PR-260723A expressly requested acknowledgment of receipt pursuant to ORS 192.324. As of September 1st, 2026, CCVCD has provided no acknowledgment, no request for clarification, no fee estimate, no estimated production date, no assertion of exemption, and no responsive records.

3. Failure to Acknowledge the Request Under ORS 192.324(2) or Respond Under ORS 192.329

ORS 192.324(2) required CCVCD to acknowledge receipt of PR-260723A within five business days unless it completed its response within that period.

CCVCD did neither.

The Request was submitted on July 23, 2026, and the statutory acknowledgment period expired without any response from the District. Despite PR-260723A expressly requesting confirmation of receipt, CCVCD has not provided even a basic acknowledgment that the Request was received. The deadline to acknowledge was July 30th, 2026.

This obligation is not discretionary. ORS 192.324(2) imposes an affirmative obligation upon a public body receiving a written public records request to timely acknowledge the request and provide the information required by that subsection.

ORS 192.329(1) independently requires a public body to complete its response to a written public records request "*as soon as practicable and without unreasonable delay.*"

ORS 192.329(5) further requires that, no later than ten business days after the date by which acknowledgment was required, the public body must either complete its response or provide a written statement that it is still processing the request and provide a reasonable estimated completion date. The ten-day acknowledgment window (following the initial 5-day period for an acknowledgment) ended on August 13th, 2026.

CCVCD did neither.

Nothing indicates that processing was suspended by a fee estimate, request for clarification, or another circumstance authorized by statute. Nor has CCVCD communicated that circumstances described in ORS 192.329(6) make compliance impracticable. Even when such circumstances exist, ORS 192.329 continues to require the public body to process and complete the request as soon as practicable and without unreasonable delay.

Here, the District has communicated nothing at all.

The Oregon Court of Appeals has recognized that a requester may seek review when a public body fails to respond as soon as practicable and without unreasonable delay. *Merrick v. City of Portland*, 313 Or App 647, 656-57, 496 P3d 1085 (2021).

More recently, the Court of Appeals expressly described the statutory response framework in *People for the Ethical Treatment of Animals, Inc. v. Oregon Health & Science University*, 346 Or App 38, 40, 46-48 (2025). The court explained that ORS 192.324(2) requires a public body to acknowledge receipt or complete its response within five business days, and that ORS 192.329(5) then requires the public body, within the additional statutory period, either to complete its response or provide a reasonable estimated date for completion. *Id.* at 40. The court further recognized that ORS 192.407 provides review where a public body fails to timely respond or otherwise fails to comply with its duties under ORS 192.329. *Id.* at 46-48.

The District's complete silence therefore constitutes more than mere delay. Having failed even to provide the threshold acknowledgment required by ORS 192.324(2), and having thereafter provided no response whatsoever, the District also failed to perform any of the subsequent response obligations imposed by ORS 192.329. Indeed, ORS 192.407(1)(a) expressly provides that a public body's failure to timely provide the response required by ORS 192.329 "shall be treated as a denial of the request," unless the public body demonstrates that compliance was not required under ORS 192.329.

4. CCVCD's Failure Is Expressly Treated as a Denial Under ORS 192.407

ORS 192.407 specifically provides a remedy when a public body fails to comply with the statutory response requirements.

ORS 192.407(1)(a) permits a requester to seek review of:

"The failure of a public body to provide the response required by ORS 192.329 within the prescribed period."

The statute further provides that:

"A failure of the public body to timely respond shall be treated as a denial of the request unless the public body demonstrates that compliance was not required under ORS 192.329."

Accordingly, this petition does not depend merely upon characterizing CCVCD's silence as a "constructive denial." The Legislature expressly treats the District's failure to timely respond as a denial.

The District has provided no response and has identified no circumstance that would excuse its failure to comply with ORS 192.329. The denial is therefore properly before the District Attorney pursuant to ORS 192.407 and ORS 192.415.

5. Repeated Noncompliance Supports the \$200 Penalty Under ORS 192.407(3)(b)

I specifically request that the District Attorney require CCVCD to pay the \$200 penalty authorized by ORS 192.407(3)(b).

This is not CCVCD's first inadvertent failure to meet a statutory deadline. It is now the third time I have been required to petition the Crook County District Attorney concerning CCVCD's failure to timely process a public records request. Indeed, two earlier petitions involving CCVCD raised substantially the same problem: failure even to acknowledge a request, followed by continued silence until District Attorney intervention became necessary.

That history is particularly significant because CCVCD cannot reasonably claim ignorance of its obligations at this point. Previous petitions have placed the District on actual notice of the statutory acknowledgment and response requirements.

ORS 192.407(3)(b) expressly authorizes the District Attorney to require payment of \$200 when the public body "responded to the request with undue delay or failed to respond to the request." - *emphasis added*

The latter circumstance is directly presented here.

The fact that CCVCD may eventually respond after receiving notice of this petition should not erase the violation or render the statutory penalty meaningless, as has twice been the case in petitions involving the CCVCD since late 2024. Otherwise, a public body could repeatedly disregard Oregon's response deadlines, wait until a requester invokes District Attorney review, and then avoid the consequence the Legislature specifically authorized for failure to respond.

Previous intervention has plainly not been sufficient to ensure future compliance. The \$200 remedy exists for circumstances involving undue delay and failure to respond, and its application is particularly warranted where the same public body repeatedly engages in the same conduct.

7. Context of the District's Continuing Failure to Provide Information

The following circumstances are offered as context for evaluating the nature of the delay and the appropriate remedy, rather than as an independent basis for this petition.

CCVCD is presently subject to growing scrutiny concerning its governance, finances, contracting practices, and compliance with Oregon law. The Prineville Review continues to investigate and report on those matters, and the District is well aware of that continuing newsgathering.

At the same time, Crook County officials have experienced their own difficulties obtaining information and responses from CCVCD as part of their own inquiries into questionable financial practices, project management, etc.

See [Scrutiny intensifies for Crook County Vector Control District as Commissioners seek more answers over financial questions, governance - June 17th, 2026 - Prineville Review](#).

The Crook County Board of Commissioners has repeatedly sought information and corrective action from the District following issues raised during a February 18, 2026 joint meeting between the County Commissioners and CCVCD. County Manager Will Van Vactor subsequently sought updates from the District concerning those matters. That joint meeting came after the District also ignored earlier requests from the County dating back to December of 2025, requiring the County to simply call the joint meeting pursuant to its authority under ORS 452.120.

The County's own difficulties obtaining information from CCVCD have not been isolated. On information and belief, CCVCD has on multiple occasions since late 2025 failed to timely respond to County officials seeking information concerning District operations, including periods of outright ignoring the requests. Those difficulties have continued into this summer, prompting the Crook County Commissioners during a mid-June 2026 meeting to direct County Manager Will Van Vactor to demand a response and requested materials from the CCVCD pursuant to its statutory oversight under ORS 452.120.

Most recently, Crook County again had to follow up with CCVCD after receiving no meaningful response to information requested by the County concerning governance and compliance issues within another 30-day deadline, which expired in July. In that case, the district's own board chair Ken Fahlgren had acknowledged the county's request, but did not follow up. That correspondence is offered as *Exhibit B* for context concerning the District's continuing pattern of nonresponse even on the County's requests.

The CCVCD has, on information and belief, continued to ignore the County. On August 26th, the Crook County Commissioners revealed during their public meeting that they were seeking a third-party to launch an independent investigation into the CCVCD after having ignored their repeated requests.

This substantially overlaps with the period in which the Prineville Review has repeatedly encountered failures by CCVCD to comply with its obligations under Oregon's Public Records Law, as well as additional independent newsgathering we continued to seek related to the district's compliance with budget law, financial management, etc.

This petition does not require or ask the District Attorney to determine CCVCD's subjective motive. Its statutory violations exist regardless of motive.

However, the circumstances are relevant to determining whether this is simply an isolated administrative oversight and whether the remedies provided by ORS 192.407(3) should be exercised. CCVCD knows that the Prineville Review continues to investigate matters generating scrutiny from County officials and the public. Against that background, the District's repeated failure to respond to this publication's public records requests—including after prior District Attorney intervention—raises legitimate concerns that its noncompliance is having the effect of obstructing or delaying ongoing newsgathering.

Again, it is also not the first time the CCVCD has completely ignored our requests (at least until submitting these petitions).

The Oregon Supreme Court and Court of Appeals have repeatedly recognized Oregon's strong policy favoring public access to government records. See *Jordan v. Motor Vehicles Division*, 308 Or 433, 438-39, 781 P2d 1203 (1989); *Gray v. Salem-Keizer School District*, 139 Or App 556, 562-63, 912 P2d 938 (1996).

As *Gray* recognized, Oregon's Public Records Law embodies a strong presumption favoring disclosure and is intended to facilitate public access to government information. Repeatedly requiring a news organization to petition the District Attorney merely to obtain acknowledgment and processing of its requests is incompatible with that statutory purpose.

8. Fee Waiver Under ORS 192.407(3)(c)

I further request that the District Attorney order that the records responsive to PR-260723A be produced without charge.

ORS 192.407(3)(c) authorizes the reviewing authority to order a fee waiver or reduction when a public body has responded with undue delay or failed to respond in the time and manner prescribed by ORS 192.329.

That provision directly applies here, and **regardless of whether the requester previously sought a fee waiver.**

This authority is especially appropriate because CCVCD's complete failure to respond prevented the Request from reaching the ordinary fee-estimate or fee-waiver stage in the first place.

Moreover, PR-260723A seeks records for journalistic investigation and dissemination concerning matters of significant public interest involving the operations and governance of a local taxing district presently facing scrutiny from Crook County officials and members of the public.

It would be particularly inequitable to permit CCVCD to disregard its statutory processing obligations and then, only after District Attorney intervention, impose fees upon the requester for records whose processing should already have occurred.

Request for an Order

For the foregoing reasons, I respectfully request that the Crook County District Attorney:

1. GRANT this petition pursuant to ORS 192.407 and ORS 192.415;
2. FIND that CCVCD failed to comply with ORS 192.324(2) by failing to acknowledge PR-260723A within the statutory period;
3. FIND that CCVCD failed to comply with ORS 192.329 by failing to timely process and respond to PR-260723A as soon as practicable and without unreasonable delay;
4. FIND that CCVCD's failure to timely respond constitutes a denial under ORS 192.407(1)(a);
5. ORDER CCVCD pursuant to ORS 192.407(3)(a) to disclose all nonexempt records responsive to PR-260723A within seven days of the District Attorney's order;
6. ORDER CCVCD pursuant to ORS 192.407(3)(b) to pay the requester the statutory \$200 penalty based upon its failure to respond and undue delay;
7. ORDER a complete waiver of fees pursuant to ORS 192.407(3)(c);
8. Require CCVCD, to the extent it asserts that any responsive record or portion thereof is exempt, to identify the legal basis for withholding the record and provide it to the District Attorney for review, and promptly produce all reasonably segregable nonexempt material; and

This is now the third occasion on which District Attorney intervention has been required concerning CCVCD's handling of public records requests, intervention which, especially in this repeated scenario, should be unnecessary. I respectfully ask that the remedies expressly provided by the Legislature for undue delay and failure to respond be applied here.

Repeated intervention should not be necessary simply to obtain the acknowledgment and response that Oregon law already requires. The District's continuing failure to perform those basic obligations, despite its prior experience with the petition process and access to legal counsel, strongly supports granting the petition and imposing the remedies authorized by ORS 192.407(3).

Respectfully,

/s/ Justin Alderman

Justin Alderman, *Managing Editor*

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