

DAVID M. GOLDTHORPE
District Attorney



BRENDON ALEXANDER
Chief Deputy District Attorney

**MALHEUR COUNTY DISTRICT
ATTORNEY**
251 B Street West #6
Vale, Oregon 97918
[541] 473-5127
Facsimile [541] 473-5199

February 5, 2021

Re: Public Records Petition of Malheur Enterprise, dated January 5, 2021

Dear Mr. Zaitz and Mr. Smith:

This letter will serve as the District Attorney's opinion on your appeal of denial of public records. Your appeal relates to requests for records from Malheur County, specifically Malheur County Economic Development and Greg Smith.

1. This request was for "Any record in the possession or control of the Malheur County Economic Development Department or its employees or contracted managers and the Malheur County Development Corp. relating to a recent meeting with officials on the BUILD grant. The briefing is mentioned in the latest progress report to the state.
 1. "Earlier in November, the Malheur County Development Corporation was afforded a debriefing on the 2020 BUILD Grant submission. This meeting was extremely valuable as we learned of sectors within the grant that can be enhanced for future application."

The exemption(s) cited by the respondent do not apply. There were various records provided in response to the request, however many of those records were redacted. The respondent failed to provide me with those unredacted records for inspection to determine whether or not those redactions were appropriate or necessary.

It is my opinion that under the laws of the State of Oregon the requested un-redacted documents or digital records, if they exist, are public records and as such should be released to the requesting party. This includes notes taken by employees during meetings. Only attorney-client privileged documents would not be subject to the public records request. I cannot rule on the issue of possible deletion or lack of record retention alleged, as that would not be within my authority. Respondent is admonished in this opinion to respond in a timely manner to all public records request, since any delay on respondent's part weighs in favor of requiring forced production. Any fees associated with this production are hereby waived in light of the substantial delays.

For your consideration I have attached a previous determination, which I believed addressed the October 21, 2020 public records request and subsequent petition.

Sincerely,

David M. Goldthorpe
District Attorney