



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 20, 1995

Mr. Christopher T. Wilson
Staff Attorney
Office of Legal Services Division
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR95-1514

Dear Mr. Wilson:

You previously asked whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. You asserted that the requested information is excepted from required public disclosure under section 552.103(a) of the Government Code. Your request, the first page of which is enclosed for your reference, was assigned ID# 23790.

The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See Gov't Code § 552.302.* This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g., Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).*

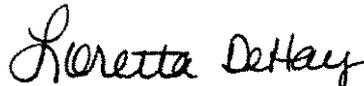
We realize that the short time frame prescribed by section 552.301 may occasionally impose a substantial burden on governmental bodies seeking to comply with the act. Accordingly, when we receive an otherwise timely request for an open records decision that lacks some information necessary for us to make a determination, it has been our policy to give the governmental body an opportunity to complete the request.

On February 2, 1994, we asked you for representative samples of the information you believe is excepted from disclosure. Further, because this office did not receive your December 14, 1994 request for an open records decision until December 21, 1994, we also asked that you submit an affidavit attesting to the date your request letter was placed in your agency's mailbox. To date we have not received your reply.

In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, the information requested by Mr. John B. Turney must now be released. Open Records Decision No. 195 (1978). *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense). For your convenience, we have attached a list of the types of confidential information that typically must be withheld from the public. If you have any questions regarding this matter, please contact our office.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/RWP/rho

Ref.: ID# 23790

Enclosures: First page of Dec. 14, 1993 letter
Confidentiality list

cc: Mr. John B. Turney
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(w/Confidentiality list)