



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 26, 1996

Mr. Mark Walker  
Attorney  
Lower Colorado River Authority  
P.O. Box 220  
Austin, Texas 78767-0220

OR96-0237

Dear Mr. Walker:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38137.

The Lower Colorado River Authority (the "LCRA") received two requests for the "Study of Water-Based Recreation on Lake Travis, Texas" created for the LCRA by the United States Army Corps of Engineers (the "Corps"). You claim that the requested information is excepted from required public disclosure under section 552.111 of the Government Code.

Section 552.111 excepts "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." Section 552.111 excepts from public disclosure only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. Open Records Decision No. 615 (1993) at 5. The policymaking functions of an agency, however, do not encompass routine internal administrative and personnel matters. *Id.* Furthermore, section 552.111 does not except purely factual information from disclosure. *Id.*

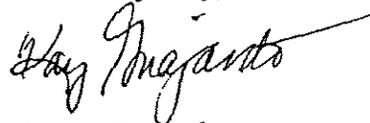
You contend that the requested information is a draft that will be released in final form in the future. Although a governmental body may not close documents merely by stamping "draft" on them, where a document is a genuine preliminary draft that has been released or is intended for release in final form, the draft necessarily represents the advice, opinion, and recommendation of the drafter. Open Records Decision No. 559 (1990). Therefore, the draft itself, including comments, underlining, deletions, and proofreading marks are excepted by section 552.111 of the Government Code, but **not** purely factual

matters that are severable. *Id.* However, when such factual matter is contained in the released final product, there is no need to release it from the draft. *Id.*

You claim that the LCRA and the Corps plan to meet in the future "to discuss, deliberate, evaluate and examine the methods used by the Corps and how the Corps arrived with the conclusions and data presented in the draft report." Moreover, you claim that the numerical information contained in the draft is also subject to interpretation and on-going deliberations. You have also submitted an affidavit from Richard T. Colgan, the Project Manager for the Corps' Lake Travis Recreational Carrying Capacity Study for the LCRA. Mr. Colgan also claims that the numerical information is "preliminary and could change in the final version." Accordingly, as the entire draft report including the numerical information is still subject to deliberation and revision, you may withhold the requested information in its entirety under section 552.111 of the Government Code. Moreover, as even the arguably factual information is subject to change prior to finalization, we do not address in this ruling to what extent, if any, information contained in the draft will be subject to required public disclosure upon LCRA's public release of the final report.

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 should 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,



Kay H. Guajardo  
Assistant Attorney General  
Open Records Division

KHG/LBC/ch

Ref: ID# 38137

Enclosures: Submitted documents

cc: Mr. Bob Leonard  
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(w/o enclosures)