



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 24, 1997

Mr. Kevin McCalla  
Director, Legal Division  
Texas Natural Resource  
Conservation Commission  
P.O. Box 13087  
Austin, Texas 78711-3087

OR97-2141

Dear Mr. McCalla:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 109007.

The Texas Natural Resource Conservation Commission received a request for information under the Open Records Act. You requested an attorney general decision relating to this request for information, which was received by our office on July 10, 1997. In this request for an attorney general decision, you sought to withhold certain requested records pursuant to sections 552.103, 552.107 and 552.111 of the Government Code. You did not, however, submit to our office certain information that is required to be submitted to our office under section 552.301(b). Specifically, you did not submit a copy of the written request for information.

Pursuant to section 552.303(c) of the Government Code, on August 26, 1997, our office notified you by letter sent via facsimile that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e), failure to comply would result in the legal presumption that the requested information is public information.

You did not timely provide our office with the information that was requested in our August 26, 1997, notice to you. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental

body demonstrates a compelling interest to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). You have not shown compelling reasons why the information at issue should not be released. Therefore, the information is presumed to be public and must be released.

We are resolving this matter with this 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,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KH/rho

Ref.: ID# 109007

Enclosures: Submitted documents

cc: Mr. Ken Schwartz  
P.O. Box 670371  
Houston, Texas 77267-0371  
(w/o enclosures)