



November 2, 1999

Mr. Michael Wied
Attorney, Administration and Northern Legal Services
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231

OR99-3088

Dear Mr. Wied:

You ask this office to reconsider our ruling in Open Records Letter No. 99-2098 (1999). Your request for reconsideration was assigned ID# 128542.

The Texas Water Development Board (the "board") received a request for records of certain applications and loan closings, correspondence, and other categories of information. In Open Records Letter No. 99-2098, this office concluded that the board could not withhold certain information under section 552.107 of the Government Code because it was unclear whether the information contained protected client confidences or the legal advice, opinion, and recommendation of the board's attorneys.

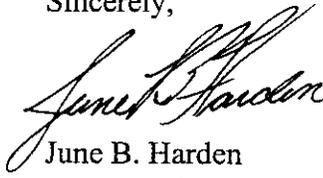
In your request for reconsideration, you have provided additional information in an attempt to show that some of the previously submitted documents contain protected attorney-client communications. We note that a governmental body must explain the reasons why the stated exceptions apply within fifteen days of receiving the request. *See Gov't Code* § 552.301. You did not timely submit all your arguments in connection with the board's original request for a ruling. Consequently, the board may not withhold these documents under section 552.107.

You have also submitted additional documents which you claim are also excepted from disclosure under section 552.107. You did not timely raise your section 552.107 claim for these documents. Since section 552.107 is a discretionary exception, a governmental body

waives this exception by failing to timely invoke it. *See* Open Records Decision No. 630 (1994) (mere fact that information is within the attorney-client privilege and would be excepted from disclosure under section 552.107(1) if governmental body had made timely request for an open records decision does not alone constitute compelling reason to withhold information). Consequently, we will not address your new arguments under section 552.107 for these documents. Open Records Letter No. 99-2098 is affirmed.

If you have any questions regarding this ruling, please contact our office.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 128542

Encl. Submitted documents

cc: Mr. Grant D. Godfrey
Save Our Springs Alliance
P.O. Box 684881
Austin, Texas 78768
(w/o enclosures)