



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 13, 2004

Ms. Noelle C. Letteri  
Attorney  
Legal Services Division  
Texas General Land Office  
P.O. Box 12873  
Austin, Texas 78711-2873

OR2004-0274

Dear Ms. Letteri:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 194242.

The General Land Office (the "GLO") received a request for "[a]ll studies or reports from Rio Nuevo regarding their application for a land lease involving Presidio, Brewster and Jeff Davis counties." You have submitted two sets of documents, labeled Attachments 3 and 4, to this office for a ruling. You contend that Attachment 3 is not responsive to the request for information, and you argue alternatively that this information is excepted from disclosure under section 552.110. You make no arguments against the disclosure of Attachment 4. You also notified third party Rio Nuevo, Ltd. ("Rio Nuevo") of the request and of its opportunity to submit comments to this office.<sup>1</sup> See Gov't Code § 552.305 (permitting

---

<sup>1</sup>Section 552.305 provides in relevant part that in giving notice to a private party whose proprietary interests may be implicated by a request for information, the governmental body must include:

(B) a statement, *in the form prescribed by the attorney general*, that the person is entitled to submit in writing to the attorney general within a reasonable time not later than the 10<sup>th</sup> business day after the date the person receives the notice:

- (i) each reason the person has as to why the information should be withheld; and
- (ii) a letter, memorandum, or brief in support of that reason.

Gov't Code § 552.305(d)(2)(B) (emphasis added). The attorney general's prescribed form is available at Appendix C of this office's Public Information Handbook and on the Attorney General's website at [www.oag.state.tx.us](http://www.oag.state.tx.us).

interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). Rio Nuevo claims that the information you have designated as Attachment 3 is excepted from disclosure under section 552.110 of the Government Code, but makes no arguments against the disclosure of the information you have designated as Attachment 4.

You state that the information in Attachment 3 is Rio Nuevo's proposal for contractual negotiations with the GLO to provide fresh water supply and delivery to targeted areas of the State. You contend that this information is not responsive to the request for studies or reports from Rio Nuevo. Having carefully reviewed Attachment 3, we agree that it is not responsive to the instant request. Therefore, we do not consider the applicability of section 552.110 to this information and you need not release it to the requestor. The only other information at issue is Attachment 4. Neither you nor Rio Nuevo has asserted an exception to disclosure for Attachment 4. Thus, Attachment 4 must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

  
Karen Hattaway  
Assistant Attorney General  
Open Records Division

KEH/sdk

Ref: ID# 194242

Enc. Submitted documents

c: Mr. Drew Stuart  
125 North 6<sup>th</sup> Street  
Alpine, Texas 79830  
(w/o enclosures)

Mr. Robert O. Canon  
Rio Nuevo, Ltd.  
600 North Marienfeld, Suite 900  
Midland, Texas 79701  
(w/o enclosures)