ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 26, 2006

Ms. Frances Delk
Manager
Jones Water Supply Corporation
1650 North State Highway 37
Quitman, Texas 75783-9646

OR2006-12670

Dear Ms. Delk:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 263341.

The Jones Water Supply Corporation (the "WSC") received a request for its charter and for information pertaining to WSC customers. You state that some responsive information has been released to the requestor. You claim that some of the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 182.052 of the Utilities Code provides in relevant part:

> (a) Except as provided by Section 182.054, a government-operated utility may not disclose personal information in a customer's account record, or any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage, if the customer requests that the government-operated utility keep the information confidential. However, a government-operated utility may disclose information related to the customer's volume or units of utility usage or amounts billed to or collected from the individual for utility usage if the primary source of water for such utility was a sole-source designated aquifer.

> (b) A customer may request confidentiality by delivering to the government-operated utility an appropriately marked form provided under Subsection (c)(3) or any other written request for confidentiality.

Util. Code § 182.052(a)-(b). "Personal information" under section 182.052(a) means an individual's address, telephone number, or social security number. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). We note that the customer's name is not included in the definition of personal information, and therefore is not confidential under section 182.052 of the Utilities Code. We also note that a post office box number is not an address for purposes of section 182.051.

The information at issue consists of customer addresses and telephone numbers. You inform us that all corporation members are customers. You state that some of the WSC customers have "requested that their personal information be kept confidential." You do not inform us, however, if the customers whose information you seek to withhold made timely requests under section 182.052(b) to keep their personal information confidential. Therefore, if the customer made a timely request to keep his personal information confidential, the customer's address and telephone number are confidential under section 182.052 of the Utilities Code and must be withheld under section 552.101 of the Government Code on that basis. *See* Open Records Decision No. 625 (1994) (construing statutory predecessor). However, the personal information of a customer who did not make a timely election of confidentiality is not confidential under section 182.052, and the WSC may not withhold it under section 552.101 on that ground. We note, however, that section 182.052 is applicable only to an individual and does not protect information relating to a corporation, partnership, or other business entity. *See id.* at 4-5.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,

Cindy Nettles
Assistant Attorney General
Open Records Division

CN/eb

Ref: ID# 263341

Enc. Submitted documents

c: Mr. Harold Little
c/o Jones Water Supply Corporation
1650 North State Highway 37
Quitman, Texas 75783-9646
(w/o enclosures)