



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 23, 2009

Mr. Reg Hargrove
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2009-15137

Dear Mr. Hargrove:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 359202 (PIR No. 09-25739).

The Office of the Attorney General (the "OAG") received a request for 1) documents Shell Oil Company ("Shell") and its related entities submitted to the state in connection with a lawsuit and 2) agreements Shell and the state reached in connection with tracts of land that are subject to said lawsuit. The OAG states it has no information responsive to request item two and asserts the rest is excepted from disclosure under section 552.113(a)(2) of the Government Code. The OAG also notified interested third parties of the request. *See* Gov't Code §§ 552.304 (interested third party may submit written comments regarding availability of requested information), .305 (permitting interested third party to submit to attorney general reasons why requested information should not be released). We have received comments from the General Land Office (the "GLO") and Shell, considered all parties' arguments against disclosure, and reviewed the submitted information.

Section 552.113 provides in relevant part as follows:

(a) Information is excepted from the requirements of [required public disclosure] if it is:

(2) geological or geophysical information or data, including maps concerning wells, except information filed in connection with an application or proceeding before an agency[.]

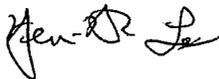
In Open Records Decision No. 627, this office concluded section 552.113(a)(2) protects from public disclosure only (i) geological and geophysical information regarding the exploration or development of natural resources that is (ii) commercially valuable. Open Records Decision No. 627 at 3-4 (1994) (overruling rationale of Open Records Decision No. 504 (1988)). The decision explained the phrase "information regarding the exploration or development of natural resources" means "information indicating the presence or absence of natural resources in a particular location, as well as information indicating the extent of a particular deposit or accumulation." *Id.* at 4 n.4. However, section 552.113(a)(2) does not except general geological information about a particular location that is unrelated to the "presence or absence of natural resources." In order to be commercially valuable for purposes of Open Records Decision No. 627 and section 552.113, information must not be publicly available. Open Records Decision No. 669 (2000).

The OAG explains Shell submitted the information as part of informal settlement negotiations between Shell and the GLO, with the OAG acting as the GLO's counsel, and not in connection with an application or proceeding before the GLO. After review of the OAG's arguments and the information, we conclude the information is geological or geophysical information regarding the exploration or development of natural resources that is commercially valuable. Thus, the OAG may withhold the information under section 552.113(a)(2). Because section 552.113 is dispositive, we do not address the other arguments.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 359202

Enc: Submitted documents

c: Requestor
(w/o enclosures)

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