



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 18, 2010

Mr. Mel Davis
Special Projects Coordinator
Texas State Soil and Water Conservation Board
P.O. Box 658
Temple, Texas 76503

OR2010-02456

Dear Mr. Davis:

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# 370605.

The Texas State Soil and Water Conservation Board (the "board") received a request for the GPS coordinates of facilities under the board's jurisdiction in the Lake Fork Reservoir Watershed. You claim that 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.¹

Initially, we note most of the submitted information is not responsive to the instant request for information. The requestor only asks for specified GPS coordinates. Accordingly, only the GPS coordinates are responsive to this request. This ruling does not address the public availability of nonresponsive information, and the board is not required to release nonresponsive information in response to this request.

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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, such as section 201.006 of the Agriculture Code, which provides in part:

(a) Except as provided by this section, information collected by the state board² or a conservation district³ is not subject to Chapter 552, Government Code, and may not be disclosed if the information is collected in response to a specific request from a landowner or the landowner's agent or tenant for technical assistance relating to a water quality management plan or other conservation plan if the assistance is to be provided:

(1) under this code; and

(2) on private land that:

(A) is part of a conservation plan or water quality management plan developed cooperatively with the state board or conservation district; or

(B) is the subject of a report prepared by the state board or conservation district.

...

(c) The state board or a conservation district may disclose, in a manner that prevents the identification of a particular tract of land, the owner of the tract, or the owner's agent or tenant, a summary of information collected by the state board or conservation district regarding:

(1) the number of acres of land that are in a particular conservation plan;

(2) the number of acres of land that are subject to a particular conservation practice; or

(3) other conservation program information.

²The "state board" is defined as the State Soil and Water Conservation Board. Agric. Code § 201.002(7).

³A "conservation district" is defined as a soil and water conservation district. Agric. Code § 201.002(1).

Agric. Code § 201.006(a), (c). We note that sections 201.006(b), (e), (f), and (g) provide information may be released to certain parties; however, it is our understanding that none of these qualified release provisions apply in this instance.

You state the information at issue was collected and compiled in response to specific requests for technical assistance from the landowners at issue relating to conservation plans on each owner's private land, and that the assistance from the board was provided under chapter 201 of the Agricultural Code. Based upon your representations and our review, we agree the responsive information must be withheld pursuant to section 552.101 of the Government Code in conjunction with section 201.006 of the Agriculture Code.

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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/jb

Ref: ID# 370605

Enc. Submitted documents

c: Requestor
(w/o enclosures)