



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 20, 2013

Mr. R. Brooks Moore
Managing Counsel - Governance
Office of General Counsel
Texas A&M University System
301 Tarrow Street, 6th Floor
College Station, Texas 77840-7896

OR2013-20240

Dear Mr. Moore:

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# 506380.

The Office of the Texas State Chemist (the "OTSC") received a request for documents received by or provided to the OTSC from Adair Grain, Inc. d/b/a West Fertilizer Co. ("West Fertilizer"). Although you state the OTSC takes no position with respect to the public availability of the submitted information, you state release of this information may implicate the proprietary interests of West Fertilizer. Accordingly, you state and provide documentation showing, you have notified West Fertilizer of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code § 552.305* (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See Gov't Code § 552.305(d)(2)(B)*. As of the date of this letter, we have not received comments from West Fertilizer explaining why any of its requested information should not be released. Therefore,

we have no basis to conclude West Fertilizer has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the OTSC may not withhold any portion of the submitted information on the basis of any proprietary interests West Fertilizer may have in the information. As no exceptions to disclosure were raised, the submitted information must be released.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/tch

Ref: ID# 506380

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Ted J. Uptmore
West Fertilizer Co.
P.O. Box 399
West, Texas 76691
(w/o enclosures)