



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

January 24, 1991

Mr. H. Glenn Hall, III  
Staff Attorney  
Legal Division  
Texas Water Commission  
P.O. Box 13087, Capitol Station  
Austin, Texas 78711-3087

OR91-056

Dear Mr. Hall:

You previously asked whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your most recent correspondence with this office was assigned ID# 11186.

The Texas Water Commission (the commission) received an open records request for certain information pertaining to a solid waste facility at the Rincon Channel Industrial Park Site. Because you have demonstrated that the requested information relates to a pending enforcement proceeding before the commission, you may withhold the information pursuant to section 3(a)(3) of the Open Records Act at this time. See generally Open Records Decision No. 551 (1990) (copy enclosed).

We assume, however, that none of the information in the records at issue has previously been made available to the subjects of the enforcement proceeding. Absent special circumstances, once information has been obtained by all parties to the litigation, e.g. through discovery or by court order, no section 3(a)(3) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the requestor has seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 3(a)(3).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-056.

Yours very truly,



Rick Gilpin  
Assistant Attorney General  
Opinion Committee

RG/RWP/le

Ref.: ID# 11186  
ID# 9755

Enclosures: Open Records Decision No. 551

cc: Margaret C. Deeves  
Texaco Center  
400 Poydras Street  
New Orleans, Louisiana 70130-3245