



Office of the Attorney General
State of Texas

January 31, 1994

DAN MORALES
ATTORNEY GENERAL

Mr. Herbert L. Prouty
General Counsel
El Paso Water Utilities Public Service Board
P.O. Box 511
El Paso, Texas 79961-0001

OR94-014

Dear Mr. Prouty:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552.¹ We assigned your request ID# 22675.

The El Paso Water Utilities Public Service Board (the "board") has received a request for information relating to tunnels dug and pipes laid in connection with the East Water System Improvements Project 1, including logs, engineer logs, progress reports, or punch list completion memoranda that reflect the quality of a certain contractor's work. You advise us that some of the requested information has been made available to the requestor. However, you seek to withhold some of the requested information under section 552.111 of the act.

Section 552.111 of the act excepts from disclosure information that constitutes an "interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the section 552.111 exception and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body at issue. Section 552.111, however, does not protect purely factual information. *Id.*

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

You have marked the information that you seek to withhold under section 552.111. The marked information is purely factual and contains no advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the board. Accordingly, we conclude that section 552.111 does not except the marked information from required public disclosure and that the board must release the requested information in its entirety.

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 contact this office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/GCK/rho

Ref: ID# 22675
ID# 22689
ID# 22896

Enclosures: Submitted documents

cc: Mr. Carlos Rincon
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(w/o enclosures)