



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 31, 1994

Mr. Jeff Hartsell
Assistant City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR94-026

Dear Mr. Hartsell:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (formerly article 6252-17a, V.T.C.S.).¹ Your request was assigned ID# 23171.

The City of Lubbock received a request for documents concerning its landfill, including analyses of groundwater and airborne contaminants. The requestor also seeks a map of the landfill, which would indicate the location of wells from which the water was tested and other information about the test wells. The request also asks that test well sites be indexed to the groundwater analyses. You contend the city's groundwater analyses and a map of the wells do not have to be disclosed under section 552.113 (formerly section 3(a)(13) of the Open Records Act, V.T.C.S. art. 6252-17a). You supplied this office with two sample groundwater analyses in chart form. You did not supply a map.

We conclude that the city must release the groundwater analyses. Section 552.113(2) excepts geological and geophysical information from public disclosure, but it is not a complete exception for all information with geological or geophysical characteristics. The purpose of the exception is to protect the commercial value of geological and geophysical information, such as documents that would reveal information about mineral deposits. Open Records Decision No. 479 (1987) at 2, *overruled on other grounds* by Open Records Decision No. 504 (1988). The sample groundwater analyses charts at issue show only the quality and character of the groundwater in the test areas. When information relates only to the pollution of groundwater with no other commercial

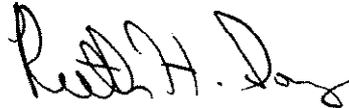
¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.*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

interests involved, such will not be withheld under section 552.113(2). Open Records Decision No. 504 (1988) at 5-6.

As to the requested map, if no map exists concerning the test well sites the city will be unable to comply with the request. Open Records Decision No. 483 (1987) at 2. If a map exists that would provide information about the test wells, section 552.113(2) does not except it from disclosure. Such a map would not impair commercial interests but would provide information about pollution, which is an issue of public concern. Open Records Decision No. 504 (1988) at 6-7 states that the public has a "substantial . . . interest in knowing about the pollution of groundwater."

Because 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 our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy". The signature is written in a cursive style with a large initial "R".

Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/kko

Ref.: ID#s 23171, 23658

Enclosures: Submitted documents

cc: Mr. Randy Foster
Rt. 3, Box 80
Lubbock, Texas 79401
(w/o enclosures)