



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 21, 1995

Ms. Samita Mehta
Senior Attorney
Industrial and Hazardous Waste
Texas Natural Resource Conservation
Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR95-1281

Dear Ms. Mehta:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 36560.

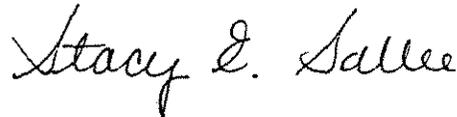
The Texas Natural Resource Conservation Commission (the "commission") received a request for all documents related to all MultiMedia inspections performed by representatives from the commission's Austin and Corpus Christi offices at Intercontinental Energy Corporation's ("IEC") facilities in Live Oak County in early 1995, including individual inspectors' field notes, interagency correspondence, and any documents filed by IEC relating to these inspections, and all documents related to any inspection of these IEC facilities in 1993 or 1994. The requestor also seeks all documents related to the request for investigation and notice of potential enforcement action by Citizens Against Pollution in Texas and Live Oak County filed on October 11, 1994. You state that the commission has released some of the requested information to the requestor. However, you claim that a portion of the requested information is excepted from disclosure under sections 552.101 and 552.107(1) of the Government Code. We have considered the exceptions you claimed and have reviewed the documents at issue.

Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client

information held by a governmental body's attorney. *Id.* at 5. We have reviewed the submitted documents and conclude that they contain privileged information. We agree with the commission's markings on two of the submitted documents. Therefore, the commission may withhold that marked information. We conclude that some of the marked information on the third document is factual and some of it is legal advice or opinion. Therefore, the commission may withhold only the advice or opinion portion of the marked information on the April 24, 1995, document. We have marked the document to indicate what information may be withheld under section 552.107(1). The commission may not withhold the remainder of the information.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/rho

Ref.: ID# 36560

Enclosures: Marked documents

cc: Mr. Richard Lowerre
Henry, Lowerre, Johnson, Hess & Frederick
202 West 17th Street
Austin, Texas 78701
(w/o enclosures)

¹Although you claim that section 552.101 excepts some of the information from disclosure because it is protected by the attorney-client privilege, we note that the attorney-client privilege is properly claimed under section 552.107 of the Government Code.