



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 9, 1996

Ms. Patricia Hershey  
Staff Attorney  
Litigation Support Division  
Texas Natural Resource Conservation Commission  
P.O. Box 13087  
Austin, Texas 78711-3087

OR96-1632

Dear Ms. Hershey:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39284.<sup>1</sup>

The Texas Natural Resource Conservation Commission (the "TNRCC") received a request for information regarding Allied Tube and Conduit Corporation ("Allied Tube") and Tex-Tin Corporation ("Tex-Tin"). You claim that a portion of the requested information is excepted from disclosure under section 552.110 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

You state that in Tex-Tin's files are copies of permit applications of Gulf Chemical & Metallurgical Company ("Gulf Chemical"), which you state Gulf Chemical claimed to be confidential.<sup>2</sup> Pursuant to section 552.305 of the Government Code, this office informed Allied Tube, Tex-Tin, and Gulf Chemical of the request and of their obligation to submit arguments as to why any claimed exception to disclosure applies to the requested documents. However, none of these companies responded.

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<sup>1</sup>We note that this request was originally assigned ID# 36710. However, we severed the documents for which an exception under section 552.110 of the Government Code was asserted and assigned that portion of the request ID# 39284.

<sup>2</sup>We note that information is not excepted from disclosure merely because it is furnished with the expectation that it will be kept confidential. *See, e.g.*, Open Records Decision No. 180 (1977).

Section 552.110 excepts from disclosure: (1) a trade secret, and (2) commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision. Although the TNRCC states that it believes some of the information to be a trade secret or confidential commercial information in its original correspondence to this office, you informed this office in later correspondence that, at least as to the second prong of section 552.110, the TNRCC would not address whether the information should be withheld. Therefore, as the companies did not submit any arguments as to why the second prong of section 552.110 should apply to the information at issue, the TNRCC may not withhold the requested information under the second prong of section 552.110. Similarly, as neither the TNRCC nor the companies addressed the first prong of section 552.110, trade secrets, we conclude that the TNRCC may not withhold the requested information under the first prong of section 552.110.

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 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/ch

Ref.: ID# 39284

Enclosures: Submitted documents

cc: Ms. Helen Leibrandt Doney  
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(w/o enclosures)

Gulf Chemical & Metallurgical Company  
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ATTN: Legal Counsel  
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ATTN: Legal Counsel  
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Tex-Tin Corporation  
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