



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 17, 1996

Mr. Kevin McCalla  
Legal Division, Director  
Texas Natural Resource Conservation Commission  
P.O. Box 13087  
Austin, Texas 78711-3087

OR96-1698

Dear Mr. McCalla:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 101018.

The Texas Natural Resource Conservation Commission ("TNRCC") received a request to review any files pertaining to Border Steel Mills, Inc. You assert that the name of a person who registered a complaint with the TNRCC that Border Steel was polluting the air is excepted from required public disclosure based on section 552.101 of the Government Code. We agree.

Section 552.101 of the Government Code excepts from public disclosure information that is confidential by law. This office interprets this exception as incorporating the "informer's privilege." See Open Records Decision No. 515 (1988) (citing *Roviaro v. United States*, 353 U.S. 53 (1957)). The informer's privilege aspect of section 552.101 protects the identity of a person who reports a violation or possible violation of the law to officials charged with the duty of enforcing the particular law. The privilege protects individuals who report violations to administrative-agency officials having a duty to enforce statutes with civil or criminal penalties. See *id.*

You have cited the TNRCC's statutory and regulatory authority to enforce air pollution laws. We conclude that the informer's privilege applies in this case. Consequently, the TNRCC may withhold the complainant's identity, address, and telephone number from public disclosure based on section 552.101 of the Government Code.

We are resolving this matter with this 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 may 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,



Kay Guajardo  
Assistant Attorney General  
Open Records Division

KHG/rho

Ref.: ID# 101018

Enclosures: Submitted documents

cc: Ms. Lori Evans  
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Dallas, Texas 75229  
(w/o enclosures)