



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 15, 1997

Mr. David R. Gipson  
Assistant General Counsel  
Texas Department of Agriculture  
P.O. Box 12847  
Austin, Texas 78711

OR97-1105

Dear Mr. Gipson:

You previously asked whether certain information is excepted from required public disclosure as "attorney work product" under the Texas Open Records Act, chapter 552 of the Government Code. In Open Records Letter Decision No. 96-2417 (1996), this office considered your arguments regarding the required public disclosure of certain documents in accordance with Open Records Decision No. 647 (1996) (establishing the requirements for withholding information as attorney work product under section 552.111 of the Government Code). You now ask that we consider your arguments to this office for withholding the documents which we determined did not fall within the requirements as established through Open Records Decision No. 647 (1996). Your correspondence was assigned ID# 105598.

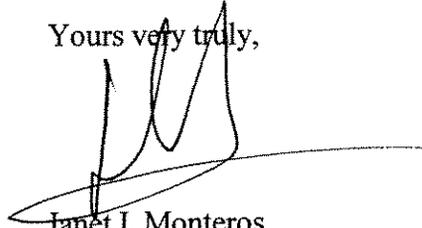
In order to withhold information as attorney work product under section 552.111, a governmental body must show that the information was created for trial or in anticipation of litigation. Secondly, a governmental body must show that the work product "consists of or tends to reveal the thought processes of an attorney in the civil litigation process." Open Records Decision No. 647 (1996) at 4. Although the attorney work product privilege protects information that reveals the mental processes, conclusions, and legal theories of the attorney, it generally does not extend to facts obtained by the attorney. *Id.* and authorities cited therein.

After reviewing the documents you resubmit Bates-stamped 000023-24, 000032, 000038-39, 000006-7, and 000013 and your arguments for withholding the records, we conclude that you have not established the applicability of the exception. Open Records Decision Nos. 647 (1996), 363 (1983). We affirm that documents Bates-stamped 000023-24, 000032, 000038-39, 000006-7, and 000013 must be released in their entirety.

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,

A handwritten signature in black ink, appearing to read 'Janet I. Monteros', written over a horizontal line.

Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/alg

Ref.: ID# 105598  
Open Records Letter No. 96-2417 (1996)

Enclosures: Marked documents

cc: Ms. Susan Newhams  
Information Specialist  
Holme, Roberts and Owen  
1700 Lincoln, Suite 4100  
Denver, Colorado 80203  
(w/o enclosures)