



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 19, 1998

Ms. Joanne Wright
Interim Deputy General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Bldg.
125 E. 11th Street
Austin, Texas 78701-2483

OR98-1251

Dear Ms. Wright:

You ask this office to reconsider our ruling in Open Records Letter No. 98-0639 (1998). Your request for reconsideration was assigned ID# 115685.

The Texas Department of Transportation (the "department") received a request for certain information concerning the planning, study or development of proposed State Highway 45 and proposed "Loop 1 extension" in Williamson County, Texas. In Open Records Letter No. 98-0639 (1998), this office concluded that the department could not withhold the requested information under section 552.113 of the Government Code. In your request for reconsideration, you provide the names and addresses of third parties who may have a proprietary or other interest in the requested information.

Because their proprietary or other interests may be implicated by the release of the requested information, this office notified the Texas Speleological Survey ("TSS"), the Texas Parks and Wildlife Department, the United States Fish and Wildlife Service, and the Robinson Ranch. See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Government Code section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exceptions in certain circumstances). The notification states that if the entity does not respond within 14 days of receipt, this office will assume that it has no *privacy or property interest in the requested information*. Only TSS and Robinson Ranch responded to our notification. Thus, we assume that the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service have no property or privacy interest in the information.

A TSS representative, Dr. George Veni, responded to our notification, and stated as follows: "I have reviewed the exemptions to the Texas Open Records Act and am unable to find a specific exception that clearly protects information on such natural resources." In another letter to this office, Dr. Veni articulates possible adverse consequences that may result by releasing the requested data. However, neither TSS nor the department have raised any other substantive exceptions for nondisclosure of the information, other than section 552.113 of the government Code. As we stated in Open Records Letter No. 98-0639 (1998), we do not believe that section 552.113 applies in this instance.

We have examined Robinson Ranch's arguments for withholding the requested information. We do not believe that it has sufficiently established the applicability of any substantive exceptions to disclosure of the requested information. We, therefore, affirm Open Records Letter No. 98-0639 (1998) in its entirety. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID# 115685

Enclosures: Submitted documents

cc: Mr. John R. Morgan
2802 Quanah Drive
Round Rock, Texas 78681
(w/o enclosures)