



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 2, 1998

Ms. Rachael Rawlins
George, Donaldson & Ford, L.L.P.
1100 Norwood Tower
114 West 7th Street
Austin, Texas 78701

OR98-2921

Dear Ms. Rawlins:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119924.

The Barton Springs\Edwards Aquifer Conservation District (the "district"), which you represent, received a request for information concerning the Longhorn Pipeline, related litigation, and other pipelines within the district's jurisdiction. You state that the district has released some information to the requestor. You contend that the remaining requested information is excepted from disclosure pursuant to sections 552.103, 552.107, and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the information at issue.

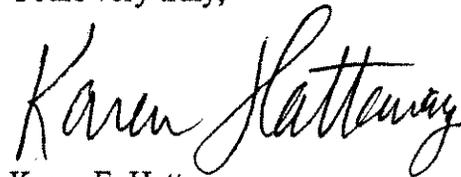
Section 552.103(a) excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.--Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990).

You inform us that the district is a plaintiff in a pending lawsuit. *Spiller v. Walker*, Civil Action No. A.98 CA 244 SS (W.D. Tex., filed April 22, 1998). Having reviewed the pleadings from the pending lawsuit, we conclude that the information at issue is related to the lawsuit. Under these circumstances, the district may withhold the information from disclosure pursuant to section 552.103(a).

In reaching this conclusion, however, we assume that the opposing parties in the litigation have not previously had access to the information at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Because we are able to resolve this matter under section 552.103(a), we do not address your other arguments against disclosure. 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,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 119924

Enclosures: Submitted documents

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(w/o enclosures)