



June 17, 1999

Ms. Susan Combs
Commissioner
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

OR99-1675

Dear Ms. Combs:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 124984.

The Texas Department of Agriculture (the "department") received a request for a "list of persons and/or firms for whom O.E.C.D. - Koralle tags have been printed and the number of tags issued in 1998-1999." In response to the request, you submit to this office for review the information at issue. You state that "[a]lthough the department has no interest in the release of the requested information, [a specified company] notified the department of its objection to the release of the information to its competitor."¹ You state that "the department requests a ruling from your office regarding whether the requested information is excepted from public disclosure under section 552.110 of the Government Code." We have considered the exception and arguments you have raised and reviewed the submitted information.

Pursuant to section 552.305, we notified South Texas Planting Seed Association, Inc. ("STPSA"), whose proprietary interests may be implicated by this request for information, and provided them with an opportunity to claim that the information at issue is excepted from disclosure. *See Gov't Code § 552.305; Open Records Decision No. 542 (1990).* The notification states that if the company does not respond within 14 days of receipt, this office will assume that the company has no privacy or property interest in the requested information. Although you indicate that "the department has no interest in the release of the

¹We note that information is not confidential under the Public Information Act simply because the party submitting it to a governmental body anticipates or requests that it be kept confidential. Open Records Decision No. 479 (1987).

requested information,” we note that you have raised some arguments against disclosure of the information at issue on behalf of STPSA. However, since STPSA did not respond to our notification, we assume that the company has no property or privacy interest in the information. Furthermore, although we have considered the department’s arguments on behalf of STPSA, we conclude that the department has not established that releasing the requested information would likely cause STPSA to suffer substantial competitive injury. Therefore, we have no basis to conclude the information about STPSA is excepted from required public 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.

Sincerely,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref: ID# 124984

encl.: Submitted documents

cc: Mr. Art Foster
SEEDCO Corporation
103 Erskine Street
Lubbock, Texas 79403
(w/o enclosures)

South Texas Planting Seed Association, Inc.
P. O. Box 16
Mercedes, Texas 78570
(w/o enclosures)