



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 28, 2005

Mr. Ronald J. Bounds  
Denton, Navarro, Rocha & Bernal  
2517 North Main Avenue  
San Antonio, Texas 78212

OR2005-08769

Dear Mr. Bounds:

You ask 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# 233175.

The San Antonio Water System ("SAWS"), which you represent, received a request for information pertaining to "[SAWS]' water and sewer GIS data layers." You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. As part of the Texas Homeland Security Act, sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make certain information related to terrorism confidential. Section 418.181 provides:

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Gov't Code § 418.181. The fact that information may relate to a governmental body's security measures does not make the information *per se* confidential under the Homeland Security Act. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality

provision controls scope of its protection). Furthermore, the mere recitation of a statute's key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, a claim under section 418.181 must be accompanied by an adequate explanation of how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

SAWS informs us that the submitted data contains information concerning the locations, types, sizes, and building materials used to construct water and wastewater mains, as well as mainline and division valves, throughout the SAWS service area. You argue that with this information, an individual could successfully "inject contaminants into the water supply or disrupt water service on a massive scale...simply through the use of common power tools or by the simple turning of such valves." You also inform us that the submitted data shows the locations of storage tanks, producing wells, and pump stations throughout their service area. SAWS argues that an individual with this information could "cause extreme environmental damage to SAWS' water supply through disruption of the chlorine gas and fluoride concentrations" that are controlled at the pump stations. In addition, you inform us that the submitted information depicts the locations of approximately 68,700 wastewater manholes located throughout the SAWS service area. An individual with this information, you argue, could use the locations of these manholes to introduce contaminants and cause catastrophic damage to the wastewater processes. The submitted information also contains information that shows the locations of lift stations that help transport wastewater. SAWS argues that with this information, an individual could easily damage the valves within the lift stations and cause extreme environmental harm which would place public health and sanitation at great risk.

After reviewing your arguments and the submitted information you seek to withhold pursuant to section 418.181, we conclude SAWS has adequately demonstrated that the release of this information would identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. *See generally* Gov't Code § 421.001 (defining critical infrastructure to include "all public or private assets, systems, and functions vital to the security, governance, public health and safety, and functions vital to the state or the nation"). Therefore, SAWS may withhold the submitted information under section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by

filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jaime L. Flores  
Assistant Attorney General  
Open Records Division

JLF/seg

Ref: ID# 233175

Enc. Submitted documents

c: Mr. Andy Longoria  
Tobin International, Ltd.  
1355 Central Parkway South, Suite 500  
San Antonio, Texas 78232  
(w/o enclosures)