



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 22, 2008

Ms. Lesli R. Barber  
Staff Attorney  
Texas General Land Office  
P.O. Box 12873  
Austin, Texas 78711-2873

OR2008-02419

Dear Ms. Barber:

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# 301616.

The Texas General Land Office (the "GLO") received a request for "all applications, requests for permits or other documents regarding seismographic testing which occurred in the coastal waters and bays in the vicinity of Port Isabel, Cameron County, Texas during the months January to September, 2007[.]" You claim that some of the requested information is excepted from disclosure under section 552.113 of the Government Code. You also indicate that release of the requested information may implicate the proprietary interests of Seismic Exchange, Inc. ("Seismic"). Accordingly, pursuant to section 552.305 of the Government Code, you have notified Seismic of the request and of its right to submit arguments to this office as to why the information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances). We have received arguments from Seismic. We have considered the submitted arguments and reviewed the submitted information.

Section 552.113 of the Government Code provides in relevant part as follows:

- (a) Information is excepted from [required public disclosure] if it is:

...

(2) geological or geophysical information or data, including maps concerning wells, except information filed in connection with an application or proceeding before an agency; or

(3) confidential under Subsections (c) through (f).

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...

(c) In this section:

(1) "Confidential material" includes all well logs, geological, geophysical, geochemical, and other similar data, including maps and other interpretations of the material filed in the General Land Office:

(A) in connection with any administrative application or proceeding before the land commissioner, the school land board, any board for lease, or the commissioner's or board's staff; or

(B) in compliance with the requirements of any law, rule, lease, or agreement.

...

(3) "Administrative applications" and "administrative proceedings" include applications for pooling or unitization, review of shut-in royalty payments, review of leases or other agreements to determine their validity, review of any plan of operations, review of the obligation to drill offset wells, or an application to pay compensatory royalty.

Gov't Code § 552.113(a)(2)-(3), (c)(1), (c)(3). In this instance, both the GLO and Seismic assert that the geophysical map submitted as Exhibit D is excepted from disclosure under section 552.113(a)(3), as confidential material filed with the GLO in connection with an administrative application. *See* Gov't Code § 552.113(a)(3), (c)(1)(A). The GLO and Seismic explain that the submitted information was filed with the GLO in connection with Seismic's "Application to Perform Seismic Work on State-Owned Land." Upon review of the submitted arguments and the map at issue, we find that the GLO and Seismic have demonstrated that the map submitted as Exhibit D is confidential for purposes of section 552.113(a)(3). Accordingly, the GLO must withhold Exhibit D under section 552.113 of the Government Code.

Seismic also asserts that some of its information submitted as Exhibit A is excepted from disclosure under section 552.113(a)(3). Seismic argues that items 4, 7, 9, 14, and 20 of Exhibit A comprise geophysical and geological data submitted to the GLO in connection with Seismic's administrative application. Upon review, we agree that items 4, 7, 9, 14, and 20 within Exhibit A are confidential for purposes of section 552.113(a)(3), and the GLO must therefore withhold these portions of Exhibit A under section 552.113 of the Government Code.

In summary, the GLO must withhold Exhibit D and items 4, 7, 9, 14, and 20 within Exhibit A under section 552.113 of the Government Code.<sup>1</sup> The remaining submitted information must be released to the requestor.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge that decision by suing the governmental

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<sup>1</sup>As our ruling is dispositive for this information, we need not address Seismic's remaining argument against disclosure.

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,



Allan D. Meesey  
Assistant Attorney General  
Open Records Division

ADM/eeg

Ref: ID# 301616

Enc. Submitted documents

c: Mr. Kelly W. Kelly  
1911 Southwest Freeway  
Houston, Texas 77098  
(w/o enclosures)

Ms. Julie Hardie  
Legal Counsel for Seismic Exchange, Inc.  
11050 Capital Park Drive  
Houston, Texas 77041  
(w/o enclosures)