



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2011

Ms. Valecia R. Tizeno
City Attorney
City of Port Arthur
P.O. Box 1089
Port Arthur, Texas 77641-1089

OR2011-17604

Dear Ms. Tizeno:

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# 437458.

The City of Port Arthur (the "city") received a request for the industrial district agreement compliance reports containing employee and contractor information filed with the city during a specified time period. Although you indicate the city takes no position with respect to the public availability of the submitted compliance reports, you state their release may implicate the proprietary interests of BASF FINA Petrochemicals Limited Partnership; Chevron; Chevron Phillips Chemical Company LP; Flint Hills Resources, LP; Golden Pass LNG Terminal LLC; Motiva Enterprises, LLC; TOTAL Petrochemicals USA, Inc.; TOTAL Port Arthur Refinery; and Veolia Environmental Services Technical Solutions, L.L.C. Accordingly, you state, and provide documentation showing, the city notified each of the companies of the request and of their right to submit arguments to this office as to why their submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under Act in certain circumstances). We have reviewed the submitted information.

Initially, we note some of the submitted information was not created during the time period specified in the request for information. Thus, this information, which we have marked, is

not responsive to the request. This decision does not address the public availability of the non-responsive information, and that information need not be released.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any of the notified third parties explaining why their submitted information should not be released. Therefore, we have no basis to conclude any of the notified third parties have protected proprietary interests in their information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Consequently, the city may not withhold any of the submitted responsive information on the basis of any proprietary interests the notified third parties may have in the information. As no exceptions to disclosure have been claimed, the city must release the submitted responsive information.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 437458

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. M. I. Conway
Plant Manager
Chevron Phillips Chemical Company, L.P.
P.O. Box 1547
Port Arthur, Texas 77640
(w/o enclosures)

Mr. Hank Morisse
Chevron Tax Department
P.O. Box 285
Houston, Texas 77001
(w/o enclosures)

Mr. Tom Henry
Finance & Business Systems Manager
TOTAL Port Arthur Refinery
P.O. Box 849
Port Arthur, Texas 77642
(w/o enclosures)

Ms. Dacia Griffin
Human Resources Representative
BASF FINA Petrochemicals Limited Partnership
P.O. Box 2506
Port Arthur, Texas 77643
(w/o enclosures)

Mr. Blas J. Ortiz
Tax Analyst - BASF Corporation, ATOFINA
Petrochemicals, Inc. & Sabina Petrochemicals, L.L.C.
Popp, Gray & Hutcheson, L.L.P.
1301 South Mopac, Suite 430
Austin, Texas 78746
(w/o enclosures)

Mr. Jeff Tilley
Plant Manager
Flint Hills Resources
4241 Savannah Avenue
Port Arthur, Texas 77640
(w/o enclosures)

Mr. Tom Burger
Manager - External Affairs
Golden Pass LNG Terminal, L.L.C.
P.O. Box 510
Sabine Pass, Texas 77655
(w/o enclosures)

Mr. Mitch Osborne
General Manager, Gulf Coast Branch
Veolia ES Technical Solutions, L.L.C.
5371 Cook Road
Morrow, Georgia 30260
(w/o enclosures)

Mr. Nick Smallwood
Project Director
Motiva Enterprises, L.L.C.
P.O. Box 712
Port Arthur, Texas 77641-0712
(w/o enclosures)