



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 7, 2012

Mr. Mark Wolfe  
Executive Director  
Texas Historical Commission  
P.O. Box 12276  
Austin, Texas 78711-2276

OR2012-08753

Dear Mr. Wolfe:

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# 455698.

The Texas Historical Commission (the "commission") received a request for archaeology records involving the North Texas Municipal Water District's land in Fannin County associated with the TransCanada Keystone Pipeline. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. You also indicate release of the requested information may implicate the interests of SWCA Environmental Consultants, ENSR, Cardno ENTRIX, and the United States Department of State Bureau of Oceans and International Environmental and Scientific Affairs. Accordingly, you notified these third parties of the request and of their right to submit arguments to this office as to why the requested 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 comments from Cardno ENTRIX and TransCanada Keystone Pipeline, LP ("Keystone"). We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>1</sup>

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses section 191.004 of the Natural Resources Code, which provides:

(a) Information specifying the location of any site or item declared to be a state archeological landmark under Subchapter D of this chapter is not public information.

(b) Information specifying the location or nature of an activity covered by a permit or an application for a permit under this chapter is not public information.

(c) Information specifying details of a survey to locate state archeological landmarks under this chapter is not public information.

Nat. Res. Code § 191.004 (footnote omitted). You state the information at issue relates to activities covered by an Antiquities Permit issued by the commission and consists of maps, archeological reports, and correspondence concerning the location and nature of archeological sites and deposits. Based on your representations and our review, we agree the information at issue qualifies as information specifying the location of any site or item declared to be a state archeological landmark, information specifying the location or nature of an activity covered by a permit or an application for a permit, or information specifying details of a survey to locate state archeological landmarks for purposes of section 191.004. Therefore, we conclude the commission must withhold the requested information under section 552.101 of the Government Code in conjunction with section 191.004 of the Natural Resources Code.<sup>2</sup>

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](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

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extent those records contain substantially different types of information than that submitted to this office.

<sup>2</sup>As our ruling is dispositive, we do not address Keystone’s remaining argument against disclosure.

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,



Benjamin A. Bellomy  
Assistant Attorney General  
Open Records Division

BAB/dls

Ref: ID# 455698

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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