



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 24, 2012

Ms. Michelle T. Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469

OR2012-11461

Dear Ms. Rangel:

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# 459858.

The Fort Bend County Purchasing Department (the "county") received a request for evaluation materials, including pricing information, used by the county to award the bid for RFP 12-026 to the requestor's company. Although you take no position on the public availability of the submitted information, you state release of the information at issue may implicate the interests of third parties.¹ Accordingly, you notified the interested third parties of the request for information and their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

¹The third parties are: ADA Resources, Inc.; Atlas Oil Company; Four Sisters Petroleum, L.L.C.; Gold Star Petroleum, Inc.; J.A.M. Distributing Company; Mansfield Oil Company; Petroleum Traders Corporation; Pumpelly Oil Company; RKA Petroleum Companies, Inc.; Southern Counties Oil; Sun Coast Resources, Inc.; Susser Petroleum Company, L.L.C.; and TAC Energy.

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 requested information relating to that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, the notified third parties have not submitted any comments to this office explaining how release of the submitted information would affect their proprietary interests. Accordingly, the county may not withhold any of the submitted information on the basis of the proprietary interests of the notified third parties. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating business enterprise claiming exception for commercial or financial information under section 552.110(b) must show by specific factual evidence release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret). As no exceptions to disclosure are raised, the county must release the submitted information to the requestor.

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/som

Ref: ID# 459858

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Mark Wright
ADA Resources
6603 Kirbyville
Houston, Texas 77033
(w/o enclosures)

Mr. Patrick Barnecut
Southern Counties Oil
1800 West Katella, Suite 400
Orange, California 92867
(w/o enclosures)

Ms. Riti Madugula
Four Sisters Petroleum
2900 North Quinlan Park Drive, Suite B240
Austin, Texas 78732
(w/o enclosures)

Mr. Rick Enright
RKA Petroleum Companies
28340 Wick Road
Romulus, Michigan 48174
(w/o enclosures)

Ms. Gail Workman
Susser Petroleum Company, LLC
555 East Airtex Dr.
Houston, Texas 77073
(w/o enclosures)

Mr. Steven Boyd
Sun Coast Resources, Inc.
6922 Cavalcade
Houston, Texas 77028
(w/o enclosures)

Mr. Jeff Thomas
TAC Energy
100 Crescent Court, Ste. 1600
Dallas, Texas 75201
(w/o enclosures)

Ms. Linda Stephens
Petroleum Traders
7120 Pointe Inverness Way
Fort Wayne, Indiana 46804
(w/o enclosures)

Mr. Nick Divirgilio
J.A.M. Distributing Company
7010 Mykawa Road
Houston, Texas 77033
(w/o enclosures)

Mr. David Zarfoss
Mansfield Oil Company
1025 Airport Parkway Southwest
Gainesville, Georgia 30501
(w/o enclosures)

Mr. Crayton Nelson
Pumpelly Oil Company
16450 Lee Road
Humble, Texas 77396
(w/o enclosures)

Mr. JJ Rodriguez
Gold Star Petroleum, Inc.
P.O. Box 11151
Spring, Texas 77391-1151
(w/o enclosures)