



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 18, 2012

Ms. Laura Russell
Attorney
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, Texas 78744-3291

OR2012-16699

Dear Ms. Russell:

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# 468401.

The Texas Parks and Wildlife Department (the "department") received a request for information pertaining to the harvest of mule deer and chronic wasting disease ("CWD"), including: (1) fifteen categories of information for a specified time period pertaining to the harvest of mule deer near potential CWD affected areas in the State of Texas; (2) documents pertaining to discussions regarding effects, ramifications, and/or criticisms of any mule deer being harvested by or on behalf of any state agency "for the purpose including testing for CWD infection"; and (3) the minutes of formal or informal meetings of the CWD Task Force for a specified time period. You claim that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.

Initially, we note you have submitted a spreadsheet you state consists of information collected during an investigation regarding CWD and mule deer. You state you have submitted a representative sample of information, however, no portion of the submitted representative sample pertains to part three of the request seeking the minutes of formal or informal meetings of the CWD Task Force. Thus, we find the submitted information is not representative of the information sought in part three of the request for information. Please

be advised this ruling applies to only the types of information you have submitted for our review. Therefore, this ruling does not authorize the withholding of any other requested records to the extent those records contain substantially different types of information than that submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301, information at issue is presumed public). To the extent any information responsive to part three of the request existed on the date the department received the information, we assume the department has released it. If the department has not released any such information, it must do so at this time. *See id.* §§ 552.301-302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release information as soon as possible).

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 information protected by other statutes, such as section 12.103 of the Parks and Wildlife Code, which provides, in part:

(a) To enforce the game and fish laws of the state and to conduct scientific investigations and research regarding wild game or fish, an authorized employee of the department may enter on any land or water where wild game or fish are known to range or stray

(b) Except as provided by Subsection (d), the department may use information collected by an employee of the department on privately owned land only for the purposes of scientific investigations and research described in Subsection (a) and only if authorized in writing by the landowner or the landowner's agent

...

(c) Except as provided by Subsection (d), information collected under this section may only be reported or compiled in a manner that prevents the identification of an individual parcel or specific parcels of private property without the written consent of the landowner or the landowner's agent.

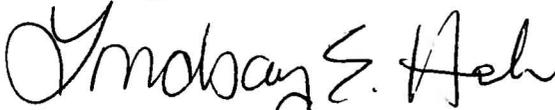
Parks & Wild. Code § 12.103(a)-(c). You state that the information at issue was collected during the course of a scientific investigation by the department on privately-owned land, for which the department obtained permission from the private landowners to conduct. Based on your representations and our review, we find the information at issue falls within the scope of section 12.103. Because section 12.103(b) prohibits the department from making use of such information for any purpose other than those listed in the statute, we conclude the information you have marked is confidential under section 12.103. You inform us there has been no landowner authorization to disclose this information. Thus, none of the release

provisions in section 12.103 appear to be applicable in this instance. Therefore, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 12.103 of the Parks and Wildlife Code. The department must release the remaining 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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

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Ref: ID# 468401

Enc. Submitted documents

c: Requestor
(w/o enclosures)