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OPINION COMMITTEE



FILE # ML-46167-09

I.D. # 46167

COMMITTEES:
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Patrick M. Rose
TEXAS STATE REPRESENTATIVE
DISTRICT 45

COUNTIES:
BLANCO
CALDWELL
HAYS

September 4, 2009

The Honorable Greg Abbott
Office of the Attorney General
P.O. Box 12548
Austin, TX 78711

RQ-0822-GA

RE: Request for an Attorney General's Opinion

Dear General Abbott:

A question has arisen relating to the ability of specific types of municipalities to impose and enforce nonpoint source pollution (NPS) ordinances in that city's extra territorial jurisdiction (ETJ) under Section 26.177 of the Water Code. Some cities have interpreted subsection (b) to provide that any city, regardless of its size or whether the city is organized as general-law or home-rule municipality, has the authority to voluntarily implement and enforce a water pollution and abatement program in its ETJ.

On behalf of the City of Wimberley, I would like to request an Attorney General's Opinion on whether or not a Type A General-Law city has the authority to impose and enforce a nonpoint source pollution ordinance in its ETJ under Section 26.177.

Thank you for your attention to this matter. Please do not hesitate to contact me with any questions or if I may be of assistance to you in any way.

Sincerely,

A handwritten signature in cursive script that reads "Patrick M. Rose".

Patrick M. Rose

cc: Sen. Jeff Wentworth, Texas Legislature
Mayor Tom Haley, City of Wimberley