



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 19, 2017

Mr. Mitchell G. Page
Counsel for the San Jacinto River Authority
Schwartz, Page & Harding, LLP
1300 Post Oak Boulevard, Suite 1400
Houston, Texas 77056

OR2017-08347

Dear Mr. Page:

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# 654031.

The San Jacinto River Authority (the "authority"), which you represent, received a request for the "complete dam release protocol during heavy rain events" for a specified dam. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the authority has submitted information beyond the requested dam release protocols. This information is not responsive to the present request. This ruling does not address the public availability of this information, and the authority is not required to release this information in response to the request.

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 418.181 of the Government Code, which was added to chapter 418 of the Government Code as part of the Texas Homeland Security Act. Section 418.181 provides,

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Id. § 418.181. The fact information may generally be related to a governmental body's security concerns or to a security system does not make the information *per se* confidential under section 418.181. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute's key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any confidentiality provision, a governmental body asserting section 418.181 must adequately explain how the responsive information falls within the scope of the statute. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You state the submitted responsive information contains details about "the protocols related to the operation of the Lake Conroe Dam [the "dam"]". You explain the dam is a source of water supply for customers of the authority and the City of Houston. You argue, and we agree, the dam is critical infrastructure for purposes of section 418.181. *See generally id.* § 421.001(2) (defining "critical infrastructure" to include "all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation"). You state that public release of the submitted responsive information "would reveal particular vulnerabilities of the [dam] that make it susceptible to an act of terrorism" and put the public health and safety of public citizens at risk. Based on your representations and our review of the information at issue, we find the authority has demonstrated the release of the information at issue would identify the technical details of particular vulnerabilities of the dam to an act of terrorism. Thus, the authority must withhold the submitted responsive information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.¹

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', followed by a long horizontal line extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bw

Ref: ID# 654031

Enc. Submitted documents

c: Requestor
(w/o enclosures)