



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 16, 2017

Mr. Mel Davis  
Special Projects Coordinator  
Texas State Soil and Water Conservation Board  
1497 Country View Lane  
Temple, Texas 76504

OR2017-18716

Dear Mr. Davis:

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# 671234.

The Texas State Soil and Water Conservation Board (the "board") received two requests from the same requestor for information pertaining to all enforcement referrals and complaints received by the board during a specified time period. You state the board does not have information responsive to a portion of the request.<sup>1</sup> 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. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.*

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

§ 552.101. This section encompasses information protected by other statutes, such as section 201.006 of the Agriculture Code, which provides in part:

(a) Except as provided by this section, information collected by the board or a conservation district<sup>2</sup> is not subject to [the Act], and may not be disclosed if the information is collected in response to a specific request from a landowner or the landowner's agent or tenant for technical assistance relating to a water quality management plan or other conservation plan if the assistance is to be provided:

(1) under this code; and

(2) on private land that:

(A) is part of a conservation plan or water quality management plan developed cooperatively with the . . . board or conservation district; or

(B) is the subject of a report prepared by the . . . board or conservation district.

...

(c) The . . . board or a conservation district may disclose, in a manner that prevents the identification of a particular tract of land, the owner of the tract, or the owner's agent or tenant, a summary of information collected by the . . . board or conservation district regarding:

(1) the number of acres of land that are in a particular conservation plan;

(2) the number of acres of land that are subject to a particular conservation practice; or

(3) other conservation program information.

Agric. Code § 201.006(a), (c) (footnote added). We note sections 201.006(b), (e), (f), and (g) provide information may be released to certain parties; however, it is our understanding that none of these qualified release provisions apply in this instance.

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<sup>2</sup>A "conservation district" is defined as a soil and water conservation district. Agric. Code § 201.002(1).

You state the submitted information consists of information collected and compiled by the board in response to specific requests for technical assistance from landowners relating to conservation plans and water quality management plans on the private land of the owners, and assistance from the board was provided under chapter 201 of the Agricultural Code. Based upon your representations and our review, we agree the submitted information must be withheld pursuant to section 552.101 of the Government Code in conjunction with section 201.006(a) of the Agriculture Code.<sup>3</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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kaelan A. Henze  
Assistant Attorney General  
Open Records Division

KAH/eb

Ref: ID# 671234

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note under section 201.006(c), the board or conservation district may disclose, in a manner that does not identify a particular tract of land, the owner of the tract, or the owner's agent or tenant, a summary of information collected by the board or conservation district regarding: (1) the number of acres of land that are in a particular conservation plan; (2) the number of acres of land that are subject to a particular conservation practice; or (3) other conservation program information. Agric. Code § 201.006(c).