



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 26, 2022

Ms. Britney Long
Paralegal
Counsel for New Braunfels Utilities
Bojorquez Law Firm, P.C.
11675 Jollyville Road, Suite 300
Austin, Texas 78759

OR2022-11944

Dear Ms. Long:

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# 941861 (2022-39).

New Braunfels Utilities (the "NBU"), which you represent, received a request for information pertaining artifacts discovered at a specified archaeological site. 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.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 191.004 of the Natural Resources Code, which provides the following:

- (a) Information specifying the location of any site or item declared to be a state archeological landmark under Subchapter D of this chapter is not public information.
- (b) Information specifying the location or nature of an activity covered by a permit or an application for a permit under this chapter is not public information.
- (c) Information specifying details of a survey to locate state archeological

landmarks under this chapter is not public information.

Nat. Res. Code § 191.004. You state the submitted information relates to work performed at a site that is a state archeological landmark for purposes of chapter 191 of the Natural Resources Code. *See id.* § 191.092(a). You inform us the work is being performed pursuant to permits issued by the Texas Historical Commission under chapter 191 of the Natural Resources Code. Based upon your representations and our review, we find the submitted information qualifies as “information specifying the location of any site or item declared to be a state archeological landmark” and “information specifying the location or nature of an activity covered by a permit or an application for a permit” for purposes of section 191.004. Accordingly, we conclude the NBU must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 191.004 of the Natural Resources 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/be

Ref: ID# 941861

c: Requestor

¹ As our ruling is dispositive, we need not address your argument against disclosure.