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LON BURNAM
DISTRICT 90 • FORT WORTH

April 16, 2012

The Honorable Greg Abbott
Attorney General of Texas
Open Records Division
P.O. Box 12548
Austin, TX 78711-2548

Dear General Abbott:

I am writing to request an attorney general decision under 1 T.A.C. §63.2 about whether information obtained from a public information request under Section 552.008, Government Code, is confidential under law.

On June 17, 2009, my office submitted two requests under the public information law, Chapter 552, Government Code, to the Texas Commission on Environmental Quality (TCEQ) seeking copies of certain documents relating to "all filings and correspondence, including but not limited to communications by fax, email, letter, or phone, received from or sent to the Office of the Attorney General between January 1, 2008, and June 17, 2009, related to Waste Control Specialists (WCS) or its low-level radioactive waste disposal facilities in Andrews County" and "each report, including but not limited to weekly and monthly reports, submitted by Waste Control Specialists to TCEQ related to the Ogallala/Antlers/Gatuna (OAG) formation between January 1, 2009, and June 17, 2009." A copy of my office's request for public information is enclosed.

My office obtained several documents under Section 552.008, Government Code, considered confidential by the TCEQ. The TCEQ required my office to sign an expansive confidentiality agreement that prevents my office from disclosing the information to the general public. It is my belief that two of the documents TCEQ provided are not confidential under law and may be disclosed to the public. Both documents are enclosed.

Rule 63.2(d) requires my office to label my comments to indicate whether any portion discloses or contains information deemed confidential by the TCEQ. In my opinion the comments in the following paragraphs of this letter describe information the TCEQ considers confidential.