Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910

Re: Whether the proposed Upper San Saba River Management Plan unlawfully delegates legislative power to a private entity (RQ-0124-KP)

SUMMARY

The constitutionality of a proposed management plan (the "Plan") for the Upper San Saba River involving a potential delegation of legislative authority, and whether such a Plan would result in a regulatory taking, involves fact determinations that cannot be resolved in an attorney general opinion.

If the Plan involves a delegation of legislative authority to a private entity, a court would first confirm the delegation, examining whether the Plan results in a private entity setting public policy, providing the details of the law, promulgating rules and regulations to apply the law, or ascertaining conditions upon which existing laws may operate. If so, the court would apply the eight-factor test established in Texas Boll Weevil Eradication Foundation, Inc. v. Lewellen to determine whether the factors as a whole weigh in favor of or against constitutionality. If the Plan involves a delegation of legislative authority to a public entity, a court examines whether the Legislature established reasonable standards to guide the public entity in exercising such powers.

A court considering a regulatory takings challenge would use a federal framework examining: (1) "the economic impact of the regulation on the claimant"; (2) the "character of the governmental action"; and (3) the "extent to which the regulation has interfered with the economic expectations of the property owner."

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

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For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.
Williamson County Attorney
405 Martin Luther King Street #7
Georgetown, Texas 78626

Re: Access to court records containing criminal history record information that is subject to an order of nondisclosure under chapter 411 of the Government Code (RQ-0125-KP)

SUMMARY

Pursuant to section 411.076 of the Government Code, a court may disclose criminal history record information subject to an order of nondisclosure only to criminal justice agencies for criminal justice or regulatory licensing purposes, to the person who is the subject of the order, or to an agency or entity listed in section 411.0765(b) of the Government Code. Such criminal history record information may not be disclosed to employees of a district or county clerk except as necessary for statutorily authorized purposes. The adequacy of measures necessary to seal criminal history record information involves questions of fact that cannot be determined in an attorney general opinion.

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

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Amanda Crawford
General Counsel
Office of the Attorney General
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