



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 18, 2023

Mr. Tristan Marquez  
Ector County Auditor  
1010 East 8th Street, Room 121  
Odessa, Texas 79761

**Via E-Mail**

**Re: Request for an attorney general opinion regarding the legality of certain actions of the Ector County Utility District Board of Directors (RQ-0524-KP)**

Dear Mr. Marquez:

We received your request for an attorney general opinion and have designated it as Request No. 0524-KP. Section 402.042 of the Government Code provides that the Attorney General shall issue an opinion not later than the 180th day after the date that an opinion request is received, unless before that deadline the Attorney General notifies the requesting person in writing that the opinion will be delayed. TEX. GOV'T CODE § 402.042(c)(2). We received your request on December 15, 2023, setting a due date for your opinion of June 12, 2024.

We note from our initial review of your request that it contains many questions that are resolved only upon the investigation and resolution of issues of fact. The purpose of an attorney general opinion is to advise authorized requestors on the current state of the law. Unlike a court, which can resolve fact questions through an adversarial process involving sworn testimony and cross-examination, this office has neither the authority nor the resources to resolve disputed issues of fact through the opinion process. Accordingly, when presented with opinion requests that require the resolution of fact questions, this office has consistently concluded that such questions are outside the purview of the opinion process. *See, e.g.,* Tex. Att'y Gen. Op. Nos. GA-0896 (2011) at 1, JC-0020 (1999) at 2, M-187 (1968) at 3. Because many of your questions will require the resolution of issues of fact, we will be unable to answer all of them in an opinion. To the extent there are legal questions in your request we will endeavor to answer them.

By copy of this letter we are notifying those listed below of your request and inviting them to submit briefing on your questions if they have a special interest or expertise in the subject matter. The Office of the Attorney General accepts briefing from any interested party. If you are aware of other individuals or entities with an interest in this issue, please forward this invitation for briefing to them or let us know, so that we may notify them as soon as possible. We ask that the briefs be submitted by January 17, 2024, to ensure that this office will have adequate time to review and consider arguments relevant to the request from all interested parties. Briefs may be submitted by e-mail to [opinion.committee@oag.texas.gov](mailto:opinion.committee@oag.texas.gov). Please note that briefs and other correspondence are subject to the Public Information Act.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Austin Kinghorn  
Chair, Opinion Committee

Attachment: Request No. 0524-KP

cc: Ector County Commissioners' Court  
The Honorable Dusty Gallivan, Ector County District Attorney  
The Honorable Jane Nelson, Secretary of State  
Mr. Adam Bitter, General Counsel, Texas Secretary of State  
Ms. Kelly Keel, Interim Executive Director, Texas Commission on Environmental Quality  
Ms. Mary Smith, General Counsel, Texas Commission on Environmental Quality  
Mr. Jason Taylor, Chief, Texas Rangers Division, Texas Department of Public Safety  
Mr. Phillip Adkins, General Counsel, Texas Department of Public Safety  
Mr. James Allison, General Counsel, County Judges and Commissioners Association  
Ms. Susan M. Redford, Executive Director, Texas Association of Counties  
Mr. Michael Pichinson, General Counsel, Texas Association of Counties  
Mr. Robert Kepple, Executive Director, Texas District & County Attorneys Association  
Ms. Diane Burch Beckham, Staff Senior Counsel, Texas District & County Attorneys Association  
Ms. Amy Cresap, General Counsel Division, Office of the Governor