

RECEIVED

JAN 04 2005

December 29, 2004

Ms Nancy Fuller
Chair, Opinion Committee
Office of the Attorney General
P.O.Box 12548
Austin, Texas 78711

OPINION COMMITTEE

FILE # ML-44071-05

I.D. # 044071-05

RQ-0307-GA

Ms Fuller,

The Bandera County River Authority & Groundwater District (BCRAGD) is debating the possibility of a conflict of interest involving members of the Board of Directors who are in private businesses benefiting from the allowances of drilling water wells and procurement of surface water resources. One Director recently alleged conflicts of interest toward several other Directors (enclosure 1). Then, an attorney retained by our District gave an opinion, based on an interpretation of Local Gov Code 171, saying that the Directors do not have a conflict of interest. However, this attorney only lightly covered conflicts of affinity or consanguinity that involves our Board members. She left open the possibility of different opinions under other state and federal laws (enclosure 2). As a member of the Board, I am requesting an Attorney General opinion based upon all applicable state and federal laws.

The following is a general view of what I hope you will consider:

Should a Board member who is in the business of water well drilling file a conflict of interest affidavit with the District and abstain from voting on District well drilling rules, or variances from rules and policies? Is it a conflict when a well driller who votes on requests to the District for wells, or variances, then accepts contracts for constructing the wells resulting from his voting?

Should a Board member who is in the business of construction site preparation, construction of roads, driveways, and parking lots file a conflict of interest affidavit and abstain from voting on variances from well drilling rules and policies for a development if he is related (brother in law) to a well driller or developer in the specific project? Is it a conflict when a Board member votes for variances to well standards, water systems, or approval of county water availability tests for a proposed subdivision, and then accepts a contract for construction of roads and land preparation in the approved project?

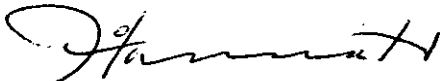
Should a Board member who is in the land subdivision business or related to a developer (wife, son or daughter) of property in the District, file a conflict of interest affidavit and abstain from voting on water procurement projects? Is it a conflict when Board members vote for water supply resolutions, agreements or contracts, that may directly benefit their properties or those of their relatives?

12/28/04

AG Opinion Request, BCRAGD, page 2

Please let me know if you require more background information.
Thank you for consideration of this request.

Sincerely,



James Hannah
Director at Large, BCRAGD
P.O. Box 1772
Bandera, Texas 78003



BANDERA COUNTY RIVER AUTHORITY
AND GROUND WATER DISTRICT

JIM HANNAH
Director

Phone: 830/796-8011 *Hm*
E-Mail:

P.O. Box 1772
Bandera, TX 78003

BANDERA COUNTY RIVER AUTHORITY AND GROUNDWATER DISTRICT

Phone: (830) 796-7260

Fax: (830) 796-8262

E-Mail: bcragd@indian-creek.net



RECEIVED

JAN 12 2005

January 3, 2005

OPINION COMMITTEE

James Chastain
President

Randy Roberts
Vice-President

Jerry Sides
Secretary-Treasurer

Russ Luigs
Director

Tom Fett
Director

Jim Hannah
Director

Richard A. Connors
Director

Ronald E. Solomon
Director

William E. Spangler
Director

David Jeffery
General Manager

Office of the Attorney General
P O Box 12548
Austin, TX 78711-2100

FILE # ML-44071-05
I.D. # 44085

RE: Opinion from the Attorney General's Office Regarding Conflicts of Interest

To Whom It May Concern:

Bandera County River Authority and Groundwater District respectfully requests an opinion on a matter of board member conflict of interest as defined in Local Government Code, Chapter 171. This has been an ongoing question from certain members of the board and community that the District would like to see resolved.

The District received the latest accusation that some sitting directors have a conflict of interest on October 19, 2004. This was submitted to the District's attorney for an opinion, which was received on December 6, 2004. However, these same people are not willing to accept this answer as they feel that the attorney represents the very people that they believe have conflicts of interest.

Enclosed are copies of all correspondence related to this matter, including the opinion from the District's attorney. An opinion on this matter would be greatly appreciated, as the continued revisiting of this issue is detrimental to the productivity of the District.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David Jeffery".

David Jeffery
General Manager

Enclosure

P.O. Box 177
202 Twelfth Street
Bandera, TX 78003