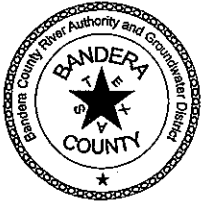


BANDERA COUNTY RIVER AUTHORITY AND GROUNDWATER DISTRICT

Phone: (830) 796-7200

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June 9, 2011

OPEN RECORDS DIVISION

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Gregg Abbott, Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OPINION COMMITTEE

RQ 0977GA

FILE # ML-46765-11

I.D. # 46765

Re: Bandera County River Authority and Groundwater District

Dear General Abbott:

My name is Don Sloan and I am the President of the Board of Directors for Bandera County River Authority and Groundwater District.

The core concern of the District is when, and to what extent, might e-mail or other electronic communications rise to the potential of a violation of the Texas Open Meetings Act, or in particular, constitute a "walking quorum".

Specific examples of electronic communications are enclosed, but in general the District is concerned about three categories of electronic communications between some, but not all, of the Board of Directors which have been copied to the General Manager, may constitute deliberations between various Board Members, as follows:

1. Communications which are clearly disseminated between a quorum of Board Members;
2. Communications between less than a quorum of the Board, and copied to the General Manager. The General Manager does not know if a separate e-mail was transmitted to other Board Members;
3. Communications made by a Board Member to a "Google Group", known as "Bandera Water Matters" or "Bandera Water", which is an electronic based group of members unknown to the District.

Tab 1 are items that might simply be classified as informational, and not considered a "deliberation". However, since "deliberation" and "discussion" are synonymous and a "verbal exchange" may include electronic mail, then perhaps the communications would be deliberations, assuming the material disseminated covered a "public business or policy" of the District.

Tab 2 illustrates communications that on the fact of the e-mail is not distributed to a quorum of the Board. You will note that the last e-mail is to District staff, with a note that it was inadvertently not forwarded.

The District is concerned that a transmission to less than a quorum, but also distributed to other Board Members in a second duplicate transmission, thereby included a "walking quorum". From the documents copied to the District, it is impossible to determine.

Specific examples of the three categories above are included with this letter.

Don Sloan
President

Karen Ripley
Vice-President

Jerry Sides
Secretary-Treasurer

Don Kruckemeyer
Director

Ernest DeWinne
Director

Gene Wehmeyer
Director

Sid Gibson
Director

Lee Kneupper
Director

Neil Boultinghouse
Director

David Jeffery
General Manager

P.O. Box 177
440 FM 3240
Bandera, TX 78003

Gregg Abbott, Attorney General
June 9, 2011
Page 2

Under Tab 1, you will note electronic communications between one Director and less than a majority. It is unknown if a duplicate transmission was sent to other Board members.

Under Tab 2, you will note electronic communications to the entire Board, which may simply be the dissemination of information and not deliberations. The names of the Board members on each of the e-mails have been highlighted.

Under Tab 3, you will note the type of communication which goes to the undisclosed recipients within a Google Group. You will note electronic communications from one Director which include less than a majority of other Directors, but also include a carbon copy to the group known as "Bandera Water Matters", the group of unknown membership.

The District does not know if other Directors have access to the "Bandera Water Matters" Group.

Tab 3A is not known to have been sent among Board Members. It is included to illustrate that "Bandera Water Matters" is politically active with respect to the District.

The District recognizes that this may be very difficult issue to render opinions based upon the number of unknowns. In fact, as to each of the Categories 1, 2, and 3, the District is aware through copies of some of the distribution lists, but does not know, if a majority of the Board is receiving copies of electronic communications which might be construed as deliberations.

In summary, the District would like the Attorney General's opinion as to the appropriateness of a Board Member engaging in electronic communications which include deliberations to an electronic-based group of undisclosed recipients, which may or may not include a majority of the Board. I would be happy to discuss this matter with your office and provide any further details that may be available to the District.

Thank you very much for your attention to this matter.

Sincerely,


Don Sloan, President, BCRA GD

Enclosures

cc: Richard C. Mosty