

[This is John Watson's statement to the Board at the February 15, 2007 B-PGCD meeting, read into the minutes.]

Tonight I want to talk about promises made by this Board and to ask that those promises be kept. I will also talk about public participation in government decision making and about accountability to the voters and citizens of Blanco County.

On March 16, 2006 more than 70 people attended a Public Hearing held by the District Board to voice concern and protest the issuance of a water production permit to Rancho del Lago/Rockin' J Ranch Subdivision for a maximum allowable annual production of 185,000,000 gallons of groundwater.

After more than 3 hours of pleas from the concerned landowners to at least defer a decision until more scientific data could be accumulated, the Board withdrew and deliberated in private. It then voted to issue a permit. Mr. Bobby Wilson, who was presiding, stated that as a "compromise" response to the concerns expressed, the permit would be for a term of 1 year only rather than the normal 3 years. He went on to say that additional studies and information would be gathered during the 1 year period in an effort to allay the fears of well interference, aquifer depletion, pollution and mining of water that had been brought before the Board. He then said the public would be given another opportunity to express their views at another Public Hearing when the Board considered the renewal of the 1 year permit.

In other words Mr. Wilson promised the citizens both a Public Hearing and a decision by the Board. The other Board members present were Mr. Jimmy Klepac, Mr. Tom Murrah and Mr. Phillip Sergeant. None contradicted Mr. Wilson's promise.

During the summer of 2006 a process for updating the District's Rules took place. During that period a stakeholders group was convened, a draft was prepared by the District, and eventually a Public Hearing was held on Aug. 15. I, and others, offered both written and oral comments. Once again Mr. Wilson presided; present were Mr. Klepac, Mr. Murrah and Mr. Sergeant. One of the most protested aspects of the proposed Rules was the wholesale shift of authority away from the Board to the GM. Cited as reasons were the following: It placed too much authority in the hands of one individual; that individual was an unelected employee of the District which severely diluted

accountability to the public and voters; and the specific argument that the new Rules, if adopted, could lead to the renewal of the largest and most controversial production permit in county history being made by the GM, not by the Board as promised on March 16. Not only would that preclude important issues from being considered by the Board in open session, these Rules would make public knowledge almost impossible, as shown by my experience in trying, as late as 2/8, to find out from the GM who would be making the decision. Only a member of the public following this issue closely could have even known to ask questions as no public notice concerning the renewal application was provided. Once again Mr. Wilson stated that irrespective of the new Rules, the decision on renewal would be made after a Public Hearing and by the Board. Again his fellow Board members sat silent and acquiesced. The Board then approved the Rules as written over the protests of myself and others.

There are sound policy reasons for the Board holding a Public Hearing and making the decision on renewal of the Rockin' J production permit. First, the members of this Board should not break promises made in open Public Hearings. Second, this is the largest volume production permit ever issued here, and it carries the most potential adverse consequences for the aquifer and nearby well owners. Third, elected bodies should embrace, not avoid, accountability for uniquely important decisions. Fourth, decisions made by one person, in this case, the GM, no matter how well intentioned are more likely to miss something and not be as sound as a decision by the Board as a group. Fifth, the GM is put in the conflicted position of being the sole decision maker with respect to possible violations of District Rules, and then the person who makes decisions as to renewal. In fact there is solid evidence of waste, a violation of both the Rules and the law, in connection with the leak of July 14, 2006, in the GM's Report of Investigation. The GM decided on his own there was no violation, without referring the matter to the Board. Waste was also observed and documented by Lee Smith at a separate location during the same time period; it is believed that waste likely is ongoing at that location. Now the GM claims to be in a position to renew the permit, as there are no "unresolved compliance issues." I hope you can see the contradiction and predicament this poses. Sixth, the statement in the Agenda Item 7.b that "The Board will accept public comments regarding the GM's renewal of the Rockin' J Operating Permit," rings hollow as an offer of meaningful public input. If the GM has in fact, as indicated by the package of material he prepared for the Board, already made the decision and indeed signed on 2/12/07 the form Water Well Operating Permit, are the "public comments" supposed to

be a mere gripe session intended as a sop to fob off opponents of the renewal and give a false appearance of allowing "public participation?"

So who should make decisions on applications for operating permits on High Volume wells?

Rule 8.4.E. states: "An application for an operating permit for a new High Volume Well shall be referred to the Board for action under Rule 8.5."

Rule 8.4.I states: "The GM has the discretion to refer any operating permit application to the Board for action under Rule 8.5. This includes amendments and **renewals**."

Rule 8.5 provides for Public Hearing, Notice to certain nearby landowners and various other matters and includes a decision by the Board.

Despite the language of Rule 3.5.A cited by the GM as his authority to renew this permit, it is clear that Rule 8.4.I gives discretion to the GM to refer such renewals to the Board. I would also argue that the Board has the inherent power, as the duly elected body governing the District, its operations and its employees, including the GM, to instruct the GM to exercise his discretion in this situation and refer the decision on the renewal to the Board.

This production permit is not only for a High Volume Well, it is for a volume flow that is off the charts of experience in Blanco County. The renewal should be decided on by the Board.

The GM has acted to preempt the Board and meaningful public input by signing a Permit on 2/12 even though there was no reason this action needed to be taken 3 days prior to a scheduled Board meeting. The Board still can and should reclaim its rightful role and take the matter back where it belongs.

Public accountability and a proper discharge of your duties demands no less than a Board vote, either on the permit renewal application itself, or as ratification of the GM's effort to grant the renewal on his own authority.