

Scrutiny Office
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W/01/JELeM/MAR.

Senator Ted Vibert
Chairman – Shadow Scrutiny Panel
States Greffe
Morier House
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27 April 2004

Dear Senator Vibert,

Re: Draft Water Resources (Jersey) Law 200- (“the Law”).

We write to thank you for your letter dated 20 April 2004, the contents of which we have noted.

The Jersey Farmers' Union has approximately 120 members of which 100 are active agriculturists in this Island. Our members have serious concerns in relation to the principle and operation of the new proposed Law which I summarise below :-

- 1) Our members were in particular concerned as to the impact that further regulation will have on the agricultural industry. You will be aware of the difficulties which the agricultural industry is presently suffering. The last thing that is required at this time is an additional expense or regulation to an aspect of the agricultural industry.
- 2) For cattle farmers, the Law will undoubtedly create difficulty. A milking cow will drink a considerable amount of water in the summertime. Many producers now rely on bore hole supplies rather than open reservoirs so as to avoid the risk of water borne disease. If they are to continue that supply they will bear the expense and additional administration that this Law causes. This is a time when the dairy industry is suffering particular difficulty and receiving States' subsidies to relieve that difficulty. Can it really be the States' intention to provide this additional burden to dairy farmers?

- 3) Equally growers rely on bore hole supplies so as to avoid the risks of disease, especially the protected crops industry. The difficulties faced by the potato and tomato industries are well documented. Satisfactory irrigation is necessary to produce an appropriate quality crop at the right time in the market. Having spent vast sums of money in installing bore hole systems, it would not be correct to now impose charges or unacceptable restrictions on their use. Any additional cost to the industry may, quite literally, be the breaking point for some growers.
- 4) We have taken legal advice as to the terms of the draft Law. We are advised that under Jersey Law there is a clear and valid principle that the person who owns the land owns all that is above and all that is below. Despite suggestions from the Law Officers' Department that this is no longer applicable, our Lawyers have been unable to identify any authority which supports the Law Officers' suggestion. We believe the proposal will infringe the human rights of our members. In particular we have been advised that it is a potential infringement of Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms. Clearly as a position of natural justice, it is inappropriate for the Government to usurp privately owned resources without compensation. The compensation needed in order to justify the existence of this Law will be in many millions of pounds given the ongoing liability that all existing bore hole users will have to contribute to licence fees. The principle behind the Law is clearly that it be self-financing. We cannot see that it will achieve self-financing if proper compensation is provided.
- 5) We were equally concerned as to the number of administrators that will be needed to enforce the Law. If it is to be self-financing, no doubt the cost of the licences proposed will be significant which reinforces our concerns outlined above in relation to the dire financial situation of the agricultural industry, at present.
- 6) We note that abstraction from a stream is also to be restricted. We would be interested to learn how the monitoring of the volumes drawn is to be undertaken.
- 7) Otherwise we shall not comment on the detail of the Law. There are however

specific concerns. For example, the power to vary a licence under Article 20 seems to be arbitrary and provides for no compensation. You can see however that our concerns are more with the principle of the Law rather than the detail.

In summary, I must report on behalf of the Jersey Farmers' Union that we are strongly opposed to the terms of the proposed Law and will seek to ensure that our objections are vigorously represented should this draft be put before the States.

We would very much appreciate the opportunity of meeting with you to discuss the issue further and we look forward to hearing from you in due course.

Yours sincerely -



JOHN E. LE MAISTRE
PRESIDENT