

Senator Ted Vibert
Chairman
Shadow Scrutiny Panel
Scrutiny Office
States Building
St Helier JE1 1BA

4th May 2004

Dear Senator Vibert,

Draft Water Resources (Jersey) Law 200-

After reading your notice in the Jersey Gazette, we have reviewed the above draft law, and cannot understand how it can propose to licence (we presume you mean charge), a landowner for using a borehole for their domestic use, especially when the borehole had to be sunk as there was no mains supply anywhere in the vicinity.

We live at the above property, which is served by a borehole (which also serves the property "New Mayfield") – the borehole being in existence on the site for over 30 years.

Can the States legally charge someone for something beneath their own property? We have always been led to believe that a landowner owned the space above the ground going upwards to the sky and owned the subsoil etc beneath the land. To this end, the flying freehold law had to be introduced for the sale of certain developments on the Island. How then, can the States try and impose a charge on a landowner for using something beneath his property.

May we draw your attention to the War Tunnels when the States tried to take on the German Underground hospital after the war, but found that they legally could not, because the land belonged to the owner of the property above.

In the event that the States tried to charge us for using our borehole, then we would certainly ask our lawyers to research this matter further and the legality of it. Why should we pay for something which is on our land and which we have used for nigh on thirty years. Another form of tax we assume?

Article 12 of the draft law states that a person need not a licence if it is for domestic use not exceeding 3 cubic metres in any period of 24 hours per household, provided the abstracting of water is registered in the prescribed manner. What is "registered in the prescribed manner"?

There is also nothing in the draft law which states what the proposed licence fee is to be. Is this on purpose, so that people can't raise any objections to the charge?

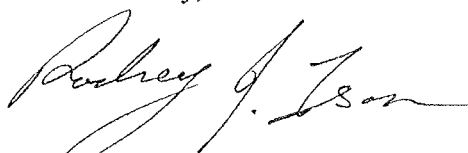
Will the States give everyone more than nine months notice of the law coming into force? We see there is a proviso for a person to obtain a licence to continue to abstract water for a period of 5 years, provided they apply for a licence at least 9 months before the law come into force, and they have been abstracting water from a source of supply within three years before the appointed day.

Quite frankly, the crux of it is that we think it is disgusting that we would have to obtain a licence – for a fee we presume, which is renewable every 5 years, when we have used the borehole for so long, it is on our property, and we had to pay for it to be sunk all those years ago, and continually have to pay for its maintenance and use now. Would the States reimburse everyone for their costs per year of maintaining the boreholes and the cost of originally installing them?

Of course, as we say, it may well be that we are only registering and do not need a licence, but the draft law does not go into the differences.

We look forward to hearing from you.

Yours faithfully,

A handwritten signature in cursive script, appearing to read "Rodney J. Ison". The signature is written in dark ink and is positioned above the typed name.

R J & M Ison