

DRAFT WATER RESOURCES (JERSEY) LAW 200-
TRANSCRIPT OF EVIDENCE
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JERSEY FARMERS UNION
ROYAL JERSEY AGRICULTURAL AND HORTICULTURAL SOCIETY

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WITNESSES Mr. Graham Le Lay
Mr Henry Walker

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SENATOR LE MAISTRE: Welcome and I have to read the statement, as you will recall from the last time that you came, for the record and for the avoidance of doubt,
"Shadow scrutiny panels have been established"
So, welcome. First of all, thank you very much for the submission which you

have made and which we've received and perhaps I'd start the ball rolling by asking you if there are any particular aspects of that submission that you would wish to elaborate on?

1. Main issues: concern about landowners' proprietary rights, costs, draconian powers of the law

GRAHAM LE LAY: I don't think there's anything in particular, other than just to reiterate that we are very concerned, obviously, about the Human Rights issue and basically, it's depriving landowners of their proprietary rights and that's the main issue the Farmers' Union have got with the Law. Also, of course, we're concerned about of the cost of the Law to them.

SENATOR LE MAISTRE: Are there any aspects of the Law, any parts of the Law that you would wish to raise --

GRAHAM LE LAY: There are aspects obviously to do with the powers of the Law. We find them very sort of draconian, if you like. I mean the fact that anyone can enter or board, inspect or search any land or vehicle on your property, you know, the whole lot really to do with **section 30(a), (b), (c) and (d)**.

SENATOR LE MAISTRE: Article 30. Article 30 or section --

GRAHAM LE LAY: Yes, 30, Yes. Article -- sorry, section 30, page 26 on my draft anyway.

SENATOR LE MAISTRE: Page 26?

GRAHAM LE LAY: Part 5, section 30. (searching through documents)

2. No knowledge of current stress to the water supply

SENATOR LE MAISTRE: Obviously, as members involved in the industry, are you aware of any issues or problems relating to the supply of water for the needs of the industry, because part of the reasons put forward is the fact that there is stress in certain times of the water supply? Are you aware of any of these problems occurring within the industry?

GRAHAM LE LAY: I'm not aware of any at all and in fact part of my work is engineering work and I've probably been responsible for most of the boreholes which exist on certainly all the glasshouse holdings on the island and, indeed, on many of the agricultural holdings. And I don't know of any instance where there are boreholes that have stopped giving water or reduced the amount of water which they give.

I know many boreholes have been running for 30 years plus delivering 2,500 gallons an hour 24 hours a day 325 days of the year and they're pumping just as well now as they ever did. So, I can only speak from personal experience on this. I'm sure there are probably experts who will tell you that the water is drying up, but I have no evidence on that whatsoever.

3. Checking water levels

SENATOR LE MAISTRE: Do you, when dealing with the installation of pumps, keep any check in terms of the water levels? Because clearly, that must affect the size of pump that you're installing and have you seen any noticeable difference on water levels?

GRAHAM LE LAY: When a pump is installed we take advice from the water borer, who normally gives us an indication as to the water that is available. The pump is carefully sized to make sure that it doesn't take more water out than the borehole is supplying, because if the borehole pump runs out of water it can seriously damage the pump.

So, one normally errs on the side of caution and you normally put a pump in that's probably 7 or 8% lower than what the borehole can supply; and all these pumps, we do have alarms on them so that if air comes through the pump - in other words if the borehole's dry - the alarm will sound off and again this year we've had no instances where boreholes have run dry.

4. No knowledge of derogation of neighbouring properties

DEPUTY RONDEL: Yes, Mr LE LAY, within your industry obviously, you are large extractors of water -- well, your clients are. Would they, at any time - probably August/September time when, if anything, the water table is lower, create problems to neighbouring properties? Have you ever heard of there being a problem in that particular sphere?

GRAHAM LE LAY: No, I haven't, but I suppose one has to remember that the glasshouses are where they are in the island because it is known there's a good water supply. In other words you don't build glasshouses where there isn't any water. Historically, if you look back, most of the glasshouse units were at Maufant(?) because it's a wet bottom and there's plenty of water there. A lot of the units were dead at (several inaudible words) for instance, which had a very large brook running there.

So, you basically built your glass where you knew there was a good supply of water and most of these, because there's a good supply of water there, it is not drying up people alongside. Though I do know instances where one large house, for instance, put down a borehole to water their garden and dried up the neighbour next door. But then, the neighbour next door only had a borehole that was 60 feet deep and the larger house put a borehole down at 120 feet deep.

DEPUTY RONDEL: Thank you.

SENATOR LE MAISTRE: Any other questions?

5 Flow rate from boreholes

DEPUTY BAUDAINS: Just going back to an earlier comment you made. You mentioned a flow rate -- or the availability of water from a borehole being 2,500 gallons an hour indefinitely, I think you intimated. Is this usual or unusual, because the indications we have is that possibly one should not expect more than about 400 gallons an hour from a borehole?

GRAHAM LE LAY: Well, I could take you to 20 or 30 boreholes that supply that volume of water and have done for the whole of my working life.

6 Depth of boreholes

DEPUTY BAUDAINS: What sort of -- do you know what sort of depth these might be at?

GRAHAM LE LAY: Boreholes vary from 250 to 350 feet in depth.

SENATOR LE MAISTRE: Have you any experience of shallow wells, you know, 60 feet and so on, supplying a clear quantity or is that unusual?

GRAHAM LE LAY: I don't have experience of wells at that (overspeaking).

SENATOR LE MAISTRE: So, the ones that you're talking --

GRAHAM LE LAY: -- only on domestic uses. In my own home, for instance, I have a well that's no more than 18 feet deep and I've been living in that house for 28 years and I water my grass and it runs day and nights and I don't seem to be able to empty it. But then I live in an area called Les Marais St Peter, which is known to have a high water table.

SENATOR LE MAISTRE: But your experience with the commercial glasshouses tends to be with wells that are deeper level?

GRAHAM LE LAY: Absolutely, because you know, as Deputy Rondel said, glasshouse growers are large users of water.

SENATOR LE MAISTRE: Yes.

7 Farmers using boreholes for domestic as well as farming purposes

DEPUTY BAUDAINS: One measure that is -- has puzzled me is that there is -- for those domestic users using less than three cubic metres a day there's a requirement to register but not to license. What I'm wondering is how many among the farming community, if any, use their domestic water spliced off their farm borehole, so to speak; is this likely to cause difficulties?

GRAHAM LE LAY: I don't think so. I think the biggest problem with the farming community is that a lot of them have boreholes and, other than dairy farmers who would obviously use their boreholes for their cattle every day, there are many farmers who have boreholes which, as you say, have the water for their domestic dwelling spliced off and a year like we've just had they won't have used their water for commercial -- to irrigate their land and purely that borehole is just supplying their

home.

DEPUTY BAUDAINS: So, what you're saying there is an irregular usage?

GRAHAM LE LAY: Very irregular usage as opposed to the glasshouse industry which is constant.

DEPUTY BAUDAINS: So, there could be a scenario where one year you would actually fall under the three cubic metres and the following year you could be well above and require a licence?

GRAHAM LE LAY: That is quite likely to happen, yes.

8 Crop irrigation and requirement for licence

DEPUTY BAUDAINS: Running on from that there is another similar scenario and that is irrigation of crops. Now, it occurs to me that obviously not -- I haven't seen much in the way of irrigation going on this year. I must say I was surprised, but this is an irregular occurrence. It may not happen for a number of years and then perhaps everybody's irrigating for a couple of years in a row. I was wondering what views you had on that vis-à-vis a licence. I'm not quite sure how it actually fits into the licensing programme as is suggested.

GRAHAM LE LAY: Well, it doesn't really because the way I certainly read the Law and other information other -- that I've been able to glean is you pay the licence whether you use the water or not. There's a licence for the borehole. I understand there's going to be a banding range and if you fall in a certain band because you anticipate you're going to use x amount of water that's the band you're going to be in but there are many instances where you won't reach, you know, when you may not even use any water at all.

Farmers do not use water for the fun of it. Using water is a very expensive exercise and it's only when needs must that they go to the expense of irrigating crops.

DEPUTY BAUDAINS: I was just going to say of course, the licence would apply not only to borehole water, but to any water if you've got a dam and your stream flows into it or -- of that nature.

GRAHAM LE LAY: Yes, it does, Yes.

DEPUTY BAUDAINS: So, once they're prepared, presuming that one is going to need to irrigate, and then end up not irrigating and they still pay for the water licence I presume.

GRAHAM LE LAY: That's the way I read the Law.

9 Glasshouses built in areas with high water table

SENATOR LE MAISTRE: Deputy Hill?

DEPUTY HILL: Yes. All round boreholes, etc, you're talking to someone who's a Maufant man so

I can remember Brian Sutton putting his greenhouses there in the probably about 1954/55 and I thought Brian put them there because he bought the place and decided to put the greenhouses there and also where the Huelins had theirs opposite Everton Farm and that was actually returned, as we know, back to the grass which is nice to see - see the cattle there. Super!

But it was just your statement: you said that people generally put glasshouses because they know there is a high water table. Do you know -- have you any sort of evidence to show us that there are certain parts of the island where there is a higher water table or not? Is there anything at all to give us some evidence of that?

GRAHAM LE LAY: No. I can only assume that the former generation were better informed as to where the water was on the island. To reiterate, before building glass you made sure that there was a good supply of water.

DEPUTY HILL: Yes. You did mention about the fact that they put them there because there was a high water table and I certainly know that most of the houses in Maufant (several inaudible words) they were all (inaudible) off their own rainwater. There was no boreholes going back some time, but I'm just interested by your remark. I just wanted to know whether you had indeed any evidence to substantiate the fact that there was a high water table there, but you have none. It's just anecdotal evidence. Okay?

10 Number of boreholes in the Island

Have you any idea how many boreholes we have in the island at all?

GRAHAM LE LAY: I don't --

DEPUTY HILL: And how did you come to that sort of answer?

GRAHAM LE LAY: I believe the BGS estimated it was between 200 and 300 boreholes that needed a licence. I personally would estimate that the amount is going to be greater than that basically.

DEPUTY HILL: Yes, but that would be needing a licence, but how many do you think there are in the island? How many people have got boreholes? How many households?

GRAHAM LE LAY: I wouldn't -- if I gave you an answer it would be a guess.

DEPUTY HILL: What's your guess?

GRAHAM LE LAY: I would have thought 8,000 or 9,000.

DEPUTY HILL: That many? It's interesting. I think we all have sort of gut feelings about things and we often wonder how we get them. Okay, thank you.

11 Farm units on mains water as well as boreholes

SENATOR LE MAISTRE: Deputy Rondel?

DEPUTY RONDEL: Are you aware of any glasshouse units or farm units on actual Waterworks?

HENRY WALKER: I could answer that question for the dairy industry. I know that there's some 70 cattle-owning farmers on the island and there's 34 milk producers and I believe there's about half a dozen of those who are partially on mains water and also be on ...

DEPUTY RONDEL: So, they would get a percentage of their water from the Waterworks Company and the remainder would be from a borehole or well.

HENRY WALKER: Yes. I know one particular farm that the borehole is not good enough for the cattle to drink - consume the water.

DEPUTY RONDEL: The quality.

HENRY WALKER: Quality of the water, so they have had to go on mains supply.

DEPUTY RONDEL: I am aware of that, but that was caused through some poisoning?

HENRY WALKER: Correct - over a period of time.

DEPUTY RONDEL: Yes. I'm aware of that. Sorry, I didn't want to expand on that one because it's confidential. The --

GRAHAM LE LAY: To answer your question, Deputy Rondel, I can't think of any glasshouse grower who is on Waterworks water.

DEPUTY RONDEL: And getting back to the water main, sir, is the -- those who are on the water mains, do you know if they are metered or if they are just on an open supply?

HENRY WALKER: They're metered.

DEPUTY RONDEL: They're metered.

12 Farm units and licence requirement

HENRY WALKER: And it gives us a very good clue - the ones that are metered - as to the sort of consumption of water that the dairy cows actually need (several inaudible words). Working on somewhere around about a cubic metre per 10 cows, so that any farm under the present proposals that had more than 30 cows would expect to be licensed.

DEPUTY RONDEL: But that's only for the water consumption per animal. That's without washing ...?

HENRY WALKER: No, that's making an assumption that their total use in terms of what's needed for drinking and for cleaning and also for the young stock that are associated.

DEPUTY RONDEL: Fine, thank you.

SENATOR LE MAISTRE: Deputy Duhamel, did you have a question?

DEPUTY DUHAMEL: Yes, but it's been partially answered. Just thinking in terms of dairy farmers supplying the water needs for their cows from a borehole, is it true that if you did indeed supply your ten cows that would use up the quota from one borehole but, presumably you could have more on your land or not?

HENRY WALKER: Sorry, could you repeat the last situation?

DEPUTY DUHAMEL: Is each borehole intended to be licensed or is it the owner of land on which

boreholes are is going to be licensed?

GRAHAM LE LAY: I'm given to understand that the licence is going to be per borehole.

DEPUTY DUHAMEL: That's right. That's what I thought as well.

13 Glasshouses and farms using multiple boreholes

GRAHAM LE LAY: This is one of the problems which is going to be one of the problems for the glasshouse industry where, because they are so reliant on the water, most nurseries have two or three boreholes. So, you basically cannot be without water, so you have to have at least one as a backup.

DEPUTY DUHAMEL: Yes so, likewise in terms of supplying drinking water for cattle, it could well be that a person could get around the three cubic metre per day extraction rate before being charged by having more than one borehole?

GRAHAM LE LAY: Yes.

DEPUTY DUHAMEL: Yes. Thank you.

HENRY WALKER: I think it's -- would be a bit unlikely that one would want to put in an extra borehole just to avoid a licence fee. The cost of another borehole would be very expensive.

DEPUTY DUHAMEL: No, but presumably I mean cattle don't do their drinking in one field exclusively so it may well be useful to have more than one borehole per field or whatever in order to minimise the carrying costs of providing water.

HENRY WALKER: Provided water is carried around the island in containers because of that problem.

DEPUTY DUHAMEL: Yes, so I'm thinking in terms of a tap in every field, Yes?

HENRY WALKER: Expensive.

DEPUTY DUHAMEL: Right

14 Estimated cost of compliance with the Law

SENATOR LE MAISTRE: Deputy Baudains?

DEPUTY BAUDAINS: Could I ask if your body has estimated the cost of compliance with this Law? I'm not thinking of the licence fees. I'm thinking of meter cost which, as you've indicated, is far more than one borehole and that would be duplicated, labour and filling in forms and that sort of thing. I mean, for a start I haven't got a clue how much a meter might cost.

GRAHAM LE LAY: Well, some of the suppliers have said they're doing 2,500 gallons an hour and the meters on these installations would probably be with pre-filters, etc, because one of the problems with meters is that they do wear down and boreholes by nature tend to be a little bit gritty and very, you know, abrasive.

DEPUTY BAUDAINS: Mm.

GRAHAM LE LAY: So, I would estimate a meter installation to be certainly between £800 and £1,000 per borehole.

DEPUTY BAUDAINS: But that would be a one-off hopefully. You wouldn't have to --
GRAHAM LE LAY: But there would be some maintenance on there, as I just said, because of the aggressive nature of the water. Even with pre-filters you're going to get some solids coming through.

15 Impact of possible licence restrictions on extraction

DEPUTY BAUDAINS: The other question that I would like to ask is how do you believe your industry might be affected? How -- I mean would you have any great difficulty put in coping if the licence that you were allowed was in some way restricted, perhaps out of environmental concerns or something?

GRAHAM LE LAY: Well, yes. This could be one of the problems. You know, if you give a -- if a plant needs 3 litres of water a day and you only give it 2 litres it's going to eventually keel over and die. I don't see how we can entertain a restriction on the amount of water that we extract.

16 Efficient use of water

SENATOR LE MAISTRE: It has been put to us that, by examples in the UK rather than in Jersey, large users of water can actually be very wasteful in the way that they actually use the water. What is your view, having been involved with the industry, of the way water is used here?

GRAHAM LE LAY: My view is quite simple. We run our nurseries or farmers will run their farms making the best use of the water. Just because you get it from the soil doesn't mean to say it's free. It costs a lot of money to pull some of this water up in electricity and maintenance on pumps; and believe you me you're as economical as you can possibly be with it because it is an expensive cost to us.

DEPUTY BAUDAINS: This morning we were told it was free.

GRAHAM LE LAY: Don't believe it. I wish it was.

SENATOR LE MAISTRE: So, you would say that it's a fallacy for that belief; it's not based on your experience that water's wasted (overspeaking)?

GRAHAM LE LAY: In my experience the water is not wasted, no. In fact, every endeavour is made to recirculate water nowadays in glasshouse crops. Nothing goes into the soil. Everything runs -- all the runoff runs into tanks and is reused. So, every gallon water that's pulled out of the soil actually goes to growing that crop and is to the benefit of that plant. None is lost.

DEPUTY HILL: Actually, you've just come to start giving the answer to the question I was seeking or the answer to the question I was going to pose. How much runoff now is saved? Because as a child, I always remember going to the greenhouse and see if you have any goldfish; you always knew where to get your goldfish from because you went to the glasshouse. But, how much rainwater is actually

saved now into -- there used to be big containers and everything underground. Is there much saving at all done from rainfall now?

17

Use of rainwater for washing down

GRAHAM LE LAY: Very little water is saved because of the pathogens which can build up in water when it's stored in reservoirs and if the glasshouse industry were to save the water from their roofs like they indeed did in the past, when you were growing in the soil it wasn't so bad because the pathogens would not be such a problem, but now that we grow in hydroponics these pathogens are a problem and it would mean putting in expensive reverse osmosis plants or UV systems to get rid of these pathogens and that is a non-starter.

The other problem with open lagoons is that you lose at least 10% of your water through evaporation in the summer months. So, you know, your reservoir goes down at a fair rate.

DEPUTY HILL: But, maybe I could address this to Mr Walker with cattle though. You can use the water for washing down which wouldn't need to be as -- I can accept the fact that you need different type of water for your tomato, but you could still use runoff or rainwater for washing or cleaning facilities in the dairy industry. That would be -- when you think how much water's whooshed down to (several inaudible words) away, etc. Is there much saving at all in ...?

HENRY WALKER: There isn't, as I'm aware, a great deal of saving of saving of roof water. I mean it needs to be separated. I mean on a dairy farm there is the constant problem of separating the clean water from the dirty, so I think there could be more saving of water from the roof areas perhaps to use in that type of thing like washing down.

DEPUTY HILL: Yes. The reason behind the question was really the fact that there is a possibility that if we were a bit more conscious of conservation, we could improve our own way of doing so and dairy could be an example because I would have thought the water you use to wash down would not necessarily have to be as clean -- I'm talking about from (several inaudible words) would do from the well.

HENRY WALKER: I think that's true but, I mean, we are regulated insofar as the water quality is concerned for use within the industry --

DEPUTY HILL: Even for washing down?

HENRY WALKER: Not necessarily for washing down but for cleaning plant and things like that.

DEPUTY HILL: I appreciate for cleaning plant.

GRAHAM LE LAY: The glasshouse industry does use -- because of planning regulations all the water that comes off the roof of a glasshouse has to go into a reservoir first and you have to be able to store an inch of rain over your entire roof and that water

is used for washing down the outside of glasshouses only. Supermarket produce schemes ensure that the water that we use is free from pathogens and bacteria.

18 Depriving landowners of proprietary rights

DEPUTY RONDEL: Would you still be opposed to this Law if help was forthcoming from the States to help meet the water bill or to aid your licensing fees?

GRAHAM LE LAY: We'd certainly be more amenable to the cost of the Law but there's still the question of, you know, the customary -- the proprietary rights basically. You know, we're told that the statutory law supersedes common law and if that is the case then, in essence, this is to deprive landowners of proprietary rights and, you know, we feel that's got to be redressed. There's got to be some form of compensation.

Unfortunately, if there is going to be compensation and the cost of the licence has to cover all costs, then presumably the user's going to be paying for that compensation in the long run anyway. It's just going to go around.

SENATOR LE MAISTRE: The fact that you have obviously taken legal advice, as stated in your letter and the point that you referred to is actually quite fundamental, would it be your intention to raise this matter in some way by way of a challenge or is that something that you wouldn't consider doing?

GRAHAM LE LAY: I don't know. It's for others higher up the chain to decide, not me.

SENATOR LE MAISTRE: But it's not been --

GRAHAM LE LAY: I mean obviously, it would affect a lot of people, not just the farmers, but landowners, every person in this room who owns a piece of land, it will affect them in some shape or form, you know, to a lesser or greater degree.

SENATOR LE MAISTRE: Yes. Okay. We've actually come close to the end of our time. I don't know if there's any other questions that anybody wants to ask, but if not, do you have any particular points -- is Dr Sutton here? Are there any particular points that you would like to make to the Panel?

19 Principal objections: Additional cost to agricultural industry/ exemption limit too low/ additional States manpower/ over-regulation

HENRY WALKER: Senator, I'd like to say that at the moment the dairy industry is in a pretty poor state. It's finding it difficult to absorb the cost as at the moment and a licence fee for the majority, it would be, of the industry holdings would be just another onerous cost on the industry and there's no, in terms of sort of borehole water, there's no way that we can reduce the amount we're using I believe. And the only thing is that perhaps permits up to a greater level of use would be better in terms of perhaps as much as ten cubic metres a day would be the better limit, rather than setting it so low as three cubic metres a day.

GRAHAM LE LAY: I understand the limit in the United Kingdom is 20 cubic metres a day. I mean basically we just -- I just feel that it's another Law. It's another Law to be policed. It's a Law that I don't think the island can afford again. It's going to mean more civil servants, with respect to the ones we've got. If you look at the strategic plan, 2005-2010, section 1(3),

"The States will reduce unnecessary regulation and bureaucracy in the Island and the success indicators are a decline in the number of regulations"

Well, maybe we should start here and now. I know that this Law is being implemented because of the request made by the States when the Water Pollution Law was passed in March 2000 but, you know, do we really, really need this Law? What is going to be the cost benefit? Has anyone done a cost benefit analysis? Those are the questions that I would like answered.

DEPUTY RONDEL: And could I, on the back of that, Mr LE LAY, then could you please tell us - and I think I already know the answer - what benefit do you see this Law to your industry?

GRAHAM LE LAY: What benefit to our industry? None at all.

DEPUTY RONDEL: Thank you.

SENATOR LE MAISTRE: Thank you very much for coming to meet us this afternoon and thank you for your comments.

GRAHAM LE LAY: Thank you, gentlemen. Thank you for giving us the opportunity.

(adjournment)