

Donald R. Wood
355 SW Midnight Blue Way
Mountain Home, Idaho 83647
208-598-6166

RECEIVED

JUL 14 2015

DEPARTMENT OF
WATER RESOURCES

July 10, 2015

Mr. Gary Spackman
State of Idaho
Department of Water Resources
322 East Front Street
PO Box 83720
Boise, Idaho 83720-0098

Dear Mr. Spackman,

I am writing to you regarding a water situation existing at my residence and has been a problem for some time. I have attempted for a number of years to get help through IDWR, which for the most part has been to no avail. (See attachments 1 & 2)

Recently when another attempt was made at the direction of legal counsel, the advice was to contact Mr. Jeff Peppersack at the IDWR Western Region. A meeting with him was arranged. After explaining the situation to him, he requested a letter of complaint. (See attachment 3) The result of the letter of complaint is the enclosed letter (See attachment 4) generated by Mr. Peppersack and directed to Mr. Jack BeeBee, owner of Custom Services Incorporated located on Lot 5 Block 2 of Mountain Home Country Estates.

Some of the statements in the letter to Mr. BeeBee were unclear to me. As a result, I sought advice from Mr. Scott Campbell, an attorney. After reviewing the contents of the complaint and findings in the letter to Mr. BeeBee, the attorney advised me to meet with Mr. Peppersack and press him to take action as per the noted violations addressed in Mr. Peppersack's letter to Mr. BeeBee. (See attachment 4)

Later that day, July 1, 2015, I met with Mr. Peppersack and Mr. Nick Miller at the IDWR Western Region office. I tried to persuade him to act accordingly in resolving the issues. However, he continued to rebuff me at every step. At this time, I sought help from Mr. Scott Campbell and his advice was to continue up the chain of command in my quest for help in this matter.

Thank you in advance.

Sincerely,



Donald R. Wood

✓Cc: Jeff Peppersack
Chief, Water Allocation Bureau

Attachments: 4

ATTACHMENT #1

780 Skyblue Ave.
Mt. Home, Idaho
83647
(208) 587-8189

September 3, 1996

Mr. David Tuthill
2735 Airport Way
Boise, Idaho 83701

Dear Mr. Tuthill,

I am writing in response to a phone conversation with Mr. John Westra of your office on or about August 16, 1996. The subject of the conversation was a matter of a water situation here at my residence.

I'll try to give you a brief recount of the events that have led up to the current conditions to which I am wishing to find some help with.

In 1982 I constructed a shop on a lot that I owned, situated adjacent to the lot of my residence. The shop was used primarily as a machine shop with some truck repairs as well as welding. Eventually it was called Wood's Diesel and Machine Works. As there was a need to have general purpose water in the shop for such things as toilet, hand washing, making coffee and washing out an occasional radiator, I ran a 1½" diameter line from my residence well, some 300 ft. away. The business ran until 1988. In that year I sold the property to Horizon Construction Inc.. In the conditions of the sale a well share agreement was generated to go along with the property, with the understanding that the water was to be used in the same manner and volume as was in place at the time of the sale of the property. There are words to the effect in the well share agreement, that it is to run with the land, as it may change owners as time goes by. Horizon Construction defaulted within two years from the time the property was purchased from me. However, during the time that Horizon Construction owned the property, a loan of a sizable amount was secured through Small Business Administration, using the property as collateral. Subsequently Horizon Construction went bankrupt and the SBA became owners of the property.

In 1994 the SBA sold the property to a water intense business under the name of Custom Services Inc., owner of the business is Mr. Jack E. Beebe Sr., Home address is 1127 Phelps Circle, business address is P.O. Box 730. Both addresses are for Mtn. Home, Idaho, 83647.

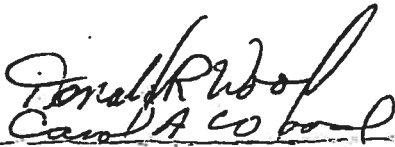
Mr. Beebe is in the business of lawn and yard care services as well as tree spraying, shrubbery removal, pruning and general landscaping for residences as well as commercial businesses. The very nature of the business definitely suggest that it uses large amounts of water of a commercial nature. This is by my estimation, as well as the reflections on my electric power bill, the source of the power for pumping all of the water used.

I filed for water rights (please find enclosed copy) as domestic use only, which I have reason to believe is currently being exceeded.

In closing, my question is, is this business legal in the use of commercial water from my domestic water system? I am sure that Mr. Beebe has not filed the rights for the water diverted from my domestic source.

The legal description for my property is Lot 6 Block 2 Mtn. Home Country Estates and the legal description for Mr. Beebe's property is Lot 5 Block 2 Mtn. Home Country Estates. Both situated in Township 3 South Range 6 East Section 33 in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donald R. Wood" and "Carol A. Wood" on two lines.

Donald R. Wood
Carol A. Wood



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

November 1, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

DONALD WOOD
CAROL WOOD
780 SKY BLUE AVE
MT HOME ID 83647

Dear Mr. & Mrs. Wood:

Your letter addressed to David Tuthill was recently referred to me for reply.

In your letter you question whether or not Custom Services, Inc., Jack E. Beebe, Sr., owner, has filed a water right for the commercial use of the well located on your property. Enclosed is a copy of the water right research conducted for the same legal description as your claim for either existing rights or adjudication claims filed. Please review this list to see if any of the filings listed relate to this property in question. I did not locate any filings in the name of Horizon Construction, Inc., Custom Services, Inc., or Jack E. Beebe, Sr.

For a commercial use a filing is required if the use exceeds 2,500 gallons per day from a groundwater source. If the use is less than this amount, a water right filing is not required. If the diversion exceeds this 2,500 gallons per day causing injury to you and no water right has been filed, then a written complaint would be needed in order for the Department to take action on an illegal diversion of water.

You may also consider contacting an attorney concerning the terms of the well agreement if the other party is in violation of that agreement.

Please feel free to contact me if you have any further questions. Enclosed is a copy of the Idaho Code Sections concerning water uses exempt from filing and illegal diversions of water for those uses requiring a filing.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Jan Shurte'.

Jan Shurte
Water Rights Supervisor
Adjudication Section
Western Region

JS:lh
Enclosures

To: Mr Jeff Peppersack

Subj: Domestic water rights violation

This is a continuation of a phone conversation with you on May 11, 2015, concerning a water issue connected to domestic water right #61-10713, which I believe is being used in violation of it's intentional purpose, which is for domestic use only. The violation is being carried out by one certain business known as "Custom Services Inc" located at Lot 5 Block 2 of Mountain Home Estates. Address 4914 SW Cherokee Dr, Mountain Home ID 83647. Owned and operated by Mr Jack E Beebe.

The business is Lawn installations and maintaince as well as applying herbisides, pestisides, fungisides, hydroseeding and fertilizers, for business and private applications and you can imagine it takes lots of water to prepare these concotions.

Large tanks were installed upon setting up operations (photos available) The water in question is provided by a well share agreement granted by the sale of the property to the origional buyer. However words in the agreement states the water is to run with the land. Mr Beebe is the third owner and that is how he obtained the water.

The well is located Lot 6 of block 2 Mountain Home Country Estates owned by me Donald R Wood. The burden of seeing that his water is not interrupted lies with me in that the pressure tank, control switch and power to operate is from service power from my residence. Several times he or his workers have left a hose in the tanks with water running and went home. The pump would cycle at short intervals causing the use of extra power. (Photos available of water overflowing ground saturated) The water was never intended to be used in the quantities being used.

A water right does not exist at this location and one has never been applied for by Mr Beebe, nor any of the previous owners under this well share agreement.

The current condition has existed for 20 or more years. I am hoping this letter can help in getting some relief in this matter.

A back flow preventer has never been installed by Mr Beebe

Sincerely, -



Donald R. Wood



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 8, 2015

CUSTOM SERVICES INC
JACK E BEEBE
4914 SW CHEROKEE DR
MOUNTAIN HOME ID 83647

RE: Potential Unauthorized Use of Water – Case No. E2015-750

Dear Mr. Beebe:

The Idaho Department of Water Resources (IDWR) recently received a complaint regarding the potential unauthorized use of water on your property described as Lot 5, Block 2 of the Mountain Home Country Estates. The complaint alleges that water is being used on your property to fill large tanks and other uses associated with a commercial business.

Idaho Law requires a valid water right to use water for commercial purposes unless the water is 1) diverted from a well; 2) the diversion rate does not exceed 18 gallons per minute; and 3) the total volume does not exceed 2,500 gallons per day. Additional restrictions may apply if water is diverted from a single well to separate homes or businesses under multiple ownership. A query of IDWR water right records did not identify any water rights authorizing water use on the property (Lot 5).

I understand water for your business is diverted from a well located on an adjacent lot and through an agreement with Donald Wood. Water right no. 61-10713, owned by Mr. Wood, is limited to domestic use on Lot 6, Block 2 of the Mountain Home Country Estates. The water right does not authorize use of water on Lot 5.

Diverting water without a valid water right is a violation of Idaho Law and may be subject to civil penalties pursuant to Idaho Code § 42-351 and § 42-1701B.

If you have questions regarding this matter, please call me at 208-287-4948. You may also contact our IDWR Western Region Office at 208-334-2190 for information regarding water rights. Thank you for your prompt attention to this matter.

Sincerely,

Jeff Peppersack
Chief, Water Allocation Bureau

Enclosure: Proof Report for 61-10713

cc: Nick Miller, IDWR Western Region Manager
Donald R. Wood
355 SW Midnight Blue Way
Mountain Home, ID 83647

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

6/4/2015

Water Right 61-10713

Owner Type **Name and Address**
Current Owner DONALD R WOOD
780 SKY BLUE AVE
MOUNTAIN HOME, ID 83647
(208)587-8189

Current Owner CAROL A WOOD
780 SKY BLUE AVE
MOUNTAIN HOME, ID 83647
(208)587-8189

Priority Date: 4/11/1972

Basis: Decreed

Status: Active

Source
GROUND WATER

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
DOMESTIC	1/01	12/31	0.040 CFS	
	<u>Total Diversion</u>		0.040 CFS	

Source and Point(s) of Diversion

GROUND WATER SENENW Sec. 33, Twp 03S, Rge 06E, ELMORE County

Place Of Use

DOMESTIC within ELMORE County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03S	06E	33					X												

Conditions of Approval:

1. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. PROPERTY ALSO KNOWN AS LOT 6, BLOCK 2, MOUNTAIN HOME COUNTRY ESTATES #1.
PARCEL NO. RP000890020060A

Dates and Other Information

Decreed Date: 1/30/1998

Civil Case Number: 39576

Judicial District: FIFTH