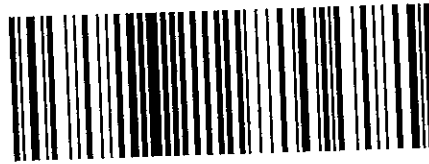


John Francon
1349 Homestead Lane
Soda Springs ID 83276

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL™



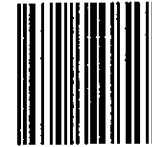
7007 1490 0001 3938 5670

**RETURN RECEIPT
REQUESTED**

Jeff Peppersack WA
Dept Water Resources
322 E Front St
Po Box 83720
Boise ID 83720-0098



0000



83720

U.S. POSTAGE
PAID
SODA SPRINGS, ID
83276
MAY 27, 08
AMOUNT

\$4.90
00011514-03

RECEIVED

MAY 30 2008

DEPARTMENT OF
WATER RESOURCES

24 May 2008

Jeff Peppersack
Bureau Chief
Water Allocation Bureau

Dear Jeff,

It was with great consternation that I recently received a letter regarding your intention to revoke our water right. Not being an attorney, I am having trouble understanding the salient points of your position, so I will give you some history and ask you some questions to help clarify things. You see, we hired an attorney last spring when this issue surfaced and we believed he had settled the matter for us. You do not acknowledge in your letter that you ever communicated with him.

Knowing you are busy, I will be as concise as possible, but no one in your department has ever met with us, properly examined our place, corresponded with the prior owners, or otherwise collected full and appropriate information.

847-0694
~ 847-1236

We bought a 40 acre parcel in, I believe, 2002 from Stephany and Stephen Wuthrich of Montpelier, Idaho. This included the water rights to a small spring, "Homestead Spring". A year later we built a home, and to the best of our knowledge obtained proper permits during all aspects of the building process. Our home was completed, inspected, and we moved in.

As a physician, I had an unfortunate encounter with a patient named Cindy Bird who, as it turns out, worked for the State Water Department. Without violating the doctor-patient confidentiality rules, I will just say that the incident involved my nurse, and, to protect my nurse, I told Cindy she would need to establish with a new physician. I would give her 30 days to do that, and assist by transferring her medical records thereafter.

Two or three months later (April 2007), on my regular day off, someone from the Water Department (Cindy Bird, we later learned) phoned our home and said that we were in violation of law in that we had neglected to submit a form that proved transfer of water rights from the Wuthriches to us. That surprised me because we believed we had done things properly, and I remembered taking some paperwork to the Water Department when we were building the house several years earlier. We located the transfer of ownership form, which, by the way, had been notarized when we had originally submitted it, and the following day my wife took it in to the Department. There she met

Cindy, who was openly skeptical of the form. Several days later Cindy Bird called the house again, saying a site visit needed to be done, and that she wanted to set it up. We offered to meet her at her convenience, but never heard from her or saw her again, except when she once drove up to the house and angrily confronted my wife who was outside hand-watering a tree, saying we had no right to water the tree. Cindy then drove off.

A few weeks later we received a letter from Cindy stating she was revoking our water rights. She alleged to a site visit she had done, apparently while we were not home.

Soon after that ^apatient approached me and asked if I knew Cindy Bird. When I said yes, this patient reported that Cindy had openly boasted of "getting back at me" and trying to "take me down", that she had "gone back through all the records trying to find something against me".

At that point I asked our family friend Bob Geddes about this fiasco, and he referred me to the law firm Racine, Olson, Nye, Budge, & Bailey. There I met with Scott Smith in May of 2007. As far as I can tell, the only thing that came from that was that Cindy Bird was removed from the case, as you are now sending me a letter from Boise.

I have made Scott Smith aware of your recent letter, and he will respond to it as well.

.....

Inasmuch as I am not an attorney, I would like to request some straight, clear talk from your Department so that I can understand exactly what you are after.

1. Are you alleging there were improper uses of the spring historically, when the Wuthriches or others owned the property? Do you claim evidence of that? If so, does it mean you expect me to provide photos or other documentation of the place 20 or more years ago showing how and when and how much it was, for example, flood-irrigated? This is not something I possess. The Wuthriches, however, are fortunately still living and are willing to discuss this with the Department if it is a concern. As far as I know, you and they have not spoken except more remotely.
2. If this is the sticking point, why has it surfaced now (Cindy Bird aside)? Why was this not mentioned when we transferred water rights, or built the home, or the next year, or the next? Were the site inspectors during the 1970's and 80's

not documenting properly, or did they sometimes not show up, or are we judging by different standards now?

3. Is there something we have done improperly, or failed to do?
4. Have we failed to pay a fee? What fee, and how much do we owe?
5. Are you concerned we use too much water? In my best estimation, we use about 25% of the spring water, and the rest goes straight back. Our toilets and washing machine are low-flow, we have never irrigated pasture, we drip the trees we have planted, we have spent almost \$1000 to improve the forage, and in all ways have tried to be good stewards.
6. The spring surfaces (for the first time) and disappears (for the last time) all on our property. Do you want me to change the historical flow so that the extra water will go into the Bear River (not difficult – I could do).
7. If Cindy Bird did a clandestine site visit last April, is that legal? Could she face any consequences for this or for her vindictiveness against us? Is this type of behavior tolerated in a State Department?

Please respond, as this is a very important issue to us that we would like to resolve. To do so, we need to know exactly what you are looking for. Straightforward talk would help us. If you want to communicate with Scott Smith using lawyer-talk that's fine, I suppose.

Thank you,

 c 317-6918
John K. Franson

cc. Scott Smith
Robert Geddes