March 18, 2015

To: Chief Engineer
Dept. Of Environment & Natural Resources
Water Rights Program
Foss Building
523 E. Capitol
Pierre, SD 57501

RECEIVED
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WATER RIGHTS PROGRAM

RE: Notice of Application No. 2737 to Appropriate Water

Dear Sir,

My Husband, William Newcomb and I purchased the property at 12801 Taylor Ranch Road, Rapid City, SD 57702 located in the Custer Trails Subdivision, specifically Lot # 5, located in the NE ¼ NE ¼ Section 22 T1N-R5E in April/May of 2013. We wish to state our objections to the above referenced Commercial Water Permit Application. The well in question is physically located on our residential property (Lot #5). To this date, Dan and Nancy Evangelisto have no water well located on their commercial property (Lots # 3 & 4) of the establishment of Summer Creek Inn nor do they own any other well.

We are 3rd owners of this property. The original builder is a gentleman by the name of Tucker Jordan. He established the well and started construction of the home in 2007. The home fell into foreclosure returning ownership back to the bank in mid year of 2010. In 2011, Ms. Karla Haagensen purchased the home and finished its construction and then sold the home to us. The following is our understanding of the history regarding the water well on our property.

In 2009, during Mr. Tucker's tenure at the property he was approached by Dan and Nancy Evangelisto, builders, owners and operators of the Summer Creek Inn Bed and Breakfast, to enter into a shared well agreement under the perception that they were having difficulty locating a water supply. Mr. Jordan kindly allowed the Evangelistos to run a water line – trenched and electrified by Daniel Evangelisto, across his (our) property toward the west to the Summer Creek Inn with the agreement that the B&B would pay the electricity. To our knowledge, their B & B business was either under construction or was already up and running, based on their website 'date of establishment' information (2009). How is it that they were capable of bringing this commercial establishment to this juncture of operation without securing a water source knowingly adequate to supply their needs? Or a commercial permit for the same? They should have applied for a Commercial Water Permit prior to this and more specifically prior to any of their construction. But, maybe it is because there are two other residential wells in the area to which they already had direct access with or without permission.

The original shared well agreement between the Evangelistos and Mr. Jordan was created and prepared by Nancy Evangelisto, was signed/dated May 18, 2009 and filed with Pennington County June 9, 2009. Based on paperwork supplied from Alexander Drilling Company, Mr.

Evangelisto established a work order with Alexander Drilling on June 4, 2009 to have a sophisticated electronic control unit installed in their domain along with the well pump shut off switch. This smacks of pre-meditated design. This control unit is a state of the art pressure control unit that supplies a constant water pressure regardless of demand on the overall system. Meaning the B&B customers would not see a fluctuation if multiple suites were pulling water simultaneously from the well. This commercial unit also supplies pressure support to our residence. This system replaced the normal pressure method that would be standard in a residential application. It was not fully disclosed nor understood by Mr. Jordan how this control unit application and these agreements would affect his homeownership. This sophisticated commercial pressure control unit that the B&B had installed to the well is located in their respective four walls. As a resident, our home has no control should there be any issue on our property or to theirs. At this current time, should the Evangelistos be absent from their property for any extended length and a malfunction occur we would be powerless to correct any problem and our residential water supply would be cut off and at the very least compromised and inconvenienced. We have no means to shut off the power to this well if a direct malfunction in our waterlines occurs. Mr. Evangelisto has told us that he did take the opportunity while our property was held in foreclosure to install a shut off valve to our residence. As protective as this may seem we believe that if it happened he did so without permission from the foreclosing bank and we have yet to discover its whereabouts.

Mr. & Mrs. Evangelisto own 32 of the 45 lots in the Custer Trails Subdivision. There are six private residences including ours in the subdivision. One community well, three private property residential wells including the one on our property. Clearly, by taking the actions stated above with the electronic pressure control device, the Evangelistos understood their need for high demand. Showing their knowledge of the building and construction industry and what water demands their business would require for supply. Prior to their establishing the Summer Creek Inn, Mr. & Mrs. Evangelisto were building contractors in the State of Washington. It is far-fetched to believe that they did not seek to find out, nor understand that they would need a Commercial Water Permit in order to comply with the laws of the State of South Dakota when they built their business. Instead they prayed on the good neighborliness of Mr. Jordan and took advantage of a situation to gain an upper hand of control in any water usage from this well.

Following the establishment of the original agreement the Evangelitos returned to Mr. Jordan with an addendum that basically incorporated the rest of the lots 1-45 into this prior arrangement. It appears that Mr. Jordan's good intentions were railroaded and we believe that it was not fully disclosed to him what kind of future consequences this agreement would cause established residents in the subdivision and any future property owners of this specific lot or those adjacent to it. It is also apparent that the Evangelistos were again trying to skirt obtaining the legal means to appropriate usage.

Based on the Notice of Application No. 2737-2 published in the Rapid City Journal March 11, 2015 we have the opportunity to object to the Chief Engineer's recommendation to grant this permit. We hereby object on the following points:

- The Evangelistos have completely disregarded the laws of the State of South Dakota and have been appropriating water in a commercial capacity from a residential well without a viable commercial permit for over 5+ years.

- The conceivable idea that the Evangelistos have designed and calculated this for their greater capital gain and with complete disregard for the public interest of not only the current residents but of the subdivision as a whole.

- The conceivable future commercial or residential development of the multiple lots owned by the Evangelistos would strain the aquifers capacity and potentially be a detriment to existing users.

- We object to the fact that Summer Creek Inn has potential to expand and impede the use of our existing water rights as residential property owners without going through the legal and proper channels to determine appropriate water sources for their personal and commercial gain.

- We object to the commercial permit based on any probable draught and what high commercial demand the B & B could put on the aquifer of this specific well and its supply for any and all current or future users.

We would respectfully request, that should this application ultimately be permitted, that it be ONLY for the current attached users and should any deviation be necessary or come about due to construction, development or sale, the DENR be notified and responsible for evaluating the purpose its possible implications to the aquifer, its users and their existing rights.

Respectfully Yours,

William W. Newcomb

Donna J. Messer

Donna J. Messer

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WATER RIGHTS
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Robbie Clausen

23211 Carbon Loop

Rapid City, SD 57702

605-490-3413

18 March 2015

RE: Notice of Application No. 2737-2 to Appropriate Water

I am writing this letter in regards to the notice I received about a water appropriation for the Summer Creek Inn.

My first concern is there are about 5 residential homes that use and depend on the water of that well. That being said, Daniel Evangelisto, owner/manager, of that well has been misleading and unclear about issues regarding the use of that well. I have offered to pay twice for my appropriate use of the well, and they have not accepted my payment both times. Both times I was given different answers as to why they wouldn't accept my payment. The first reason was because their rates were going to change to include electric payments for use of the pump and he also wanted to include a "slush" fund amount for any repairs to the well, pump, etc. He said the rates were going to be $55 now instead of $25, which is double of what the rates have been for the last 3 or 4 years. The next reason was because they wanted to bill quarterly instead of monthly, which I don't know why because none of the other service providers bill quarterly. I finally said enough and I certified mailed a check to him on the 16th of March.

Yes I tried to speak to Dan about these issues and others but he refuses to cooperate with the neighbors and myself.

The other concern I have is the subdivision we live in doesn't meet the standards of a subdivision outlined by the county, and Dan is suppose to be the developer/President of that subdivision. If there are more houses or businesses constructed in that subdivision where is their water going to come from? This same well?

This isn't the only issue myself, neighbors, and the county have had with Dan Evangelisto, but this is the only issue that concerns this well.

Please provide your findings or any information that pertains to myself and the subdivision by mail or phone call. Thanks for your time.

Robbie

CC: Summer Creek Inn