

Mr. Kim Karstensen

February 27, 2019

Director-General

Forest Stewardship Council International

Adenauerallee 134 · 53113 Bonn

Germany

(by email to dispute.resolution@fsc.org)

Water for Citizens of Weed, California complaint regarding Roseburg Forest Products under Forest Stewardship Council Policy for Association FSC-POL-001-004

Dear Mr. Karstensen,

Water for Citizens of Weed, California (WCWC), a local community organization, is today submitting to you this complaint regarding a FSC-certified company which, based on our research and accompanying documentation, is in non-compliance with FSC principles through its ongoing violation of human rights in a community where it operates (Weed, California, USA) under the Policy for Association FSC-POL-001-004.

Complainant: Water for Citizens of Weed, California (WCWC)
872 Stringtown Avenue
Weed, CA 96094 USA
www.waterforweedca.org

Contact persons:

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President, WCWC
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taylors96094@att.net

Bruce Shoemaker
Media Liaison, WCWC
+1- 612-770-9697
bshoe@bitstream.net

Defendant: Roseburg Forest Products
3660 Gateway Street
Springfield, Oregon 97477
+1-541-679.3311, rebeccat@rfpco.com (corporate communications)
<http://www.roseburg.com>

Roseburg Forest Products FSC Certificates:

Local Chain of Custody certificates for products at the mill at Weed, CA include:

"California Veneer" (SCS-COC-000300-C). Validity until April 15, 2023.

"Scott Timber" (SCS-COC-000300-S). Validity until April 15, 2023.

However, under the Policy for Association, all of Roseburg Forest Product's other FSC certificates for both Chain of Custody and Forest Management in Oregon and all other locations are also of concern and are included within this complaint.

Actions of concern by Roseburg Forest Products

Roseburg Forest Products (RFP), the owner and operator of the forest products mill adjacent to the City of Weed, California, USA, has been violating the human rights of the people of our community by trying to force the City of Weed off of its most important source of municipal and domestic drinking water, so that the water can then be sold to the international water bottling industry. RFP has sought to do this by misconstruing a lack of clarity in the legal documentation of the transfer of water rights to the City of Weed by the previous owners of this mill property and through applying its disproportionate resources against our vulnerable and economically disadvantaged community.

RFP has also sued WCWC and nine community leaders who objected to the company's actions by requesting that their state government investigate the situation. This legal action has been declared a "SLAPP" suit (Strategic Lawsuit Against Public Participation) by a Siskiyou County Superior court judge. However, RFP has appealed and is thus continuing its attempt to stifle the voice of concerned community members who are simply trying to maintain access to their historic water supply.

Background

From the time of its establishment more than 100 years ago, the community of Weed has depended on Beaugan Springs for its main source of municipal and drinking water. Water from

Beaughan Springs has also, historically and up to the present day, been used for forestry/lumber mill operations by RFP and its predecessors. The City of Weed, California is a former “company town” which at one time was completely owned and controlled by RFP’s predecessors. In 1932 the State of California recognized that the use of Beaughan Springs water was for domestic and municipal use (first priority) and industrial use for the lumber mill (second priority) (Attachment 1). When Weed became an incorporated city, in 1961, the then mill owner, International Paper, sold over 500 homes to people in Weed. This sale came with the understanding that the homes would be provided with water from Beaughan Springs (Attachment 2). An agreement was made dedicating 2 cubic feet per second (CFS) of water to the City for 50 years at a cost of \$1 per year. In 1982 International Paper closed its mill. Documentation clearly shows that International Paper intended to transfer the water right for this 2 CFS to the City of Weed as the company was winding up its affairs in California and before it sold its properties and other assets (Attachment 3). However, the subsequent documentation of this transfer by the State of California’s Public Utilities Commission and Division of Water Resources, as well as by International Paper, lacks clarity. In 1983 RFP purchased the mill property. By the mid-1990s the water of the springs surrounding Mount Shasta had become coveted by the international water bottling industry. Crystal Geyser-Roxane came to the City of Weed and inquired about spring water availability, because State agencies had indicated to Crystal Geyser Roxane that the City was the legal water rights owner of its portion of the Beaughan Springs water. RFP stepped in to prevent the City from acting, and asserted that it still owned the water right for the Beaughan Springs water the City was using. City officials at that time did not have access to the historical documents demonstrating that International Paper had intended to transfer the water right to the City (in 2016 documents were found supporting the City’s case that had been in RFP’s possession all along). Neither party had clear documentation showing ownership. However, RFP’s size and legal resources, in comparison to those of our vulnerable and economically disadvantaged community, allowed the company to intimidate the City into standing down at that time. RFP thus began selling water from its established portion of Beaughan Springs to Crystal Geyser Roxane. In 2014, in the midst of a severe drought and soon after the City of Weed suffered a devastating fire which destroyed over 150 homes and community institutions, RFP informed the City of Weed that it would have to cease using the City’s portion of Beaughan Springs by mid-2016, at the end of the 50-year agreement originally made with International Paper. It became clear that the reason for this was because RFP, in addition to continuing its forestry operations, wanted to sell additional water to Crystal Geyser Roxane (see New York Times article regarding the admission of the Chairperson of Crystal Geyser Roxane that he expected to gain control of this disputed water – <https://www.nytimes.com/2016/10/02/us/california-drought-weed-mount-shasta.html>).

Following the City’s declaration of a water emergency, RFP and the City began negotiations for a water lease agreement, meant to force the City off of its portion of the Beaughan Springs water over a period of time. This lease was signed under duress by the City at a time when there was widespread fear that RFP would quickly move to shut off the City’s access to its water. Water for Citizens of Weed, California (WCWC) formed and began its efforts to protect our community’s access to this water at that time.

Events leading to this complaint:

On March 29, 2017 WCWC submitted a letter to our local water master district and the state Division of Water Resources asking these agencies to investigate the situation (Attachment 4). On May 11, 2017 members of WCWC went to their City Council and asked the City of Weed to support this request. The Council voted unanimously to do so (Attachment 5). RFP responded the next day by suing the City of Weed over the issue of who owned the water right. But in addition to seeking to clarify the water right, RFP also wanted to silence all of its opponents who had, in their lawyer's words, been making statements about the water right, and to stop people from questioning their ownership of the water right. So RFP also named in its lawsuit WCWC and nine individuals involved in signing the letter to the water master district.

Among the nine individuals named in the lawsuit by RFP are prominent members of the City including a 92 year-old former mayor of the City/retired mill employee, another former mayor of the town and retired mill employee, a standing member of the Weed City Council, an artist/member of the Weed Planning Commission, and a retired businessman who is currently the volunteer coordinator of the Weed Historical Lumber Museum, who was twice named Weed's "Citizen of the Year," was on the Weed Elementary School Board for 21 years, and was the recipient of the first Community Service Award from Weed High School.

WCWC and the nine named individuals were forced to find legal representation to defend themselves, or they faced a default. They also had to spend almost \$4000 in initial court filing fees. RFP's process server had told some of the citizens that he was being paid \$10,000 just to serve the complaint on all of them and they would have to pay that (and presumably large additional amounts of other legal costs) eventually. The defendants were scared they could be liable for many thousands of dollars in damages and might even lose their only asset -- their homes. Luckily, a legal team familiar with these types of intimidation lawsuits agreed to defend them all. They filed a special motion to strike WCWC and the nine defendants from the complaint, arguing that they were merely exercising their constitutionally protected rights to free speech and petitioning their government for a redress of grievances. At the hearing in Superior Court, on December 7, 2017, the judge agreed with this motion, stating that the individuals and WCWC should never have been named and were exercising rights protected by the US and State of California constitutions (Attachments 6 and 7), see also these links - <https://www.siskiyoudaily.com/news/20171212/judge-dismisses-10-defendants-in-roseburg-suit> and <https://www.nytimes.com/2017/12/15/us/california-today-a-timber-towns-water-fight.html>).

RFP will be obligated to pay legal and court fees to the defendants as they never should have been sued.

Despite this clear and unambiguous decision, in March 2018, RFP appealed the dismissal of WCWC and the nine named individuals to California State Appellate Court. Rather than following through with an initial brief providing legal justification for this appeal, RFP has

subsequently delayed moving ahead through repeated requests for more time, keeping the appeal in legal limbo for over nine months. This means the nine named individuals have continued to have the threat of this lawsuit, even though it was dismissed more than one year ago, still hang over their heads. This is particularly disturbing in that the two older named individuals are having to endure this stress at the time they, and family members, are experiencing acute health issues.

At the same time, RFP is continuing its pursuit of the Beaughan Springs water through its ongoing lawsuit against the City of Weed. This is draining the resources of our small disadvantaged community. As of December 2018, the lawsuit had cost the City of Weed more than US \$400,000.

Violation of FSC Requirements

The FSC Policy for Association specifically affirms that certificate holders must not violate traditional or human rights. RFP's actions in our case have violated this responsibility by seeking to restrict or damage the human rights of our community in two fundamental ways:

First, it is simply wrong and unethical for a private company to take a vital public resource, such as drinking water, away from a community which depends on that resource. International human rights principles and California State laws both prioritize water for domestic use. Attempting to deprive a community of the water upon which it has depended for its entire existence is clearly not in the spirit of this principle. That our community is a former company town and RFP is exploiting the fact that its predecessor did a poor job of documenting the transfer of water rights to the new City of Weed is particularly egregious. Access to water is an essential component of human rights, recognized by the United Nations General Assembly (http://www.un.org/waterforlifedecade/human_right_to_water.shtml) and thus implicit in the UN Declaration of Human Rights section on access to food security and well-being (<http://www.un.org/en/universal-declaration-human-rights/index.html>) (Article 25). Water as a human right is codified in the California Constitution affirming that water should be conserved for the "interest of the people and public welfare" (Article 10, section 2). California Water Code (section 106) explicitly states that "the use of water for domestic purposes is the highest use of water." California Health and Safety Code [section 116270(a)] guarantees that "Every citizen of California has the right to pure and safe drinking water." Furthermore, the California Right to Water Bill prioritizes water for personal and domestic uses over industrial and agricultural uses. RFP's actions are inconsistent with all of these principles and statutes. While not strictly part of the Policy for Association, it is also worth noting that Principle Four of the overall guiding principles of FSC states that, "The Organization shall contribute to maintaining or enhancing the social and economic wellbeing of local communities" in which it operates (<https://ic.fsc.org/en/what-is-fsc-certification/principles-criteria/fscs-10-principles>). RFP is clearly not living up to that principle.

Second, by naming nine individuals, including everyone RFP believed was a member of WCWC, in its lawsuit, the company has attempted to punish and silence the named individuals--

who were merely people who had exercised their rights to the freedom of expression and association as guaranteed by the US Constitution. The United Nations Declaration of Human Rights specifically includes freedom of expression (Article 19) and the right to join associations (Article 20) as fundamental human rights. In addition, these types of intimidation lawsuits, known as “SLAPPs” (Strategic Lawsuits Against Public Participation) are subject to special procedures to get them dismissed as quickly as possible under California law.

Media coverage has documented the widespread consensus—among community members, journalists and other independent observers of the situation, that, beyond the point of whether or not all of RFP’s actions in pursuit of our community’s water are legal, they are certainly unethical. On December, 21 2018 the editorial board of RFP’s hometown daily newspaper, the Eugene-Springfield (Oregon) Register Guard, called RFP a “bully” due to its ongoing lawsuit against WCWC and the named individuals (see <https://www.registerguard.com/opinion/20181221/weed-9-demonstrate-power-of-civic-action>). While in one sense a local issue, this struggle is receiving increasing national and international attention, including two articles in the New York Times, articles in Sierra and Earth Island magazines, two documentary films and dozens of local and regional articles (See <https://waterforweedca.org/media-news> for links to media coverage of this issue and Attachment 8 for one example). WCWC has been featured in a number of radio shows, including live interviews on KGO in San Francisco, Capital Public Radio in Sacramento and Jefferson Public Radio in Ashland, OR. SLAPP suits are increasingly recognized as unethical tactics used by unscrupulous companies or corporations to silence their critics. Our struggle has thus gained increasingly widespread support and attention from national and international environmental and human rights organizations working to confront and end SLAPP suits through the “Protect the Protest” (www.protecttheprotest.org) anti-SLAPP coalition--which includes Greenpeace, Civil Liberties Defense Center, EarthRights International, the American Civil Liberties Union and many other well-known groups. This coalition has expressed support for our struggle and coalition members have advised WCWC in the preparation of this complaint.

RFP’s ongoing actions against the people of Weed represent an unethical violation of human rights and a blatant violation of the policy, mission and core values of the FSC. We request that, in accordance with Policy for Association principles, you launch an investigation which we believe should result in FSC disassociation from Roseburg Forest Products until such time as our concerns have been resolved.

Efforts taken to resolve this matter directly with Roseburg Forest Products

WCWC members have participated in a number of public forums where RFP representatives were present, during which we shared our concerns over RFP’s actions. This included several public hearings at the Weed City Council in 2016 as well as at the Scott and Shasta Watermaster District meeting in March 2017.

In December 2018, WCWC wrote a letter to RFP (Attachment 9) outlining our concerns and making two requests of the company. We tried to deliver the letter in person to senior

management at RFP's headquarters but they refused to meet with us. We were forced to leave the letter with security guards at the front door to deliver to RFP management. No response has subsequently been provided to WCWC by RFP and there is no indication that one will be. In fact, since the letter was delivered, RFP has again filed for an extension of its deadline to file its appeal brief--indicating it intends to continue to drag out this SLAPP suit as long as possible.

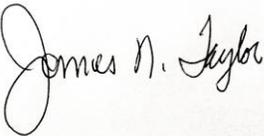
Proposed Actions to Rectify the Situation

Two actions are needed in order to rectify this matter, restore the reputation of RFP in our community and alleviate our concern over RFP's association with FSC. The first and most important is for RFP to recognize the historic legitimacy of our community's use and right to the 2.0 cubic feet per second of water from Beaugan Springs currently in dispute. The company must cease its efforts to obtain this water, inform the court and the watermaster district that it recognizes the City of Weed's right to this water and reimburse the City of Weed for the legal costs it has incurred to date in defending our water against RFP's lawsuit. Secondly, RFP should immediately drop its appeal of the SLAPP suit against WCWC and the nine named individuals and reimburse WCWC and the nine named individuals for all attorney and court fees and other expenses incurred in our defense against this ill-considered and unethical lawsuit.

Sharing of Information and Complaint Procedure:

We agree to have this complaint shared with the Defendant and other Parties to the Complaint and to adhere to the terms and provisions of the Policy for Association complaints procedure (FSC-PRO-01-009).

Submitted by:

A handwritten signature in black ink that reads "James N. Taylor". The signature is written in a cursive style with a large, looped initial "J".

Jim Taylor

President

Water for Citizens of Weed, California

c-c: Robert Hrubes
SCS Global Services (RFP Chain of Custody certifying body)
2000 Powell Street, Suite 600
Emeryville, CA 94608
(by email to: RHrubes@scsglobalservices.com)

ATTACHMENTS

1. 1932 Shasta River Decree (see pages 116-117)
2. CPUC agreement, Weed Water Company and City of Weed, 1961
3. Letter from Watermaster to International Paper, 1982.
4. Amended letter from WCWC to Watermaster District, May, 2017.
5. Letter from City of Weed to Watermaster District, May, 2017.
6. Transcript of Superior Court ruling December, 2017.
7. Commentary in Weed Press, December 18, 2017.
8. Article by Leonie Sherman/Adventure Sports Journal/Earth Island Journal, 2017.
9. Letter from WCWC to Roseburg Forest Products, December 19, 2018.