

**IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA**

IN RE THE MATTER OF A NEW APPLICATION)
FOR WELL DRILLER LICENSE FILED BY)
VERNON CANNON, JR.)

RULING

#3798

GENERAL

An application for a well driller license was filed on November 28, 1990 by Vernon Cannon, Jr., (hereinafter Cannon) pursuant to the requirements in NRS 534.140 and 534.160. This is a re-application filed for a new license following the State Engineer's Order revoking Mr. Cannon's license, dated November 27, 1990. The matter of the status of Cannon's previous well driller license will be more fully described in the following findings.

FINDINGS

I.

Vernon Cannon, Jr. was duly licensed as a well driller by the State Engineer on July 24, 1985, and this license, number 1455, was held in good standing and maintained through annual renewals pursuant to NRS 534.140(3) and (4). On January 29, 1990, the State Engineer received a written complaint from a Howard Duncan (hereinafter Duncan) of Minden, Nevada. The complaint alleges the well drilled for him by Cannon, is approximately 230 feet deep, while the well log filed with the State Engineer describes a drilled depth of 305 feet. The State Engineer finds the matter of the depth drilled in the construction of the well for Duncan is the only item in the complaint with which the State Engineer can take issue. The remaining items in Duncan's complaint pertain to contractual matters between the parties.

II.

By certified mail dated March 26, 1990 State Engineer requested Cannon that answer the complaint filed by Duncan. The letter also advised Cannon the well was inspected by the State Engineer and found to be defective in its present condition and directed Cannon to either properly complete the subject well or plug and abandon it. State Engineer's staff could not verify the depth of the well due to an obstruction in the well, and the well was un-capped at the surface. Cannon's log filed with State Engineer, indicates a steel plate had been welded to the well casing when he left the location in December 1989, and this was verified by Duncan's letter of January 1990.

III.

Cannon responded by letter dated April 4, 1990 to the State Engineer indicating he could not comply with the directive to complete or plug the Duncan well since Duncan would not allow him back on the property. Cannon enclosed with this response two letters from Duncan, one dated January 11, 1990 to Cannon indicating he did not wish to continue drilling at that time due to financial constraints, and the other dated March 27, 1990 to Cannon reiterating the complaint and stating he was not allowed back on property.

IV.

In an effort to determine why drilling was suspended by Cannon on December 15, 1989, the State Engineer attempted to sort through various claims by the parties on this record. Duncan submitted a chronological log of events in this matter, which he submitted with the original complaint. This chronology indicates the following:

1. Duncan and Cannon had a verbal agreement in October 1989, to drill to 300 feet in search of water. Payment for the well casing was to be made at the

start of drilling and the remainder on completion of the well.

2. Cannon began drilling in November 1989, and made several requests of Duncan for partial payment while drilling. Duncan agreed to pay Cannon on this initial request of November 18, 1989, but made no other partial payments following Cannon's subsequent requests.

3. Cannon attempted to contact Duncan on December 15, 1989 to advise that he had reached 305 feet, found no water and to determine if Duncan wished to continue. Receiving no immediate response, Cannon suspended drilling and moved the equipment off the Duncan well.

The State Engineer finds the drilling of the Duncan well was probably suspended due to the assumption by Cannon that he was not going to be paid for the work he had completed up to December 15, 1989.

V.

In August 1990, Duncan hired another drilling contractor to clean out the well. After cleaning out debris to 226 feet, this contractor apparently was drilling in natural formation (rock) from 226 to 263 feet. The depth of casing was further checked by this contractor and apparently found to end at 210 feet. The well was completed on March 5, 1991 by the contractor to a depth of 282 feet with a water level at 225 feet below surface. The State Engineer finds the original well log filed by Cannon falsely described the depth of the Duncan well, in violation of Section NAC 534.290(g) of the Regulation for Water Well and Related Drilling.

VI.

On June 29, 1991, the State Engineer received a written complaint from a James C. Babb (hereinafter Babb) of Silver Springs, Nevada. The complaint alleges Cannon drilled a well that measured 250 feet in depth while the well driller's log filed with the State Engineer by Cannon reports a depth drilled of 300 feet. By certified mail, the State Engineer requested from Cannon an answer to the complaint filed by Babb. The State Engineer inspected the Babb well and found it defective and apparently only 250 feet in depth. Cannon was advised in the letter to either complete the defective well or plug and abandon the well. Cannon responded by letter dated September 6, 1990 stating to the best of his knowledge the well was 300 feet deep when he left the property and that he was willing to finish the defective portion (seal) of the well construction. Cannon also explained there was still a significant outstanding balance owed for the work on the Babb well. Cannon later plugged and abandoned the Babb well. The State Engineer finds Cannon may have falsely described the total depth of the Babb well on the well log, but it also may have been partially filled in or sanded in to 250 feet. There is no way to confirm the Babb allegation with certainty. The State Engineer also finds the seal on the Babb well was indeed defective.

VII.

On May 14, 1990, State Engineer received a written complaint from Dr. Daniel Dees, of Tonopah, Nevada regarding unfinished well drilling by Cannon in Smoky Valley, Nevada. The State Engineer investigated the location and found two uncased holes and a 10 inch cased well, apparently with no seal as required by regulation. The State Engineer finds Cannon failed to seal the cased well within the five day period provided in the regulation adopted (1981) in the Nevada Administrative Code. Cannon explained at the hearing that no logs were filed and that drilling was suspended due to weather initially, and then as a result of the fact, according to Cannon, that the drilling rig disappeared from the location by the time he had returned.

VIII.

The State Engineer noticed Cannon for hearing to receive additional evidence and testimony in the matter of the various unresolved complaints. The hearing was set for November 26, 1990 and Cannon failed to appear. The State Engineer ordered Cannon's license revoked for failure to appear and offer evidence in support of his position. The order revoking the license was personally served on Cannon on November 27, 1990. Cannon stated in a letter to State Engineer on November 28, 1990 that he did not receive notice of the hearing. The certified notice of hearing was returned to State Engineer from the U.S. Postal Service and marked "unclaimed". Cannon also submitted a new application for well driller license. Cannon was issued a temporary license by the State Engineer pursuant to this application and restricted to completing the drilling already started by Cannon, but expiring on January 10, 1991. The State Engineer duly noticed Cannon for an oral examination on the Nevada Regulations for January 10, 1991. The State Well Drillers Advisory Board examined Cannon and passed him on the Regulation part, but recommended the State Engineer set the matter for another hearing to resolve the remaining complaints. The State Engineer again set the matter for hearing on January 31, 1991, at which both Cannon and Duncan were in attendance. Cannon's explanation of the Dees uncompleted wells is found at pages 16 to 31 of the hearing transcript. Cannon's explanation of the Babb well complaint is at pages 38 to 48. Cannon maintains the Babb well was 300 feet deep when he left the location. The State Engineer finds Cannon may have violated the regulation that requires the driller to protect the drill hole from contamination and failed to place the sanitary seal as required (NAC 534.370(3) and 534.380). State Engineer also finds Cannon probably suspended drilling due to non-payment by Babb. Although this helps to understand why drilling was suspended, the State Engineer cannot condone the actions of the well driller.

Cannon's response to the Duncan allegations is found at pages 51 to 61. The State Engineer finds Cannon falsely stated total depth of 305 feet on the well log and further

finds the reason drilling was suspended was, at least in Cannon's view, due to the anticipation of not being paid for the work done on the well. Again the State Engineer cannot condone the falsification of the record.

IX.

The State Well Drillers' Advisory Board, as provided in NRS 534.150(7) and 534.160(3), recommended the State Engineer refuse to reissue the license to Cannon (Trans pps 61-63).

X.

State Engineer finds a total of three written complaints have been filed against Cannon, and that Cannon has drilled, completed and filed well logs on at least 120 wells since 1985. Two of the three complaints alleged that Cannon falsely reported total depths and the third alleges Cannon's failure to complete the contract. In all cases, the State Engineer recognizes extenuating circumstances surrounding the suspension of drilling.

CONCLUSIONS

The State Engineer has jurisdiction of the parties and the subject matter in rendering this decision, pursuant to NRS 534.020(2), 534.140 and 534.160.

As provided in NRS 534.150, State Engineer convened the Well Drillers' Advisory Board to determine if the licensed well driller complied with the law or the regulations. There is sufficient evidence to conclude Cannon failed to comply fully with the regulations in the Duncan and Babb cases. There is also evidence that explains why drilling of those wells was suspended by Cannon. Although the Board recommends the State Engineer not reissue a well drillers license to Cannon on the grounds he violated the regulation, the State Engineer concludes the problems with Cannon giving rise to the

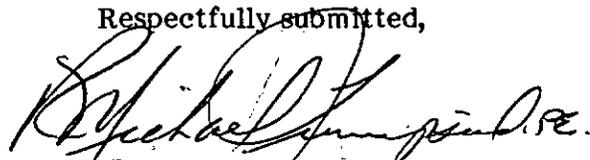
instant case are more related to long delays in completing work and Cannon's business style in general. Based on the experience the State Engineer's office has had with Cannon in over 120 wells drilled since 1985, the State Engineer is confident Mr. Cannon is fully capable of complying with the regulation. The State Engineer simply cannot agree with the Board. A new license will be issued to Cannon on a probationary basis, and any well drilling for which Mr. Cannon engages, will be closely monitored by this office for a period of one year.

RULING

The well driller license of Cannon is re-issued this date on a probationary basis, and any well drilling activity engaged by Mr. Cannon will be closely monitored by the State Engineer for a period of one year. If the State Engineer finds any clear violations of the regulations or of the law in any future drilling by Mr. Cannon, the State Engineer may revoke the license pursuant to NRS 534.160(3).

Mr. Cannon is further instructed herein to complete the work for Dr. Daniel Dees at the earliest possible date, unless Dr. Dees chooses to hire another contractor.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/TKG/jjs

Dated this 1st day of

May, 1991.