

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

IN THE MATTER OF ALLEGED VIOLATIONS)
OF THE CONTROLLING STATUTES OR)
REGULATIONS REGARDING LICENSED WELL)
DRILLER DANIEL D. LEACH, NEVADA)
LICENSED WELL DRILLER NO. 1876.)

RULING
5099

GENERAL

I.

A complaint was filed with the State Engineer regarding licensed well driller Daniel D. Leach, Nevada Well Driller License No. 1876, which has given the State Engineer reason to consider the revocation of the well driller license held by Daniel D. Leach. Prior to the State Engineer taking any such action he must first hold a public administrative hearing to hear evidence and testimony regarding the alleged violations of the Nevada Revised Statutes and/or the Nevada Administrative Code regarding the drilling and plugging of water wells in the State of Nevada.¹

II.

After all interested parties were duly noticed by certified mail, a public administrative hearing was held November 7, 2001, before a representative of the State Engineer and members of the Statewide Well Drillers Advisory Board, in Carson City, Nevada.²

FINDINGS OF FACT

I.

The issue before the State Engineer was to determine whether Daniel D. Leach complied with the rules and regulations regarding the drilling and completion of a domestic water well located at 7430 Citrus Street, Silver Springs, Nevada.

Daniel D. Leach filed the original well log with the State Engineer on October 21, 1997 (Well Log No. 69178) as required by Nevada Administrative Code (NAC) §

¹ NRS § 534.160 and NAC § 534.290.

² Exhibit No. 1; Transcript, public administrative hearing before the State Engineer, November 7, 2001. (Hereinafter, the exhibits and transcript will be referred to by Exhibit No. or Transcript.)

534.340 and Nevada Revised Statutes (NRS) § 534.170. A review of this well log indicates that the well was completed on October 6, 1997 with a steel casing diameter of 6.625 inches set to a total depth of 421 feet below ground level. The steel casing was perforated from 370 to 420 feet according to the well log as filed by Daniel D. Leach.

On September 5, 2001, Virginia and Patrick McCuin filed a written complaint with the Office of the State Engineer regarding the domestic well drilled by Daniel D. Leach at 7430 Citrus Street, Silver Springs, Nevada. The McCuins in their letter stated that they made repeated attempts to have Mr. Leach correct the problem of sand production and the ultimate failure of the pump due to the sand.³

The McCuins stated in their complaint that they hired MacKay Pump and Well Service to redevelop the well. A new pump was installed in the well, but it also produced sand. In an attempt to cure the sanding problem and thinking that the well was dry or going dry, the McCuins decided to have the well deepened, but due to a defect in the well construction, the driller could not get the drill bit down the well. Needing water, the McCuins had a replacement well drilled by MacKay Pump and Well Service which was completed August 22, 2001. The State Engineer finds that Daniel D. Leach drilled a domestic water well at 7430 Citrus Street, Silver Springs, Nevada, and that Virginia and Patrick McCuin have filed a complaint against Mr. Leach for his failure to correct the sand production of the well and failure of the pump.⁴ The State Engineer finds that the McCuins made an attempt to have Daniel D. Leach address the problem with the well, but due to his unwillingness or inability to correct the problem filed a complaint against Mr. Leach.

II.

By letter dated September 10, 2001, Thomas K. Gallagher, of the Office of the State Engineer informed Daniel D. Leach that Virginia and Patrick McCuin had lodged a complaint by oral communications in August 2001, regarding the sand production and the pump failure of the original well drilled at 7430 Citrus Street, Silver Springs, Nevada. Mr. Gallagher also indicated that he had visited the well site during the construction of the replacement well drilling operation.

³ Well Driller License File no. 1876.

⁴ Transcript, pp. 17-19.

On August 24, 2001, Mr. Gallagher visited the drilling location to determine the facts about the conditions of the original well. At the time of this visit, the McCuins requested MacKay Drilling and Pump Service to perform an inspection of the well using a down hole video camera. The video of the original well drilled by Daniel D. Leach revealed that the well was cased to approximately 230 feet below ground surface and not to its total depth of 420 feet as required by NRS § 534.360(1) and NAC § 534.060(1).⁵

Mr. Gallagher found upon a review of the original well log and the information developed during the subsequent field inspection of August 24, 2001, that Mr. Leach was in violation of the Nevada Revised Statutes and Nevada Administrative Code regarding the construction of water wells in the State of Nevada.

Mr. Leach was instructed, by Mr. Gallagher by letter dated October 3, 2001⁶, that under NRS § 533.160, he could request a hearing before the State Engineer to present evidence and testimony to refute the allegations made against him by the McCuins. The State Engineer finds that by letter dated September 20, 2001, Daniel D. Leach requested a hearing before the State Engineer to resolve the matter in question.⁷

III.

On November 7, 2001, a public administrative hearing was held after all parties were duly noticed by certified mail. The issues before the State Engineer were as follows:

- NRS § 534.060(1) and NAC § 534.360(1), failure to case a well to the bottom of the bore and constructed to prevent contamination or waste of the groundwater.
- NAC § 534.290(1)(b), intentionally made a material misstatement of fact in a log or record of work.
- NAC § 534.290(1)(g), falsely sworn to any affidavit, proof of completion, proof of beneficial use, log or any other document filed with the division.
- NAC § 534.290(1)(h), supplied false information to an owner of a well or a holder of a permit or his agent.

⁵ Transcript, pp. 31 through 33.

⁶ Exhibit No. 8.

⁷ Exhibit No. 10.

The State Engineer finds that a public administrative hearing was held to receive evidence and testimony from all affected parties. The State Engineer also finds that Mrs. McCuin and Mr. Leach both presented testimony as to allegations of the violation of the Nevada Revised Statutes and Nevada Administrative Code as it pertains to the construction of water wells in the State of Nevada and the filing of supporting documents with the State Engineer.

IV.

The State Engineer finds that during testimony given by Mr. Leach regarding the proper construction of water wells in the state of Nevada, specifically, NRS § 534.060(1) and NAC § 534.360(1), he admitted that he did not case the well to total depth as required.⁸

V.

Well Driller's Log No. 69178 was filed with the Office of the State Engineer on October 21, 1997, for the construction of a domestic water well at 7430 Citrus Street, Silver Springs, Nevada. As reported on the well log under "WELL CONSTRUCTION", the depth drilled was reported as 420 feet and the depth cased was 421 feet. During the testimony of Mr. Leach he admitted making a misstatement on the well log and to falsifying a log filed with the Office of the State Engineer.² The State Engineer finds that Mr. Leach admitted to intentionally making a material misstatement and falsely swore to work performed, as a licensed well driller, on Well Driller's Log No. 69178, as filed with the State Engineer on October 21, 1997, which is a violation of NAC § 534.290(1)(b) and 534.290(1)(g), respectively.

VI.

Information provided on Well Driller's Log No. 69178 indicates that at the time of its completion, this well was both drilled and owned by Daniel D. Leach. Mr. Leach feels that since at the time of the construction of the well he was the owner, he did not provide false information to the later owner or agent of the well. However, in testimony Mr. Leach indicated that at the time he drilled the well he was acting as a land developer in the process of developing the property for sale.⁹ Mr. Leach then sold the property to

⁸ Transcript; testimony of Mr. Leach, pp. 12 - 16.

⁹ Transcript, p. 36.

the McCuins, who testified that they had written and oral communications with Mr. Leach regarding the well and pump. The State Engineer finds that Mr. Leach constructed the well with the intentions of selling the property as a developed parcel, and that by not supplying the information regarding the well, pump, and falsifying the well log, he did indeed violate NAC § 534.290(1)(h).

VII.

The State Engineer finds that the Statewide Well Drillers Advisory Board recommended to the State Engineer that Daniel D. Leach's well driller license be revoked.¹⁰

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.¹¹

II.

Nevada Revised Statute § 534.160(3) provides that the State Engineer may revoke or refuse to re-issue a well-drilling license if he determines after an investigation and disciplinary hearing that any of the reference statutes have been violated.

III.

The State Engineer concludes, by Mr. Leach's own admission that he did not case the well to total depth, that he knowingly made material misstatements and falsified the well driller's log as to the work performed on the domestic well at 7430 Citrus Street, Silver Springs, Nevada, a violation of NRS § 534.060(1) and NAC §§ 534.360(1), 534.290(1)(b), and 534.290(1)(g). Also, by falsifying the construction detail on the well log, he knowingly provided false information to the owner of a well, a violation of NAC § 534.290(1)(h).

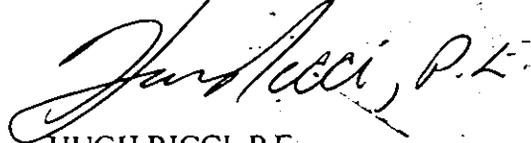
¹⁰ Transcripts, pp. 44 and 45.

¹¹ NRS chapter 534 and NAC 534.

RULING

As provided in Nevada Revised Statute § 534.160(3) and Nevada Administrative Code § 534.290, Nevada Well Driller License No. 1876 held by Daniel D. Leach is hereby revoked.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/KH/jm

Dated this 12th day of
February, 2002