

STATE OF NEVADA

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

DIVISION OF WATER RESOURCES

BEFORE SUSAN JOSEPH-TAYLOR, HEARING OFFICER

STATEWIDE WELL DRILLERS ADVISORY BOARD

MEMBERS JOE LEISEC AND ROGER THRALL

RULING

IN RE:

Well Driller License No. 1877.

#5316

TRANSCRIPT OF PROCEEDINGS

PUBLIC HEARING

THURSDAY, JANUARY 29, 2004

CARSON CITY, NEVADA

APPEARANCES:

For the Department:

THOMAS GALLAGHER
Staff Engineer, II
123 West Nye Lane
Carson City, Nevada

For the Well Driller:

MARSHALL, HILL, CASSAS &
& de LIPKAU
Attorneys at Law
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1 CARSON CITY, NEVADA, THURSDAY, JANUARY 29, 2004, 2:00 P.M.

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4 HEARING OFFICER JOSEPH-TAYLOR: Let's be on the
5 record. I want to make sure I'm getting a complete record
6 together here. Mr. Wilson, have I admitted all the exhibits
7 that have been presented so far?

8 MR. WILSON: We have 8, 9 and 10 from the
9 drillers that have been offered.

10 HEARING OFFICER JOSEPH-TAYLOR: Just admit all
11 the exhibits that have been listed for Mr. de Lipkau and
12 make a list out of everything he presented.

13 MR. WILSON: Do we want to admit everything that
14 he's presented?

15 HEARING OFFICER JOSEPH-TAYLOR: I want all of
16 Mr. de Lipkau's packet exhibits. The State Engineer has
17 authorized me to rule in this matter. For the record, I
18 have been having a discussion with the State Engineer, with
19 Mr. Gallagher, with the Well Drillers Advisory Board
20 Members, with Mr. de Lipkau and Mr. Benesch. Does everyone
21 agree that that's been going on for the last hour?

22 MR. DeLIPKAU: Yes.

23 MR. GALLAGHER: Yes.

24 MR. BENESCH: Yes

25 HEARING OFFICER JOSEPH-TAYLOR: Mr. Leach, I

1 think we've come to a pretty good resolution here and I hope
2 you're happy with it. The State Engineer finds you should
3 have cased to 700 feet. First, the morning when you came
4 back, you should have tripped back down into the hole,
5 checked your total depth, circulated the well out again
6 before you ever started setting casing to assure yourself
7 that you had the 700 feet, and if you didn't, you should
8 have cleaned it out to 700 feet. So that is a violation of
9 the regulations. Mr. Harsh, is that how I pronounce it?

10 MS. HAROLD: Harsh.

11 HEARING OFFICER JOSEPH-TAYLOR: The State
12 Engineer understands your frustration because you now have a
13 well on your property that is not drilled to acceptable
14 standards, but you got a great well. It produces a lot of
15 water. You probably have one of the best domestic wells
16 I've ever heard of.

17 So the State Engineer first wants it cleaned out
18 but because of the extraordinary risk of losing equipment,
19 of losing a whole well, of losing tens of thousands of
20 dollars, and he's going to issue a waiver of your well
21 accepting your well, but he is adamant for every well
22 driller in this state that this does not become precedential
23 setting.

24 No can come back in here again and say you did
25 it over here. It is based on the extraordinary risk of

1 losing your well equipment and losing the entire well.

2 Did I interpret that correctly, Mr. Gallagher?

3 MR. GALLAGHER: Yes.

4 HEARING OFFICER JOSEPH-TAYLOR: Is there
5 anything I need to add to that for the State Engineer?

6 MR. GALLAGHER: No. We'll grant a waiver to the
7 property owner, Mr. Harsh.

8 HEARING OFFICER JOSEPH-TAYLOR: Mr. Leach, this
9 is strike one. You are getting a letter of reprimand in
10 your file. You now know you have to go to the bottom of the
11 hole. You have to clean it out. But because of the
12 extraordinary circumstances you were under, the State
13 Engineer will not be revoking your license at this time. It
14 will be a letter of reprimand in your file which a copy will
15 be sent to you.

16 Mr. Harsh, you've got three wells on your
17 property. You can't have three wells on your property.
18 You've got two illegal wells. So those wells, you've got to
19 pick which well you're going to use and the other two wells
20 have to be plugged according to the rules, regulations and
21 standards set forth in the Nevada Administrative Code and
22 the Nevada Revised Statutes, and Mr. Gallagher is going to
23 follow up to find that you've gotten that done.

24 What's a reasonable amount of time to give
25 Mr. Harsh, Mr. Gallagher?

1 MR. GALLAGHER: First, does Mr. Harsh understand
2 the one well, one house domestic use statute?

3 MR. HARSH: Absolutely.

4 MR. GALLAGHER: So you need to pick one and make
5 the others go away. Do you have any questions about that?

6 MR. HARSH: None whatsoever.

7 MR. GALLAGHER: What I'd like to do is ask
8 Mr. Harsh to commit in good faith to some date on the
9 calendar in the future, whether it's tomorrow, next month or
10 next year, that in the reasonably near future he would agree
11 to abandon the wells in light of the other circumstances
12 surrounding this particular well.

13 I understand that it may be some time,
14 especially if there's any ongoing additional litigation. So
15 we'd just ask Mr. Harsh to pick a date on the calendar and I
16 think that would be reasonable.

17 HEARING OFFICER JOSEPH-TAYLOR: Mr. Benesch,
18 what do you think is reasonable?

19 MR. BENESCH: What I would ask for is six
20 months, not because we want the wells there, but I'm in the
21 process of lining up a well driller to drill a well for me
22 and they're all very busy right now.

23 HEARING OFFICER JOSEPH-TAYLOR: Okay. This is
24 January 29th. August 1st.

25 MR. BENESCH: Is that okay?

1 MR. HARSH: Yes, that will be fine.

2 HEARING OFFICER JOSEPH-TAYLOR: Mr. Leach, I
3 want to hear from your mouth that you accept this as a
4 resolution to this matter.

5 MR. LEACH, JR.: I accept it.

6 HEARING OFFICER JOSEPH-TAYLOR: Do you accept
7 responsibility for a violation of the regulations?

8 MR. LEACH, JR.: Yes.

9 HEARING OFFICER JOSEPH-TAYLOR: Thank you. Do I
10 need to add anything else, Mr. de Lipkau?

11 MR. De LIPKAU: I don't think so.

12 HEARING OFFICER JOSEPH-TAYLOR: Are you
13 satisfied?

14 MR. De LIPKAU: Yes.

15 HEARING OFFICER JOSEPH-TAYLOR: Are you
16 satisfied, Mr. Benesch?

17 MR. BENESCH: Yes. Thank you for your patience.

18 HEARING OFFICER JOSEPH-TAYLOR: Thank you.
19 Mr. Gallagher, are you satisfied with this resolution?

20 MR. GALLAGHER: Yes.

21 HEARING OFFICER JOSEPH-TAYLOR: With that, this
22 matter will be closed and I thank everyone, particularly the
23 Board Members, for their participation, and thank you all
24 for helping us work this out. We'll be off the record.

25 (The proceedings concluded at 2:05 p.m.)

