

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

1108

ORDER

Mr. Jack Van Sickle
c/o Mr. Gary Sheerin
Sheerin, Walsh & Keele
177 West Proctor
Carson City, Nevada 89701
Certified Mail No. P 680 338 325

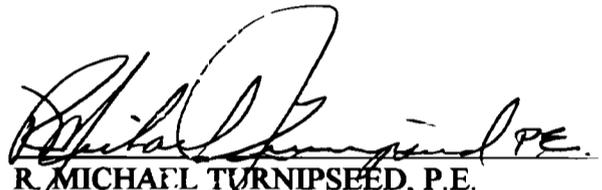
This Order supersedes State Engineer's Order No. 845 dated July 3, 1984.

This office has determined by a recent field inspection of the Smith Creek Dam located in Section 31, T.19N., R.39E., M.D.B.&M., that some corrective actions have been performed on the subject structure in response to the above mentioned 1984 State Engineer's Order. The hydraulic fractures that were found in June of 1984 have been repaired according to the attached affidavit. The former undersized spillway has been enlarged by bulldozing a larger earthen spillway channel just north of the concrete spillway. Because of these corrections and the apparent improved condition of the structure, water can be impounded by the dam in phases corresponding to a specific water surface elevation. After each phase, the embankment and related accessories will be inspected and evaluated with respect to their adequacy. At this point in time, water will be allowed to be impounded to an elevation ten (10') feet (hereafter called the phase I elevation) above the outlet conduit invert after the following conditions have been met:

1. The hydraulic outlet control structure be moved to the crest of the dam from the upstream face. The control structure which is now protected by a 55 gallon drum shall be attached permanently to the structure in a structurally sound fashion. The hydraulic lines running from the outlet controls to the gate along the upstream face also shall be secured to the upstream face in an acceptable manner. A description with illustrations shall be submitted to the State Engineer describing how the mechanism operates and is subject to the State Engineer's approval.
2. The earthen spillway and spillway channel shall be armored with rip-rap on both side slopes as well as the channel bottom. The length of the spillway channel to be armored shall be from the spillway itself to the point downstream after the channel curves to the south and falls to the natural drainage. This armoring is done to prevent cutting by spillway flows, thus preventing flows from following a more direct path towards the downstream ranch houses.
3. There are indications that there is seepage coming through and around the outlet conduit. Once water is impounded to the phase I elevation, a better evaluation can

be made as to the extent of the seepage. If it is found that the seepage is carrying embankment fill with it, the reservoir shall be emptied until the problem can be corrected.

Once the pool elevation has reached the above mentioned phase I fill point, the owner is responsible for contacting this office so that another inspection can be made of the structure. During this inspection, seepage around the outlet conduit and through the embankment can be more easily seen as well as the response of the rest of the structure to the water impoundment. After the inspection and subsequent evaluation, this order will be amended to reflect any different conditions and specify criteria for the phase II fill.


R. MICHAEL TURNIPSEED, P.E.
State Engineer

Dated at Carson City, Nevada,

this 16th day of November, 1994.

STATE OF NEVADA

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) ss.

AFFIDAVIT OF GARY A. SHEERIN

COUNTY *Carson City*

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COMES NOW GARY A. SHEERIN who being duly sworn deposes and says:

1. That he is the attorney for Jack Van Sickle and Van Sickle Enterprises, Inc., a Nevada corporation.

2. That Van Sickle Enterprises, Inc., is the owner of the Smith Creek Ranch and has accepted an offer for this ranch to be purchased by a third party and affiant has worked on all aspects of such sale.

3. That on October 13, 1994, the Division of Water Resources executed a letter Re: NV 00100; 1994 Inspection of Smith Creek Reservoir Dam. This letter followed an inspection of the reservoir by the Division.

4. That on October 17, 1994, a second letter was issued that discussed a recently found State Engineers Order No. 845 dated July 3, 1984.

5. That the October 17, 1993, letter requested a history of the repairs done to the dam as a result of the 1984 order.

6. That affiant did an investigation of the history of the repairs that follows.

7. That affiant has had several conversations with Tony Tipton who leased this ranch and reservoir from Van Sickle Enterprises, Inc. from 1984 to 1988.

8. That Smith Creek Ranch contains a creek known as Smith Creek and that a reservoir has been constructed on Smith Creek.

9. That on or about the 3rd day of July, 1984, the State Engineer, Peter Morros, entered an order to keep water out of this reservoir until a hydraulic fracturing problem was solved.

10. That Tony Tipton put small pieces of shredded paper in the reservoir waters and then emptied the reservoir. The movement of the water delivered the pieces of paper to the point on the reservoir where the leak was occurring.

- 1 11. that Tony Tipton installed a new spillway adjacent to the existing
- 2 spillway that was approximately three (3') feet lower than the top of the existing
- 3 spillway for a more effective spillway.
- 4 12. That Tony Tipton leased a drill rig and drilled holes in the face of the
- 5 dam every two and one-half to three (2-1/2' - 3') feet apart and approximately
- 6 twenty-seven (27) feet deep and filled the holes with betonite slurry. The holes were
- 7 approximately 4" in diameter.
- 8 13. Tony Tipton does not recall the number of holes he drilled. However,
- 9 the dam is 300 to 400 feet long so he drilled hundreds of holes.
- 10 14. Tony Tipton estimates that he poured approximately 22 to 25 tons of
- 11 betonite slurry into the holes and does not think there were any significant cavities
- 12 found when the holes were pumped filled with the slurry.
- 13 15. That in the areas that may have been leaking Tony Tipton buried a water-
- 14 proof fabric and also placed betonite in the areas that may have been leaking.
- 15 16. That after some water was back in the reservoir Tony Tipton also
- 16 spread more betonite along the water surface for coverage along the bottom of the
- 17 reservoir.
- 18 17. That affiant also installed a hydraulic control system to control the
- 19 outlet gate.
- 20 18. That after the above work was done, Tony Tipton remembers that a
- 21 person from the State Engineers Office inspected the dam and reservoir and was
- 22 very complimentary of the hydraulic control gate.
- 23 19. Tony Tipton further indicated that after the work was completed no
- 24 noticeable increase in water flow in springs or swamps below reservoir could be
- 25 detected when reservoir was filled within several feet of dirt spillway the second
- 26 time.
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**DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES**

**Capitol Complex
123 W. Nye Lane
Carson City, Nevada 89710
(702) 687-4380**

November 17, 1994

Mr. Gary Sheerin
Sheerin, Walsh & Keele
177 West Proctor St.
Carson City, Nevada 89702
Dear Mr. Sheerin:

In your letter dated November 16, 1994, you requested a waiver to condition #3 as outlined in State Engineer's Order No. 1108 to allow the armoring of the spillway and spillway channel until sometime before September 1, 1995. Pursuant to this request, you are hereby authorized to delay the armoring work for the time period corresponding to the filling to the Phase I elevation only.

This decision is based on the concern that if the reservoir is allowed to fill to a higher elevation according to Order No. 1108 and a large storm hits the area, or spring run-off carries high flows to an already full reservoir, there is a chance of spilling. The spillway and channel must be armored before any chance of spilling can occur.

Should you have any questions concerning this waiver, contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Michael Turnipseed, P.E.", written over a horizontal line.

R. Michael Turnipseed, P.E.
State Engineer

cc: Smith Creek Dam
Permit No. 10170
Order No. 1108

Law Offices Of

Sheerin, Walsh & Keele

177 West Proctor Street
~~Proctor Street~~
Carson City, Nevada 89702
702-882-1386
Fax No. 702-882-1493

Gary A. Sheerin
Patrick B. Walsh
George M. Keele, P.C.

November 16, 1994

1692 County Road
Minden, Nevada 89423
702-782-9781
702-882-6269
Fax No. 702-782-2970

REPLY TO

R. Michael Trumpseed, State Engineer
123 West Nye Lane
Carson City, Nevada 89710

Dear Mike,

Thank you for your order # 1108, dated Nov. 16, 1994 that supersedes order # 845 dated July 3, 1984 concerning the Smith Creek Reservoir Dam.

Paragraph 2 of your order states as follows:

The earthen spillway and spillway channel shall be armored with rip-rap on both side slopes as well as the channel bottom. The length of the spillway channel to be armored shall be from the spillway itself to the point downstream after the channel curves to the south and falls to the natural drainage. This armoring is done to prevent cutting by spillway flows, thus preventing flows from following a more direct path towards the downstream ranch house.

The reason for this letter is to request a waiver of this paragraph until Sept. 1, 1995. The reason for the wavier is the fact that the reservoir is presently covered with snow and this work cannot begin until spring. Further, the letter of Oct. 13, 1994, from Jason King of your office concerning the inspection of this dam did make this recommendation part of a long term plan.

The potential buyers of this ranch and reservoir & my client, Jack Van Sickle, would appreciate this extension.

Thank you for your consideration,

cl Jack Van Sickle
Mike Mackadon

