

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

**IN THE MATTER OF ALLEGED VIOLATIONS OF)
THE CONTROLLING STATUTES AND REGULATIONS)
AS TO THE DRILLING OF WATER WELLS)
BY DEAN MITCHELL, NEVADA LICENSED WELL)
DRILLER NO. 1475.)**

RULING

4945

GENERAL

I.

Dean Mitchell was issued Water Well Driller License No. 1193 on May 5, 1980. The license expired on June 30, 1980, because of his failure to renew the license. He was issued Water Well Driller License No. 1218 on September 30, 1980, and that license expired on June 30, 1983, because of his failure to renew the license. He was issued Water Well Driller License No. 1475 on February 25, 1986, and has maintained this license. Dean Mitchell's Well Driller License file contains several instances where the State Engineer's staff has determined that he was in violation of applicable Nevada well drilling statutes and regulations.¹

II.

On several occasions in 1999, the State Engineer's staff identified Dean Mitchell as the only driller with a Water Well Drilling License issued by the State of Nevada at two drilling sites on land controlled by the Moapa Band of Paiutes within Sections 31 and 32, T.16S., R.65E., M.D.B. & M., Clark County, Nevada. Field investigations conducted by staff from the Division of Water Resources found that violations of applicable well drilling statutes and regulations had occurred.²

III.

On January 11, 2000, the State Engineer scheduled a public administrative hearing to be held on February 3, 2000, in Las Vegas, Nevada, to receive evidence and testimony in the matter of Dean Mitchell's Water Well Drilling License, and to determine if there were violations of Nevada well drilling statutes and regulations at the above-referenced sites.¹ A Notice of Hearing scheduling the February 3, 2000, hearing was

¹ Well Driller License File No. 1475, official records in the office of the State Engineer.

² Exhibit Nos. 2 and 7, public administrative hearing before the State Engineer, February 3, 2000.

mailed to Dean Mitchell and was posted at two public places in Las Vegas and in several other public places in rural Nevada.¹

FINDINGS OF FACT

I.

On January 11 and January 13, 2000, hearing notices were sent certified mail to Dean Mitchell at the address of record in his license file. The notice of January 11, 2000, was returned by the U. S. Postal Service on January 25, 2000, with a forwarding address attached to the envelope. A hearing notice was then sent by certified mail to this forwarding address. The January 13, 2000, certified mail had been sent to the same forwarding address. Neither the certified mail receipt cards nor the two envelopes containing the notices were returned by the U. S. Postal Service to the State Engineer's office.³

Dean Mitchell did not attend the February 3, 2000, hearing concerning the matter of his Water Well Drilling License.⁴

Nevada Administrative Code § 534.292 (2) requires that a well driller to notify the Division of Water Resources of any change in his mailing address within 30 days after the change. The State Engineer finds that Dean Mitchell had not notified the State Engineer's office of a change of address prior to the dates the hearing notices were mailed. The State Engineer finds that the certified mailing dated January 11, 1999, was sent to the address as provided by Dean Mitchell on his 1999-2000 license renewal form in his license file. The other certified mailing was addressed to the forwarding address on record with the U. S. Postal Service.^{1,3} The State Engineer finds that Dean Mitchell's failure to notify the Division of his change of address violates NAC § 534.292(2). The State Engineer further finds that Dean Mitchell was notified of the hearing on February 3, 2000, at the address of record with the Division of Water Resources.

II.

Nevada Revised Statute § 534.160 (2) provides that a well driller must comply with the regulations adopted by the State Engineer governing the drilling of water wells,

³ Transcript, pp. 4-8, 44-45, and 68-69, public administrative hearing before the State Engineer, February 3, 2000.

⁴ Transcript, p. 4, public administrative hearing before the State Engineer, February 3, 2000.

and NAC § 534.330 sets forth the responsibilities of a licensed well driller at a drilling site.

On May 18, 1999, the State Engineer's staff investigated a drilling operation on land controlled by The Moapa Band of Paiutes. For identification purposes, this drilling operation will be referenced in this ruling as Site No. 1. Staff identified the drill rig in use at Site No. 1 as belonging to Dean Mitchell and identified Dean Mitchell as the only driller on site with a Water Well Drilling License issued by the State of Nevada.⁵ Staff did not question or talk to Dean Mitchell at this time, define the type of hole, water well or borehole being drilled, or establish Dean Mitchell's responsibilities on this site at this time.

On June 14, 1999, Application 65197 was filed by The Moapa Band Paiutes to appropriate 0.5 cubic feet per second of underground water for commercial and domestic purposes within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T.16S., R.65E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 31. The State Engineer finds the point of diversion is similar to the drilling location identified as Site No. 1.⁶

III.

On July 9, an agent for The Moapa Band of Paiutes requested a waiver for exploratory drilling to determine water availability and quality of water within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T.16S., R.65E., M.D.B.&M. In response, on July 12, 1999, the State Engineer granted a Waiver to Drill Exploratory Well, Waiver W-512, allowing the drilling of one exploration well within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 31.⁷

Notice of Intent Card No. 16601, dated July 9, 1999, under Dean Mitchell's name as well driller and using Dean Mitchell's well drilling license number was filed on July 14, 2000, in the office of the State Engineer for a well site located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T.16S., R.65E., M.D.B.&M.⁸ The Notice of Intent Card referenced

⁵ Transcript, pp. 25-27 and Exhibit No. 2, public administrative hearing before the State Engineer, February 3, 2000.

⁶ Application 65197, Transcript, pp. 12-13, and Exhibit No. 3, public administrative hearing before the State Engineer, February 3, 2000.

⁷ Transcript, pp. 14-19 and Exhibit Nos. 4 and 5, public administrative hearing before the State Engineer, February 3, 2000.

⁸ Transcript, pp. 18-20 and Exhibit No. 6, public administrative hearing before the State Engineer, February 3, 2000.

Application 65197 and Waiver W-512, and advised that drilling would start on or about July 9, 1999.⁹ The State Engineer finds that although the card has a discrepancy as to the ¼ ¼ section of land between Application 65197 and Waiver W-512, as to the ¼ ¼ section of land, the card, application, and waiver are intended for the same well. The State Engineer also finds that the filing of Notice of Intent Card No. 16601 with Dean Mitchell's name and License No. 1475 establishes his responsibility for the drilling at Site No. 1.

IV.

As a result of receiving the Notice of Intent Card, on July 16, 1999, the State Engineer's staff investigated the well drilling operation at the location thought to be Site No. 1 for compliance with Waiver W-512. Staff identified the drill rig and crew to be from California and identified Dean Mitchell as the only licensed driller on site. Staff questioned and talked with Dean Mitchell and obtained information about the drilling and conditions of the well. Staff determined that Dean Mitchell was the responsible driller on site.¹⁰

On August 3, 1999, the State Engineer's staff again investigated drilling operations on lands controlled by The Moapa Band of Paiutes. The drill rig had moved from Site No. 1 to a location approximately one mile to the east, for identification referenced in this ruling as Site No. 2. At Site No. 1, starter pipe with a bolted blank flange remained in the hole and gravel was scattered around the pipe. There was approximately 840 feet of 8-inch PVC casing on site. At Site No. 2, staff identified the drill rig and crew from California and Dean Mitchell as the only driller on site with a Water Well Drilling License, but did not question or talk to him at this time to establish his responsibilities at Site No. 2.¹⁰

On August 6, 1999, the State Engineer's staff again investigated operations at Site No. 1 and Site No. 2. Staff verified by map that Site No. 1 was located in Section 31, T.16S., R.65E., M.D.B. &M. and found that the hole had not been plugged. At Site No. 2, the drill crew was running casing in the hole and staff identified Dean Mitchell as the

⁹ Transcript, pp. 18-20, and Exhibit No. 6, public administrative hearing before the State Engineer, February 3, 2000.

¹⁰ Transcript, pp. 33-40, and Exhibit No. 7, public administrative hearing before the State Engineer, February 3, 2000.

only licensed driller on site. Staff identified the location of Site No. 2 as being within Section 32, T.16S., R.65E., M.D.B.& M., and then questioned and talked with Dean Mitchell obtaining information about the drill hole and proposed completion methods. Staff advised Dean Mitchell that he was in violation of several well drilling regulations.¹⁰

On July 16, and August 6, 1999, when the staff was conducting field investigations, the State Engineer finds that Dean Mitchell, License No. 1475, was the only licensed well driller at Site Nos. 1 and 2, and was the responsible well driller for drilling operations at those sites.

V.

On August 6, 1999, when staff questioned and talked with Dean Mitchell about operations and conditions at Sites Nos. 1 and 2, Dean Mitchell was advised that he was determined to be the responsible driller at both sites.¹⁰ In the matter of operations at Site No. 1, Dean Mitchell was advised that he was in violation of:

- a. NAC § 534.330 (2a and 2b) driller's compliance with regulations and permits and waivers,
- b. NAC § 534.370 (3, 4, and 5) requirements and provisions for suspension of drilling,
- c. NAC § 534.390 (2) driller's compliance with permit and waiver, and
- d. NAC § 534.440 (5) plugging within three days after completion of aquifer tests or completion as a well before the drill rig is removed.¹¹

In the matter of operations at Site No. 2, Dean Mitchell was advised that he was in violation of:

- a. NAC § 534.300 drilling a well in a designated basin without issuance of a permit,
- b. NAC § 534.320 drilling without the filing of Notice of Intent Card,
- c. NAC § 534.330 (2a and 2b) driller's compliance with regulations and permits and waivers.

The State Engineer finds that Dean Mitchell's violations of the well drilling regulations set forth NAC chapter 534 has made his license subject to revocation under the provisions of NAC § 534.290 (1).

¹¹ Exhibit No. 8, public administrative hearing before the State Engineer, February 3, 2000.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.¹²

II.

The State Engineer concludes that Dean Mitchell, License No. 1475, was properly notified of the public hearing concerning his Well Drilling License held on February 3, 2000, by the mailing of the hearing notice to the address he provided on his license renewal form.

III.

The State Engineer concludes that Dean Mitchell, License No. 1475, was the only driller at either site with a Water Well Drilling License when the State Engineer's staff investigated drilling operations on July 16, and August 6, 1999, at two sites within Sections 31 and 32, T.16S., R.65E., M.D.B. & M.

IV.

The State Engineer concludes that drilling and suspension of operations at Site No. 1 violated:

- a. NAC § 534.330 (2a and 2b) driller's compliance with regulations and permits and waivers,
- b. NAC § 534.370 (3, 4, and 5) requirements and provisions for suspension of drilling,
- c. NAC § 534.390 (2) driller's compliance with permit and waiver, and
- d. NAC § 534.440 (5) plugging within three days after completion of aquifer tests or completion as a well before the drill rig is removed.

V.

The State Engineer concludes that drilling operations at Site No. 2 violated:

- a. NAC § 534.300 drilling a well in a designated basin without issuance of a permit,
- b. NAC § 534.320 drilling without the filing of Notice of Intent Card, and
- c. NAC § 534.330 (2a and 2b) driller's compliance with regulations and permits and waivers.

¹² NRS § 534.160(3) and NAC § 534.290(1).

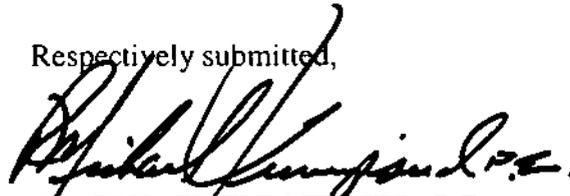
VI.

The State Engineer concludes that no extenuating circumstances are found in the record that would relieve Dean Mitchell as the responsible well driller at the two drilling sites or relieve him from complying with the provisions of NAC chapter 534, and further concludes that Dean Mitchell's well drilling license should be revoked under provisions of NAC § 534.290 (1).

RULING

Water Well Drilling License No. 1475, held by Dean Mitchell, is hereby revoked on the grounds that he committed numerous violations of the regulations that govern well drilling in the State of Nevada.

Respectively submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/CAB/cl

Dated this 25th day of
July, 2000.