

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 THE DRILLING )  
OF WATER WELLS BY MICHAEL WELLS, )  
NEVADA LICENSED WELL DRILLER NO. )  
2021 )

**RULING**

**# 5223**

**GENERAL**

**I.**

By Notice dated January 15, 2003,<sup>1</sup> the State Engineer provided Michael Wells with notification of the State Engineer's concern about the repeated failure of Michael Wells to follow the statutes and regulations applicable to the drilling of wells in the State of Nevada, and notified Michael Wells that a public administrative hearing was being scheduled to receive testimony and evidence regarding whether Michael Wells was complying with the controlling statutes and regulations.

**II.**

After all parties of interest were duly noticed by certified mail, an administrative hearing was held on February 13, 2003, in Las Vegas, Nevada, before a representative of the Office of the State Engineer and members of the Statewide Well Drillers Advisory Board.<sup>2</sup>

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<sup>1</sup> Exhibit No. 1, public administrative hearing before the State Engineer and members of the Statewide Well Drillers Advisory Board, February 13, 2003. Hereinafter the exhibits will be referred to solely by the exhibit number or letter and the transcript will be referred to by page number.

<sup>2</sup> Transcript, public administrative hearing before the State Engineer, February 13, 2003.

**FINDINGS OF FACT**

**I.**

In April 1996, Michael Wells received Nevada Well Driller License number 2021.<sup>3</sup> The applications for renewal of his license that he filed in 1999, 2000 and 2001 indicate that he was working for ADA Compliance.<sup>3</sup>

On December 18, 2000, the State Engineer issued temporary well driller licenses under Michael Wells' License number 2021 for Martin Quinones (2021-T1), Perry Hormann (2021-T2) and Dwight Peterson (2021-T3) who all worked for Layne Christensen.<sup>3</sup> These licenses expired on February 16, 2001. On March 23, 2001, Michael Wells requested new temporary well drillers licenses for Perry Hormann and Dwight Peterson.<sup>3</sup> On March 23, 2001, temporary licenses were issued to Dwight Peterson (2021-T1) and Perry Hormann (2021-T2). These licenses expired on May 11, 2001. On April 18, 2001, temporary license 2021-T3 was issued to Martin Quinones with an expiration date of May 11, 2001. On May 30, 2001 temporary licenses were issued to Dwight Peterson (2021-T1), Perry Hormann (2021-T2), Martin Quinones (2021-T3), and Rodney Michael (2021-T4).<sup>3</sup> These licenses expired on August 10, 2001. Nevada Administrative Code § 534.296 provides that the State Engineer may issue a temporary well-drilling license to an employee of a drilling contractor if the contractor has insufficient personnel to complete existing contracts. The Code provides that the contractor, licensed employee of the contractor or another licensed well driller takes full responsibility for the drilling performed by the temporary licensee, and that the temporary licensee will comply with all regulations for drilling wells.

Nevada Administrative Code § 534.320 provides a driller shall notify the Division of Water Resources before drilling, reconditioning or plugging a well by submitting a Notice of Intent to drill. Nevada Administrative Code § 534.320(2) provides that a Notice of Intent to drill card must provide, among other things, that the person signing the notice must be the well driller or contractor and must give the license number of the driller who

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<sup>3</sup> Well Driller File No. 2021, official records in the Office of the State Engineer.

will be at the site and responsible for the work.

Michael Wells filed Notice of Intent card numbers 21217, 21218, 21237, 21238, 21239, 21240, 21241, and 21242, 22214, 22351, 22444, and 23062. The cards indicated that Layne Christensen was the contractor and Michael Wells was the driller who was to be on site and responsible for the work.

At the administrative hearing, Michael Wells indicated that several times he had applied for temporary drilling licenses for drillers that worked for Layne Christensen and he was under the impression they would take care of the necessary paper work in a timely manner.<sup>4</sup> The Notice of Intent to drill cards indicated that Michael Wells was to be the well driller on site and responsible for the work. Michael Wells testified "I got them a temporary license so I didn't have to be sitting on the job site at the time they were drilling wells."<sup>5</sup> During this period of time, Michael Wells was working for ADA Compliance.<sup>6</sup>

The State Engineer finds the intent of the regulation as to the filing of Notice of Intent to drill cards is that the card is to reflect the license number of the responsible driller on location at the drilling site. If Michael Wells was not intending to be on the drilling site he should not have put his license number on the Notice of Intent to drill cards, but rather he should have indicated the license number of the well driller who had been issued the temporary license on the card, i.e. 2021-T1, 2021-T2, 2021-T3 or 2021-T4.

## II.

By letter dated July 20, 2001, Michael Wells was notified by the State Engineer of his failure in 2000 to timely file eight well logs related to Notice of Intent to drill card numbers 21217, 21218, 21237, 21238, 21239, 21240, 21241 and 21242.<sup>7</sup> Nevada Revised Statute § 534.170 requires a well log be filed with the

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<sup>4</sup> Transcript, p. 9.

<sup>5</sup> Transcript, p. 10.

<sup>6</sup> Transcript, p. 11.

<sup>7</sup> Exhibit A.

State Engineer within 30 days after the well is completed for every well drilled in Nevada.

Three months later, on October 22, 2001, Michael Wells was notified that he had filed Notice of Intent to drill card numbers 20478, 20631, 20632, 20634, 20635, 20636, 20651, 20652, 20653, 20750, 21299, 21300, 21898, 21901, 21217, 21218, 21238, 22214, 22351, 22444, 22642 and 23062 between March 17, 2000, and October 9, 2001, and the State Engineer had not received wells logs in relation to any of the referenced Notice of Intent to drill cards.<sup>8</sup> Notice of Intent to drill card numbers 21217, 21218, 21238 had been listed in the July 20, 2001, notice of missing well logs.

Eight months later, on June 26, 2002, Michael Wells was again notified that Notice of Intent to drill card numbers 21898, 21901, 21217, 21218, 21238, 22214, 22351, 22444 and 22642 had been filed, as had been indicated on October 22, 2001, and the State Engineer had still not received the required well logs.<sup>9</sup> On June 27, 2002, the State Engineer received the well log for the well drilled under Notice of Intent to drill card number 22351.<sup>10</sup> Michael Wells then withdrew Notice of Intent to drill card numbers 20478, 20631, 20632, 20634, 20635, 20636, 20651, 20652, 20653, 20750, 21299, 21300 indicating that the job had been cancelled.<sup>11</sup> Notice of Intent to drill cards are only active for 60 days, if no action is taken to drill the well within that 60-day period the card becomes invalid.<sup>12</sup>

At the administrative hearing, Michael Wells did not dispute the failure to timely file wells logs, and indicated that he knew he was in the wrong.<sup>13</sup> He indicated that he had applied for temporary drilling licenses for drillers that worked for Layne

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<sup>8</sup> Exhibit C.

<sup>9</sup> Exhibit D.

<sup>10</sup> Exhibit D.

<sup>11</sup> Transcript, pp. 37-38.

<sup>12</sup> Transcript, p. 38.

<sup>13</sup> Transcript, p. 9.

Christensen and he was under the impression they would take care of the necessary paper work in a timely manner.<sup>14</sup>

The well drilled pursuant to Notice of Intent to drill card number 21217 was completed on March 15, 2001; the well log was received on June 27, 2002 (15 months).<sup>15</sup> The well drilled pursuant to Notice of Intent to drill card number 21218 was completed on March 20, 2000; the well log was received on June 27, 2002 (27 months).<sup>16</sup> The wells drilled pursuant to Notice of Intent to drill card number 21237 were completed on March 24, 2001; the well logs were received on August 22, 2001 (5 months).<sup>17</sup> The wells drilled pursuant to Notice of Intent to drill card number 21238 were completed on March 24, 2001; the well logs were received on August 22, 2001 (5 months).<sup>18</sup> The wells drilled pursuant to Notice of Intent to drill card number 21239 were completed on March 23, 2001; the well logs were received on August 22, 2001 (5 months).<sup>19</sup> The wells drilled pursuant to Notice of Intent to drill card number 21240 were completed on March 24, 2001; the well logs were received on September 6, 2001 (6 months).<sup>20</sup> The wells drilled pursuant to Notice of Intent to drill card number 21241 were completed on March 24, 2001; the well logs were received on August 22, 2001 (5 months).<sup>21</sup> The wells drilled pursuant to Notice of Intent to drill card number 21242 were completed on March 25 and 26, 2001, the well logs were received on August 22, 2001 (5 months).<sup>22</sup>

The State Engineer finds that Michael Wells indicated on the

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<sup>14</sup> Transcript, p. 9.

<sup>15</sup> Exhibit G.

<sup>16</sup> Exhibit G.

<sup>17</sup> Exhibit G.

<sup>18</sup> Exhibit G.

<sup>19</sup> Exhibit G.

<sup>20</sup> Exhibit G.

<sup>21</sup> Exhibit G.

<sup>22</sup> Exhibit G.

Notice of Intent to drill cards that he was the on-site well driller; therefore, he was responsible for assuring that well logs were timely filed, and those well logs repeatedly were not timely filed. The State Engineer finds Michael Wells did not adequately supervise those working as temporary licensees under his well drillers license to assure they were complying with the regulations for drilling wells in the State of Nevada. The State Engineer finds Michael Wells failed to submit many wells logs in a timely manner in accordance with the provisions of the Nevada Administrative Code.

### III.

By facsimile dated July 30, 2001, Michael Wells was ordered to stop work on a well being drilled at 9325 Cactus Avenue until there was compliance with Nevada Administrative Code § 534.350 that requires the name and address of a contractor drilling a well be conspicuously displayed on the drill rig operated or owned by that contractor.<sup>23</sup> Michael Wells well driller license file indicates that in June 2001 he worked for ADA Compliance.<sup>24</sup>

Testimony indicated that Redding Drilling Company filed a Notice of Intent to drill card for the well drilling to take place at 9325 Cactus Avenue.<sup>25</sup> However, the Notice of Intent to drill card was rejected because Merle Redding had lost his drilling license and did not have a licensed well driller to do the work.<sup>26</sup> Thereafter, Michael Wells filed a Notice of Intent to drill card indicating that ADA Compliance was the contractor intending to drill a well at 9325 Cactus Ave., Las Vegas, Nevada, and Michael Wells would be the on-site responsible well driller. Records of the Nevada State Contractors Board indicated that on July 12, 2001, ADA Compliance had an active contractors license and Michael Wells was listed as the qualified employee.<sup>27</sup>

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<sup>23</sup> Exhibit B.

<sup>24</sup> Transcript, p. 20, Well Driller File No. 2021, official records in the Office of the State Engineer.

<sup>25</sup> Transcript, p. 23.

<sup>26</sup> Transcript, p. 23.

<sup>27</sup> Well Driller File No. 2021, official records in the Office

Upon field investigation of the drilling site, a staff member from the Office of the State Engineer found a well rig displaying the company name of Redding Drilling Company, and there was no identification for ADA Compliance.<sup>28</sup>

The State Engineer finds ADA Compliance's name was not displayed on the well rig used to drill the well at 9325 Cactus Ave. as required by Nevada Administrative Code § 534.350 and Michael Wells had indicated that he was the licensed well driller on site and he was also the qualified employee for ADA Compliance; therefore, he should be responsible for assuring that provisions of the administrative code were being complied with prior to drilling.

#### IV.

The factual scenario at issue in this finding has to do with the drilling of monitoring wells on an air force base. Nevada Administrative Code § 534.320(2) provides that a Notice of Intent to drill card must provide, among other things, that the person signing the notice must be the well driller or contractor and must give the license number of the driller who will be at the site and responsible for the work.

On June 27, 2002, Michael Wells filed a Notice of Intent to drill card indicating that Testing Engineers would be the contractor for the drilling of a well on the air force base and that Michael Wells would be the licensed well driller on the drilling site. No Nevada contractors license number was indicated on the Notice of Intent to drill card.<sup>29</sup> Therefore, on July 1, 2002, Michael Wells was notified that the Notice of Intent to drill card would not be accepted by the State Engineer because neither Testing Engineers nor Michael Wells was in possession of a contractors license as required by Nevada Revised Statute § 534.140(7).<sup>30</sup> At the time of filing the Notice of Intent to drill

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of the State Engineer.

<sup>28</sup> Transcript, pp. 23-24.

<sup>29</sup> Transcript, pp. 49-52.

<sup>30</sup> Exhibit E.

card, Testing Engineers did not have the required contractors license.<sup>31</sup>

Nevada Revised Statute § 534.140(7) provides that "Before engaging in the physical drilling of a well in this state for the development of water, every well driller who is the owner of a well-drilling rig, or who has a well-drilling rig under lease or rental, or who has a contract to purchase a well-drilling rig, must obtain a license as a well driller from the state contractors' board."

Michael Wells testified that the State Contractors Board told him that if he was drilling on a military base that he did need to have contractors license to do the work.<sup>32</sup> Testimony further indicated that once the problems arose with the Notice of Intent to drill card no further work was done as to that particular well under that Notice of Intent to drill card.<sup>33</sup>

New Notice of Intent to drill cards were filed and they indicated that Water Development was the contractor doing the drilling and that Roger Langley was to be the on-site licensed well driller.<sup>34</sup> Michael Wells testified that Water Development from Woodland, California, owned the drill rig and was drilling the holes as subcontractor to Testing Engineers.<sup>35</sup>

Staff from the Office of the State Engineer testified that Roger Langley telephoned the office inquiring as to what he had to do in order to comply with the regulations to drill monitor wells in the State of Nevada. He was given that information and assured the staff member that he would be the well driller on site. On August 8, 2002, three new Notice of Intent to drill cards were received to drill the wells at the air force base identifying Water Development as the contractor and Roger Langley as the

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<sup>31</sup> Transcript, pp. 51, 58-59.

<sup>32</sup> Transcript, p. 60.

<sup>33</sup> Transcript, p. 60.

<sup>34</sup> Exhibit F.

<sup>35</sup> Transcript, pp. 51-52, 61, 95-96.

licensed well driller that would be on site.<sup>36</sup>

When staff members from the Office of the State Engineer visited the drill site they saw two gentlemen were drilling, neither had a Nevada well drillers license and neither were Roger Langley. The rig indicated Water Development Company of Phoenix, Arizona owned it. At that time, Michael Wells drove up and identified himself as the well driller on site for the job.<sup>37</sup> Michael Wells was informed that he had not signed the Notice of Intent to drill cards as the on-site well driller. Mr. Wells then signed the Notice of Intent to drill cards, which is how they came to have two signatures on them.<sup>38</sup>

Mr. Wells testified that he was not intending to be the driller on site and testified that he was not the driller on site even though he signed documentation to the effect that he was the well driller on site.<sup>39</sup> Mr. Wells testified that when the staff from the Office of the State Engineer visited the drilling site, Roger Langley was not on site, but rather Gary Wasnick was the well driller on site. "What you wound up doing is covering for Roger Langley who didn't send somebody with a license. Mr. Wells: Basically that's what happened."<sup>40</sup>

Michael Wells testified that Gary Wasnick was running the well rig and that a temporary license had been granted to him, he had just not received the card. Nevada Administrative Code § 533.330(3) provides that the well driller shall carry his license card when he is present at the drilling site and produce the card when requested to do so by a representative of the Division of Water Resources, Office of the State Engineer. Mr. Wells admitted that a well driller is supposed to have the card evidencing his license on the drilling site.<sup>41</sup> Mr. Wells indicated that he was

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<sup>36</sup> Exhibit F and Transcript, pp. 63-64.

<sup>37</sup> Transcript, pp. 63-64.

<sup>38</sup> Transcript, pp. 64-65.

<sup>39</sup> Transcript, pp. 53-56.

<sup>40</sup> Transcript, p. 81.

<sup>41</sup> Transcript, pp. 65-68.

100 yards away from the rig talking to a guy about going to the fuel depot, but also testified that he was in the contractor's job trailer.<sup>42</sup>

Nevada Administrative Code § 534.330 provides that a Nevada licensed well driller must be present at the well-drilling site when the drill rig is in operation. If the well driller leaves the drilling site, the drilling operation must be shut down until the driller or another Nevada licensed well driller returns to the site.

The State Engineer finds that when the staff of the Office of the State Engineer found the people actually drilling were not in possession of Nevada well drillers licenses, Michael Wells indicated he was the licensed well driller on site and signed the Notice of Intent to drill cards to that effect, while in fact he was not actually performing the well drilling or supervising said work. The State Engineer finds that Mr. Wells' well driller file in the Office of the State Engineer does not indicate that Gary Wasnick has been issued a temporary license under Michael Wells' well driller license number. The State Engineer finds if Michael Wells was the on-site well driller or licensed well driller he was not in close enough proximity to the rig that in the event something went wrong he could immediately stop the drilling operation. The State Engineer finds Michael Wells made a material misstatement of fact and falsely indicated on the Notice of Intent to drill card that he was the well driller on site when in fact that work had been subcontracted by the company he worked for (Testing Engineers) to Water Development. The State Engineer finds that Michael Wells used his well drillers license to cover for Roger Langley who was not on-site at the time of the drilling and in doing so falsified a record filed with the Office of the State Engineer.

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<sup>42</sup> Transcript, pp. 67, 70.

V.

On December 5, 2002,<sup>43</sup> Michael Wells was notified again that he had filed Notice of Intent to drill card numbers 21228, 21229 and 21230 on August 8, 2002, and no wells logs had yet been filed in relation to those intent cards. He was reminded that Nevada Revised Statute § 534.170 requires the filing of well logs for every well drilled in the State of Nevada within 30 days after the well is completed. The State Engineer finds, while the logs were ultimately filed he is concerned as to their accuracy because they were completed months after the actual drilling. The State Engineer finds Michael Wells was responsible for assuring that well logs were timely and accurately filed. The State Engineer finds Michael Wells repeatedly violated Nevada Revised Statute § 534.170.

VI.

The State Engineer finds that the Statewide Well Drillers Advisory Board recommended to the State Engineer that Michael Wells' well driller license be revoked.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.<sup>44</sup>

II.

Nevada Administrative Code § 534.290 provides that:

1. The State Engineer may revoke or refuse to reissue a well-drilling license if he determines, after an investigation and a disciplinary hearing, that the well driller has:

- (a) Intentionally made a material misstatement of facts in his application for license;
- (b) Intentionally made a material misstatement of facts in a log or record of work;
- (c) Been found to be incompetent as a well driller by the state engineer or the board;
- (d) Failed to submit a log or record of work for wells drilled in accordance with the provisions of this chapter;

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<sup>43</sup> Exhibit F.

<sup>44</sup> NRS chapter 534 and NAC chapter 534.

- (e) Failed to comply with or violated any of the provisions of this chapter;
- (f) Failed to comply with or violated any law applicable to well drillers;
- (g) Falsely sworn to any affidavit, proof of completion, proof of beneficial use, log or any other document filed with the division;
- (h) Supplied false information to an owner or a holder of permit or his agent; or
- (i) Failed to report information concerning improper construction or the abandonment of a well pursuant to NAC 534.448.

The State Engineer concludes that Michael Wells intentionally made a material misstatement of facts in a log or record of work thereby violating Nevada Administrative Code § 534.290(1)(b). The State Engineer concludes that Michael Wells repeatedly failed to submit well logs for Notice of Intent to drill cards on which he indicated he was the on-site well driller thereby violating Nevada Administrative Code § 534.290(1)(d). The State Engineer concludes that Michael Wells failed to comply with and violated the provisions of Nevada Administrative Code § 534 thereby violating Nevada Administrative Code § 534.290(1)(e). The State Engineer concludes that Michael Wells failed to adequately supervise temporary well drillers under his license thereby violating Nevada Administrative Code § 534.296. The State Engineer concludes that Michael Wells was the responsible well driller on site and the employee of the contractor identified as doing the work at the Cactus Ave. incident and allowed a well rig to be used that was not properly identified in violation of Nevada Administrative Code § 534.350. The State Engineer concludes that the repetitious serious violations of the laws and regulations governing the drilling of wells in the State of Nevada supports the revocation of Michael Wells' well driller license.

#### **RULING**

As provided in Nevada Revised Statute § 534.160(3) and Nevada Administrative Code § 534.290, the well-drilling license of Mr. Michael Wells is hereby revoked on the grounds that he failed to comply with the statutes and regulations governing the drilling of wells and well drillers in the State of Nevada. Michael Wells may reapply for a well-drilling license at any time in compliance with the provisions of Nevada Revised Statute chapter 534 and Nevada

Administrative Code chapter 534. Upon any application for a well-driller license, the State Engineer will waive any requirement that Michael Wells retake the written examination; however, he must appear before the Statewide Well Drillers Advisory Board at the next scheduled examination.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/SJT/jm

Dated this 7th day of  
April, 2003.