

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF THE WELL DRILLED FOR)
FRANK J. DZIURDA BY THOMAS STITES,))
LICENSE NO. 1190, AND ROBERT STITES,))
LICENSE NO. 1187.)

RULING

GENERAL

The above-entitled matter came before the State Engineer as a written complaint from Frank J. Dziurda in July of 1985. The complaint set forth allegations that a certain well was not properly constructed by Thomas and Robert Stites in Big Smoky Valley, Nye County, Nevada.

Under the authority in NRS 534.160 the State Engineer held administrative hearings on two separate occasions to attempt to resolve the subject complaint.

FINDINGS OF FACT

I.

Thomas Duane Stites is duly licensed (No. 1190) to drill water wells in the State of Nevada, as required in NRS 534.140 and 534.160. Robert Stites is also licensed (No. 1187) to drill water wells in the State of Nevada as required in NRS 534.140 and 534.160.¹

II.

The State Engineer received a complaint, dated July 3, 1985, from Frank J. Dziurda, 1095 Monitor Drive, Reno, Nevada 89512, regarding the completion of an irrigation well in Nye County, drilled for him by T. & R. Well Drilling, of Winnemucca, Nevada. The complaint alleged the Nevada licensed drillers, Thomas and Robert Stites, failed to comply with applicable rules and regulations in the construction of the well.²

¹ Well drillers license files No. 1187 and No. 1190 are public record in the office of the State Engineer.

² State's Exhibit #2, received in evidence at administrative hearing of September 4, 1985, before the State Engineer.

III.

After duly noticing the parties, the State Engineer received evidence and testimony in the matter at an administrative hearing on September 4, 1985.³ As provided in NRS 534.150(7), the State Engineer availed himself of the services of the Well Drillers' Advisory Board to participate in this hearing in an advisory capacity. The evidence and testimony revealed there were in fact certain deficiencies in the construction of the well and that the licensed drillers failed to comply with certain regulations adopted under the Nevada Administrative Code. The recommendation of the Board was to direct the licensed drillers to either repair or plug and seal the subject well. At the conclusion of the hearing the State Engineer withheld a decision on the Board's recommendation in view of evidence that Robert Stites may not have been duly noticed, and reserved the right to reconvene the hearing after noticing Robert Stites for an appearance.⁴

IV.

In response to a follow-up complaint dated September 19, 1988, from Frank Dziurda, and after duly noticing all parties of record, evidence and testimony was received on February 24, 1989, during an administrative hearing in this matter before the State Engineer and the Well Drillers' Advisory Board.⁵ Evidence and testimony revealed that Thomas Stites had effected certain repairs on the subject well and made every effort in good faith to provide Mr. Dziurda with a completed well with which he would be satisfied. The recommendation of the Board was that the reconditioned well did comply with the regulation. The State Engineer concurred with the Board and no disciplinary action was taken against either Thomas Stites or Robert Stites.⁶

³ State's Exhibit #1, received in evidence September 4, 1985.

⁴ See transcript of proceedings before the State Engineer, administrative hearing September 4, 1985.

⁵ State's Exhibit #1 and #2 received in evidence at administrative hearing before the State Engineer February 24, 1989.

⁶ See transcript of proceedings before the State Engineer, administrative hearing February 24, 1989.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter herein.

II.

In response to complainant Frank Dziurda's allegations the construction of the subject well failed to meet Nevada specifications and that licensed well drillers Thomas Stites and Robert Stites failed to comply with the controlling statutes and regulations, the State Engineer received evidence and testimony at administrative hearings before the Well Drillers' Advisory Board.

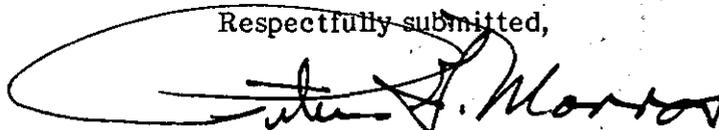
III.

Evidence and testimony received indicated that although the subject well was not initially constructed properly by licensed drillers Thomas Stites and Robert Stites, during the interim period between hearings the licensed drillers effected repairs and otherwise reconditioned the subject well to comply with the regulations for drilling water wells. The Board's recommendation to the State Engineer was that no action be taken against licensed drillers Thomas Stites and Robert Stites. The State Engineer concurred.

RULING

The State Engineer concurs with the recommendation of the Well Drillers' Advisory Board on February 24, 1989, that no action be taken against licensed well drillers Thomas Stites and Robert Stites.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/TKG/bk

Dated this 8th day of

February, 1990.