

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 A WELL BY JESUS MARIEZCURRENA,)
NEVADA LICENSED WELL DRILLER NO. 1996)

RULING

#5003

GENERAL

I.

On or about July 17, 2000, the State Engineer received a complaint by telephone from Mr. Dave Leone regarding the complete and sudden failure of his domestic well at 4155 Hawk Drive, Fallon, Nevada. At the regular meeting of the Statewide Well Driller's Advisory Board held on August 11, 2000,¹ the Board reviewed information regarding the complaint and recommended that the State Engineer set the matter for an administrative hearing pursuant to the provisions of NRS § 534.160.

II.

After all parties of interest were duly noticed by certified mail, an administrative hearing was held on October 12, 2000, before a representative of the office of the State Engineer at Fallon, Nevada.²

FINDINGS OF FACT

I.

The State Engineer finds that the well log filed in the Division of Water Resources in reference to the well drilled at 4155 Hawk Drive and at issue here indicates that the well was drilled by Welsco Drilling Company of Fallon, Nevada, with the

¹ Exhibit Nos. 5 and 6, public administrative hearing before the State Engineer, October 12, 2000. Hereinafter the transcript of the October 12, 2000, administrative hearing will be referred to as "Transcript" and any exhibit from the hearing will be referenced merely by its exhibit number, ex., "Exhibit No. 1".

² Exhibit No. 1; Transcript, public administrative hearing before the State Engineer, October 12, 2000.

on-site well driller being Jesus Mariezcurrena, Well Driller's License No. 1996.³

II.

The well log indicates that the well at issue was drilled on June 6, 1997, and was both drilled and cased to a total depth of 43 feet below ground level.⁴ The evidence indicates that the well operated successfully for almost three years.

After failure of the well, the well owner hired someone to attempt to refurbish it. Approximately one and one-half feet of sand was removed from the well and then the depth of the well was measured at 37.5 feet below ground level.⁵

On July 24, 2000, members of the Division of Water Resources visited 4155 Hawk Drive, Fallon, Nevada, and measured the well depth as being 37.5 feet below ground level. By letter dated July 25, 2000, the State Engineer's representative made Findings of Alleged Violations against Mr. Mariezcurrena indicating that since Mr. Mariezcurrena reported the depth of the well to be 43 feet versus the measured depth of 37.5 feet that he intentionally made a material misstatement of fact in the well log filed which was alleged as a violation of NAC § 534.290(1)(b). The State Engineer's representative further alleged that since Mr. Mariezcurrena falsely swore to a well log filed with the Division of Water Resources that was also an alleged violation of NAC § 534.290(1)(g), and an alleged violation of NAC § 534.290(1)(h), which is supplying false information to a well owner. The letter further alleged that the shallow completion of the well, in view of the fact that other wells in the area were completed to a depth of 70 feet or greater, constituted a violation of NAC § 534.315(2). The State Engineer finds the July 25, 2000, notice of alleged violation provided Mr. Mariezcurrena an opportunity to file a written response, which was done by Mr. Mariezcurreana's employer.⁶

³ Exhibit No. 2.

⁴ Exhibit No. 2.

⁵ Transcript, pp. 12-13, 43-44.

⁶ Exhibit No. 4.

III.

Mr. Leone, under the apparent belief that the well driller and/or his company was not willing to assist him toward some sort of solution, hired another well-drilling contractor to replace the well.⁷ The State Engineer finds the new well was completed to a depth of 70 feet and successfully flow tested on July 23, 2000.⁸

IV.

The well driller's employer provided testimony as to why the well may have failed, such as bio-fouling.⁹ The State Engineer finds that whether the well failed due to either a drop in the water table, bio-fouling or perhaps the dewatering of the zone in which water had been found is not the issue under consideration here. Wells fail for all kinds of reasons and no well driller can guarantee a well will work forever. The issue before the State Engineer is the accuracy of the reporting on the well log.

V.

The State Engineer's representative in the original allegations of alleged violations indicated that the shallow completion of the well, in view of the fact that other wells in the area were completed to a depth of 70 feet or greater, constituted a violation of NAC § 534.315(2). Nevada Administrative Code § 534.315(2) provides that a well driller should take into account the normal annual fluctuations in the demand for water of an area and, if the well is in a developed area, some annual drop in static water level.

At the administrative hearing, no evidence was provided as to the issue of annual fluctuation in water levels due to seasonal uses of water, rather the focus on behalf of the State became that other wells in the area were drilled to depths of approximately 70 feet as opposed to this well being drilled to the reported depth of 43 feet. The State provided evidence that other wells in the same quarter quarter section of land were

⁷ Exhibit No. 3; Transcript, pp. 19-24.

⁸ Exhibit No. 3; Transcript, pp. 19-21.

⁹ Transcript, pp. 78-80.

drilled to depths ranging from 60 to 73 feet.¹⁰ A witness for the well driller countered with evidence that wells just across the street from the well at issue were drilled to depths of 30 to 40 feet;¹¹ however, this evidence was not corroborated by records in the office of the State Engineer.¹²

When questioned, witnesses for the State admitted that if they had drilled to the depth of 43 feet and found good quality water of sufficient flow in coarse sand they would not have gone any deeper either,¹³ and the witness who drilled the replacement well at 4155 Hawk Drive indicated that he does not always research the well logs at the Division of Water Resources as to the depth of other wells in the area in which he is drilling.

The State Engineer finds while he would recommend a well driller be familiar with the depth and lithology of other wells in the area, and take into consideration the depth of those wells while working on the particular well he is drilling, it is also reasonable to stop drilling when good quality water and good flow are found as to the particular well that is being drilled.

VI.

Testimony provided at the administrative hearing indicated that the method of drilling used in the construction of this well could result in less than a full length measurement because the well casing could have been pushed into clay.¹⁴ The well driller was not sure of exactly how much pipe he started with for the deadhead end of the casing, but believed it was between 2 to 4 feet.¹⁵ He then attached 5 feet of perforated pipe to the deadhead,¹⁶ then a full 20 foot section of casing was attached, and the top joint of 13 and a half feet was used to complete the well. The well driller admitted that with the drilling method

¹⁰ Exhibit No. 9.

¹¹ Exhibit Nos. 16 and 17.

¹² Exhibit Nos. 7, 8 and 9.

¹³ Transcript, pp. 57, 69-71.

¹⁴ Transcript, pp. 87-89.

¹⁵ Transcript, p. 102.

¹⁶ Transcript, p. 103.

used that he could have pushed the starter pipe 3-4 feet into soft clay.¹⁷ The well driller testified that he had no way of knowing how much clay was pushed up inside of the casing.¹⁸

The State Engineer finds that the well log filed by Mr. Mariezcurrena's employer, but referencing him as the responsible and licensed well driller, does not indicate that there is clay at the bottom of the hole in the lithology on the well log filed, and finds that the reported depth of the well was not accurate. The well driller and his employer who filed the well log admitted that the actual depth of the well is less because the casing was shoved further into the hole than the well was drilled and the reported well depth is not accurate. The State Engineer finds that while the actual dispute over several feet does not appear to be much, percentage wise it is, and reporting on well logs must accurately reflect what is in the field.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.¹⁹

II.

The State Engineer concludes that Jesus Mariezcurrena and his employer did not accurately report the depth of the well drilled at 4155 Hawk Drive, Fallon, Nevada. The well log was not a sufficiently accurate representation of the well since it did not reflect the depth, thickness and character of the different strata penetrated, and did not show that the casing had been pushed further into the hole than it was drilled, and did not accurately reflect the location of the perforated zone.

RULING

As provided in Nevada Revised Statute § 534.160(3) and Nevada Administrative Code § 534.290, the well-drilling license of Mr. Jesus Mariezcurrena is hereby revoked for a period of sixty (60) days on the grounds that he failed to comply with the statute and regulation by filing a false well log with the State

¹⁷ Transcript, pp. 101-107.

¹⁸ Transcript, p. 107.

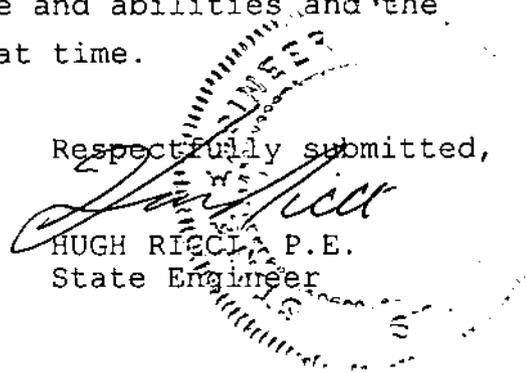
¹⁹ NRS chapter 534 and NAC chapter 534.

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Engineer and owner in violation of Nevada Revised Statute § 534.170(1)(b)(3), and Nevada Administrative Code § 534.290(1)(g) and (h).

The period of revocation shall begin thirty (30) days following the date of this ruling. Mr. Mariezcurrena 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. The State Engineer and the Statewide Well Drillers' Advisory Board will examine the applicant regarding his knowledge and abilities and the disposition of this ruling at that time.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/SJT/bk

Dated this 23rd day of
January, 2001.