

BEFORE THE
REGISTRAR OF CONTRACTORS
CONTRACTORS STATE LICENSE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

FIELDS WELL DRILLING INC.
P.O. BOX 840
BROWN VALLEY, CA 95919
John Theodore Field, RMO
Georgia Dorothea Field, CEO/PRES

Contractor's License No. **309821**, C57

Respondent

CASE No. N2009-397

OAH No. 2011050829

PROPOSED DECISION
AND ORDER

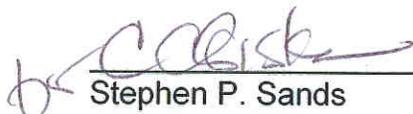
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Registrar of Contractors as his Decision in the above-entitled matter.

IT IS FURTHER ORDERED that pursuant to section 7102 of the Business and Professions Code and section 870 of the Code of Regulations, respondent **FIELDS WELL DRILLING INC.**, License Number **309821**, shall not apply for reissuance or reinstatement of any license for five year(s) from the effective date of this Decision.

IT IS THE responsibility of the Respondent(s) named in this Decision, to read and follow the Order found in the Proposed Decision.

This Decision shall become effective on December 22, 2011.

IT IS SO ORDERED November 21, 2011.



Stephen P. Sands
Registrar of Contractors

BEFORE THE
REGISTRAR OF CONTRACTORS
CONTRACTORS' STATE LICENSE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusations Against:

NICHOLLS CONSTRUCTION &
INVESTMENT CO.
Contractor's License No. 292965, Class B,
WILLIAM MCCLINTOCK NICHOLLS,
Sole Owner

and

FIELDS WELL DRILLING, INC.
Contractor's License No. 209821, C-57
JOHN FIELD, RMO ³
GEORGIA DOROTHEA FIELD,
CEO/PRES

and

In the Matter of the Statement of Issues
Against:

SPRING VALLEY PUMP CO.
JOHN T. FIELD, Sole Owner

Respondents.

Case Nos. N2009-401, N2009-397 and
N2009-455

OAH Nos. 2011051125, 2011050829
and 2011050860

PROPOSED DECISION

Administrative Law Judge Mary-Margaret Anderson, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on July 25 through 29, August 1, and September 12, 2011.

Justin Surber, Deputy Attorney General, represented Complainant Wood Robinson, Enforcement Supervisor I, Contractors' State License Board, Department of Consumer Affairs.

William McClintock Nicholls represented Nicholls Construction & Investment Co. Mr. Nicholls was present only for a portion of the first day of the hearing. He left without explanation and did not return.

Michael V. Nudleman, Attorney at Law, represented Fields Well Drilling, Inc., and Spring Valley Pump Co. John T. Field and Georgia Field were present.

The record closed on September 12, 2011.

PROCEDURAL SUMMARY

On June 6, 2011, the above-captioned matters were consolidated for hearing because they share common questions of law and fact. The Accusations contain allegations against licensees Nicholls Construction and Fields Well Drilling, Inc., as regards the construction of water wells in Napa and Lake counties. The Statement of Issues concerns an application by John Field for a new C-57 contractor's license for a business called Spring Valley Pump. The application was denied, in part because of the pending Accusation against Fields Well Drilling, Inc. John Field appealed the denial and both Respondents filed Notices of Defense of the Accusations. This hearing followed.

FACTUAL FINDINGS

1. Complainant Wood Robinson filed the Accusations and Statement of Issues in his official capacity as an Enforcement Supervisor I of the Contractor's State License Board (Board), Department of Consumer Affairs.

Licenses

2. On April 2, 1974, the Registrar of Contractors (Registrar) issued Contractors' License Number 292965, Class B, General Building Contractor, to Nicholls Construction & Investment Co., William McClintock Nicholls (Nicholls). The license type was "Sole Owner." The license expired on November 30, 2009, and has not been renewed. It is the only license number ever issued by the Registrar to Nicholls, and he is not listed on any other contractor's license.

3. On September 22, 1975, the Registrar issued Contractor's License Number 309821, Class C-57, Well Drilling (Water) to Fields Well Drilling, Inc. (Fields Well Drilling). The license type was "Corporation." John Field (Field) was the Responsible Managing Officer of Fields Well Drilling. Georgia Dorothea Field (Georgia Field) became the CEO/Pres of Fields Well Drilling, on May 11, 2006. The license was cancelled on November 24, 2009, and has not been renewed.

4. Nicholls has never been on the personnel list, nor has he ever been an officer or director of Fields Well Drilling.

5. Napa Valley Well and Pump, Inc., is a California corporation. It was incorporated by Nicholls. It has never held a contractor's license.

Application

6. On April 29, 2009, the Board received an application for a C-57 license from John T. Field, dba Spring Valley Pump. The application was signed by Field on April 27, 2009, under a certification of truthfulness under penalty of perjury. By letter dated April 29, 2010, the Registrar denied the application for the following reason: "Outstanding financial injuries in the amount to exceed \$33,400.00. Criminal charges are pending against applicant and being referred to accusations to revoke license 309821, which applicant is qualifier."

Introduction

7. In 2008, John and Georgia Field, owners of Fields Well Drilling, Inc., sought to terminate the well drilling aspect of their business, and transition into a business that sold pumps and related well equipment. They entered into a contract to sell drilling equipment to Nicholls for the sum of \$300,000. Nicholls paid them \$250,000, and still owes them the balance of \$50,000. Also in 2008, Nicholls operated a business called Napa Valley Well and Pump, Inc. He held a general building contractor license at that time as Nicholls Construction & Investment Co., but did not hold a C-57 license as is required to construct water wells. Nicholls solicited business to construct wells at various locations in Napa, Lake, and Sonoma counties, and used Fields's license number to apply for and obtain building permits.

For Napa County jobs, Georgia signed and had notarized a form that gave Nicholls permission to obtain permits using Fields's C-57 license number. The form does not limit the number of permit applications; it is a blanket authorization that gives the impression that Nicholls is an employee of the license holder. For Lake County, John signed individual permits that were sent to him for wells already in progress. Neither John nor any employee of Fields Well Drilling was present, supervised, or assisted in any way the well drilling projects undertaken under Fields's license number.

Pope Valley Wells, Napa County

8. On or about October 22, 2008, Nicholls contracted with Marijke Wells to drill a well at her mother's property at 1585 Ink Grade Road, Pope Valley, for the estimated price of \$13,175. There are two written contracts for this work in evidence; one with the name Napa Valley Well and Pump, Inc., which is signed only by Nicholls, and one with the name John Fields Well Drilling Inc., which is signed by both Nicholls and Wells. The contractors' license number on both contracts belongs to Fields. On the same date, Nicholls requested and received a down payment from Wells of \$6,500.

9. Wells knew Nicholls because they attended the same church. One day, Nicholls came to her house and said he heard that they needed a well. Wells said that she did not know he was a well driller, and Nicholls told her he had just started. Wells asked about a contractor's license, and Nicholls said the one he was using was not his; that he got it from the people he got the equipment from. Nicholls also told Wells that he did not have enough money for workers' compensation insurance, and insinuated that she needed to pay that. Wells bowed to the considerable pressure placed upon her by Nicholls and signed the contract, despite the fact that she was still in the process of examining it and checking with the Better Business Bureau.

10. In the meantime, Nicholls had applied for a permit from the Napa County Department of Environmental Management using Fields's license number. The County would not allow him to sign without an authorization from Fields. On September 23, 2008, Georgia Field, as President of Fields Well Drilling, signed a County of Napa Authorization to Obtain Permits form. The form states that Bill Nicholls is authorized to apply for permits for Fields Well Drilling, Inc. Georgia Field's signature is notarized. Napa County received the authorization on October 14, 2008, and issued a permit to "Napa Valley Well and Pump Inc." under Field's license on October 22, 2008.

11. Also on October 22, 2008, Nicholls commenced work on Pope Valley Well No. 1. He employed Jeffrey Lee Goss Sr. and Jeffrey Lee Goss Jr. to drill the well. Neither held a C-57 license. Napa County inspected the well and closed the permit "as a functioning well" on November 13, 2008. But Nicholls failed to file a well log, and so the work was never "finaled" by the County.

12. Nicholls told Wells that Well No. 1 was not operational. They entered into an oral contract to drill a second well, and to install tanks and a pump. Well No. 2 was drilled by the Goss father and son from about November 3 to 7, 2008, without a permit. The drilling of Well No. 2 did not lead to a functioning well. At that point, Wells had paid Nicholls approximately \$40,000. As of February 3, 2009, Nicholls and Wells entered a second oral contract to drill Well No. 3, which Nicholls said he would do for free. Jackie Courson, who held an expired C-57 license, did that work, without a permit, in March 2009.

13. A complaint from another landowner led to a County inspection. It was discovered that the drilling of Well No. 3 had led to the pollution of a nearby creek. On March 18, 2009, Sheldon Sapoznik, Environmental Health Supervisor, issued a Notice of Violation letter to Nicholls. In the letter, Sapoznik describes meeting with Nicholls at the property and telling him, among other things, that certain emergency measures must be completed within 24 hours. Although it appears that Nicholls took some steps to remedy the situation, Wells was ultimately responsible. She paid an administrative citation (\$1,000) and was issued a correction notice. Nicholls performed erosion control work and invoiced Wells \$2,555.75.

14. Regarding the financial arrangements, Nicholls subsequently told Wells he only agreed to drill Well No. 3 for free to a certain depth. He presented her with numerous

bills and wanted to be paid immediately. After work was performed that was to prevent additional pollution to the creek, Nicholls presented Wells with a bill for over \$45,000. She was so confused at that point that she wrote a check for the entire amount. After a meeting with County representatives, Wells stopped payment on that check. The sequence of events is unclear, but Nicholls threatened to pour cement down the well hole. He also made personal threats and Wells obtained a restraining order. Nicholls filed a mechanics lien. Wells filed a written complaint with the Board, and a criminal investigation was instituted against Nicholls, which ultimately resulted in a restitution award to Wells of \$62,084.53.

15. No permits were obtained for Well No. 2 or Well No. 3. Also, there were no well logs filed for any of the wells. At the time that Well No. 3 was drilled, neither Nicholls nor the Fields had workers' compensation insurance. Courson, who Nicholls had hired to drill Well No. 3, had previously held a C-57 license, but it was in revoked status at that time. Neither John nor Georgia Field were ever on the Pope Valley property, and Fields Well Drilling did not supervise the drilling of any of the wells.

16. Nicholls did not properly conclude the work he had contracted to perform on the Pope Valley property. Chris Thompson, who is the qualifier for a C-57 license, inspected the Pope Valley Wells at the request of the Board on September 15, 2009. Thompson explained that to "abandon" a well within well drilling parlance requires certain steps be taken to secure the well. In addition, a well log must be created on a Department of Water Resources form and filed for each well. Thompson observed one of the wells to not be finished and to not pump water. If a well is not functional, it must be destroyed in accordance with trade standards. Thompson also found two boreholes that were not properly abandoned or sealed to prevent contamination. Thompson persuasively opined that the Pope Valley wells drilled by Nicholls failed to meet trade standards.

17. At some time after she filed the complaint with the Board, in the summer of 2009, Wells received her first telephone call from Georgia Field. Georgia told Wells it had been a very foolish thing to file the complaint and wanted her to drop it. They talked about a dozen times over the following year. Georgia told Wells that she was in the process of selling the business to Nicholls and that she wanted to help facilitate a resolution. As it was the Fields's license that was used, Georgia was able to get the mechanics lien lifted. This was the first Wells knew that the license Nicholls was using belonged to the Field's. Georgia also recommended and hired licensed well drillers to work on the property. Although Wells's opinion on this has varied over time, she testified that she is grateful to Georgia for the help.

Nice Well, Lake County

18. Barbara Loveless manages the front office of the Lake County Environmental Health Department. In that position, she interacts with home and business owners and contractors. Loveless first became aware of Nicholls when he applied for well drilling permits on September 23, 2008, to drill wells at 880 Lakeview Road, Lakeport. The application was made under the name Napa Valley Well & Pump, Inc., using the Field's

C-57 license number. On September 24, Loveless obtained information on the license from the CSLB website. Loveless found a telephone number for Fields Well Drilling on the website, telephoned, and spoke to a woman, who said that Napa Valley Well & Pump was another name for Fields Well Drilling, and that Nicholls could use their license number. Loveless printed out the website information and noted on the document that Napa Valley was an “aka” of Fields Well Drilling. On another occasion, Loveless called Fields’s office again and spoke with Georgia, who said that Nicholls was “part of their license” and that she was “going to fix that with the Board.”

19. Richard Wayment owns and operates a towing company with a yard at 2531 Stokes Avenue, in Nice. Because of city requirements for landscaping and toilet facilities, in 2008 he sought to have a well drilled at the tow yard. Richard and his wife Stephanie had called different well drillers in the county and knew they needed someone who was licensed and insured. They contracted with one driller, but he kept putting them off. One night Nicholls appeared at the yard and said that he was up the street drilling on a local doctor’s property. The Wayments believed that he was licensed and insured because he supplied a contract form with his name and a business card, and he was performing other jobs in the area.

20. On December 2, 2008, Wayment contracted with Nicholls, under the business name Napa Valley Well and Pump, Inc., to drill a 100-foot well (the Nice well) at the tow yard for \$4,465. Nicholls used Fields Well Drilling’s contractor’s license number on the Wayment contract. On the same date, Nicholls applied to Lake County for a permit to drill the Nice well, using the same business name and license number.

21. John del Signore is an Environmental Health Specialist in Lake County. James Scott is the Supervisor of Environmental Health in Lake County. Both were involved with inspections of Nicholls’s work and with the permit application issues. At some point questions arose among the Lake County officials concerning who can apply for a well drilling permit on behalf of a company. On approximately December 5, 2008, Loveless was directed to find out from the Board who could sign for permits, and she learned that when a corporation holds a license, an officer must sign. On December 5 or December 8, 2008, a telephone conference call occurred between Del Signore, Scott, and Georgia Field. Georgia was informed that it was not proper for Nicholls to sign permits using their license number. Georgia said that it was an accepted practice in other counties. She also said that she did not see why it was a problem for someone from a company to sign the application on the company’s behalf. She talked about the relationship she had with Nicholls, including that he was working under their license and on their behalf. She also added that there was a business relationship; that he was purchasing a well drilling rig; that he was learning; and that he was working under their license. Nonetheless, Georgia was informed that an officer would have to sign the permit applications.

22. On December 9, 2008, three permit applications (one for the Nice Well, and two for other wells in Lakeport) were mailed to Fields Well Drilling for John or Georgia Field to sign. The applications were signed by John on December 14, and received back by

Lake County on December 30, 2008. Despite the new signatures and dates, the permits retained their original issuance dates and numbers. On the applications signed by John, it is noted on the bottom "Redid permit orig didn't have correct well driller signature- BL."

23. In the meantime, on December 5, 2008, Del Signore met Nicholls while inspecting another project. He asked Nicholls where the well rig was and Nicholls said it was in Nice at the Wayment job. Del Signore had serious concerns that he was not "getting straight answers" from Nicholls and regarding the quality of the work he was observing and/or inspecting on the several jobs Nicholls was now involved with in Lake County. A principal concern was the failure of Nicholls to properly secure wells that he was working on.

24. Work had commenced on the Nice well on approximately December 5, 2008. Nicholls hired Jeffrey Gross, Sr. and Jeffrey Gross, Jr. to do the work. Neither Nicholls nor the Fields had workers' compensation insurance at that time. In the middle of the following week, the two men stopped working. They told Wayment that they had not been paid in awhile and that Nicholls had not supplied the materials they needed. Nicholls told Wayment that he had fired them and that he would get replacements. Wayment then learned that the drill bit had become stuck in the well and it was suspected that this was an intentional act by the Gross's. Nicholls asked for more money from Wayment in order to remove the drill bit, but Wayment refused and Nicholls removed the drill rig from the property. Wayment was told that the hole was 140 feet deep. It was left with a five-gallon bucket sitting over it.

25. After the bucket had been left covering the hole for three to four weeks, Del Signore stopped by the Nice well "on a hunch." He was very concerned to find that the well was not secured according to code requirements and that the drill bit remained stuck in the well.

26. In early April, apparently in response to letters from the Wayments and Lake County, Nicholls contacted the Wayments and proposed that the well be sealed with the bit still in the ground. When informed that this was would not be allowed, he obtained help from Jackie Courson, who had previously held a C-57 license, to remove the drill bit. On April 6, 2009, Courson arrived at the tow yard with a white pick-up truck and attempted to pull it out of the ground. These efforts were not successful. Nicholls was not present; he was last on the property in January 2009.

27. In sum, Nicholls abandoned the project with the drill bit still in the ground, leaving a bucket to cover the well. The well was not properly secured and its condition violated Lake County Ordinance 9-66 N. In addition, a well log was never filed.

28. No one involved in the construction of the Nice well project held a C-57 license at the time the work was done. Fields Well Drilling held a C-57 license, but did not participate in or supervise the drilling of the Nice well.

29. Lake County declared the Nice well a nuisance and issued a notice of violation to Wayment, who was required to pay a substantial sum in excess of the original contract price to properly destroy the well. He hired another company to remove the drill bit and to drill a functioning well. The work was not completed until the summer of 2010.

Lakeview Wells, Lake County

30. As stated in Finding 18, Nicholls applied for a permit to drill a well located at 880 Lakeview Road, Lakeport, using Fields Well Drilling's license number. On November 17, 2008, Nicholls applied for a permit to drill another well at the same address using the same license number. The property is divided into lots A, B, and C. The permits were for Lot A and Lot C.

31. On December 5, 2008, Del Signore inspected the Lakeview wells. He was called out to inspect a seal to be placed on the Lot A well and spent about two hours on the property. Del Signore found wells that were not properly secured with steel collars around the casings, one on Lot A and one on Lot C. Del Signore knew there was something wrong with the construction, because he could see that Nicholls had not brought enough cement. Nicholls told him that he needed to return the cement mixer and that he would come back immediately to properly secure the wells. Del Signore dropped by the following day and saw that this had not occurred. On December 17, 2008, Del Signore again visited the property and found wells not properly secured.

Silverado Trail Well, Napa County

32. On September 25, 2008, Nicholls applied for a permit to drill a well on property owned by Miles Alexander on Silverado Trail in Napa. He used the names Napa Valley Well and Pump, Inc., and Fields Well Drilling in the paperwork. No permit was issued because he was not the licensee and the authorization to obtain permits form had not been filed. Also, the application was incomplete as it did not include the proper information concerning setbacks.

33. Sometime later, Napa County officials received a complaint. Nicholls drilled a well without a permit, and it had to be destroyed. There were also concerns about the location, in that it was drilled too close to a septic tank, but this was not established by the evidence.

CSLB investigation

34. Leanne Young is an Enforcement Representative II for the Board. She was first assigned to these matters August 10, 2009. She authored four investigation reports, the last dated March 3, 2010. Young visited the various properties and interviewed all concerned.

Early on in the investigation, Nicholls came to Young's office and told her that he had purchased equipment from the Fields and that part of the agreement was that they were going into business together. They were letting him use their license so that he could drill wells and make money to pay them the \$50,000 that he still owed. He was under the mistaken impression that this was legal; that Napa Valley Well & Pump, his company that was unlicensed, could operate under another licensee's license number with their permission.

35. Young first spoke to Georgia on August 28, 2009, on the telephone. On October 15, 2009, John and Georgia came to her office and gave her more information. They then had numerous telephone conversations over the remaining months of the investigation. Georgia gave Young a variety of explanations of the relationship with Nicholls, and many were inconsistent. She told her that she and John were retired; that they had told Nicholls he could use their license; that they had told Nicholls that he could not use their license; and that they had agreed to participate in two wells with Nicholls (although she never identified which wells, despite being asked numerous times).

At first, Young believed that the Fields might have been victims of Nicholls. As her opinion in that regard started to shift, and after the new license application was denied, Georgia became increasingly angry during her calls. On February 25, 2010, Young received a call from Georgia, who stated that she had been on a conference call the day before with the Lake County officials. She was angry and loud. Her comments included that "the system is screwed"; "the system fucked the one person who tried to help"; "I'm going to write this in a letter and carry it and shove it in David's [Young's supervisor] face"; and "when I thought that son of a bitch had hired a well driller, I thought I might now get the \$50,000 he owes me"; and "you get David and tell him to give me a license"

Relationship between Nicholls and the Fields

36. It is undisputed that Nicholls and the Fields agreed to the purchase and sale of well drilling equipment. The extent of any additional contract terms or ongoing business relationship is hotly disputed. As Nicholls did not testify, his version of the events that followed the sale is derived from statements he made to the Board's investigator and others, and in documents, including correspondence. Nicholls has described the additional business relationship in several ways, including that there was an oral contract to go into business with the Fields; that they agreed that he could use their C-57 license number so that he could secure well drilling permits until he could get his own license, or hire a licensee; and that he was buying the business and that John had agreed to be a consultant. He told Young that the Fields owned 20 percent of Napa Valley Well & Pump, and that Georgia agreed to apply for a new C-57 license for that company, but that they refused to sign the contract. His claim of contract negotiations is somewhat bolstered by the fact that he hired an attorney to draw up a contract, although it was never signed.

37. The story put forth by Georgia and John Field concerning a relationship other than the sale of equipment has varied over time. To Young, John said "Why would I babysit some guy with my license?" In his testimony, John stated that after the sale was made,

Nicholls told him he had a driller whose license was revoked and asked to use his license to get permits. John testified that it was not his intent that Nichols could drill on his own; rather, John intended to “go up there and show him.” He claimed not to have known that by the time he signed permits for wells in Lake County that wells had already been drilled and he stated that he did not supervise any well drilling because of illness. No independent corroboration of these assertions or specific dates were provided, but Georgia and John testified that John was hospitalized or very ill during late 2008 and early 2009.

38. As the above examples demonstrate, the explanations of Nicholls and of John and Georgia Field concerning their business dealings in 2008 and 2009 cannot be reconciled. But as Nicholls has stated, it does not seem reasonable that he would buy expensive equipment without having made an arrangement that would allow it to be used. Nicholls did not have the license he needed to drill wells with the equipment that he purchased from the Field’s. In addition, Georgia Field signed an authorization that allowed Nicholls to obtain permits to drill wells in Napa County. Although Georgia now says she intended him to drill two wells only, the authorization is not limited. The fact remains that he used their license, and hired others who performed incompetently, harming Mary Wells. The authorization and signing of permits directly bolster Nicholls’s version that there was a business relationship. In addition, Georgia told Leanne Young and Stephanie Wayment that they were selling the business to Nicholls and planned to retire. She also told Del Signore that Nicholls was working for her.

39. And this pattern continued into Lake County, where the Field’s actions allowed Nicholls to drill more wells. Georgia told county officials that she did not see why she had to provide more authorization for Nicholls to operate there under the Field’s license than she had in Napa County. When she was told that this was insufficient, that Lake County operated differently, John signed three permits.

40. There is no question that Nicholls behaved illegally and took on work he was not qualified to undertake or even supervise properly. But the Fields allowed their license to be used and there is no evidence other than their self-serving and inconsistent testimony that they were somehow duped. Because of the Field’s actions, Nicholls was set loose with all he needed: equipment and the ability to obtain a permit to perform work he was not qualified to perform. And property owners were harmed as a result.

Post-drilling matters

41. Georgia Field had been told by Young and other CSLB staff that the application for Spring Valley Pump would not be issued absent making the property owners whole. She therefore attempted to mitigate the damages to Wells and Wayment. She used her knowledge of the insurance business to make claims against Nicholls’s contractor’s bond and insurance, and to some extent against her company’s bond. Her motive was clear, as she stated many times to various CSLB employees that she expected to receive the new license as a result. To bolster her application, she sought letters of reference from Wells and Wayment. Although Wells ultimately wrote a letter, her testimony regarding Georgia’s

efforts was somewhat inconsistent. It was clear that Georgia exerted a great deal of pressure on Wells in that regard. And Stephanie Wayment firmly testified that she did not believe Georgia was attempting to help; in fact, Georgia had attempted to block their recovery from the Fields's contractor's bond. Georgia told Stephanie that she should not file against them because it was Nicholls's fault. Stephanie estimated that Georgia called her over ten times to try to convince her to write a supportive letter to the Board.

42. Georgia told Young on numerous occasions that she expected to receive a license for Spring Valley Pump by taking care of the property owners. She became increasingly belligerent and even offensive in her remarks to Young over time, using inappropriate language and veiled threats.

Criminal conviction

43. On June 22, 2010, in the Napa County Superior Court, Nicholls was convicted by his plea of nolo contendere of a violation of Business and Professions Code section 2027.3, fraudulent use of a contractor's license. The conviction is substantially related to the licensed activity.

44. Nicholls was sentenced on September 28, 2010. He was placed on formal probation for three years, pursuant to terms and conditions that include serving 45 days in county jail; serving 15 days in the Court Work Program; paying fines and fees that total \$1,155; and paying restitution in an amount to be determined at a future time. In addition, Nicholls was ordered to have no contact with Mary (Marijke) and Norman Wells and to prepare and file financial disclosure statements. The financial information was apparently to be used to determine the correct amount of restitution. The case was continued to November 2, 2010.

45. The record does not contain any additional information concerning Nicholls's conviction, including to whom he was ordered to pay restitution or in what amount.

Application from Spring Valley Pump

46. The application submitted by John Field for a new C-57 license (Finding 6) contains the following question:

12. To the best of your knowledge, has anyone on this application (or any company the person was a part of, or any immediate family member of the applicant) ever received a citation from the Contractors State License Board or had a contractor's license or other professional or vocational license denied, suspended or revoked by this state or elsewhere?
(Check No if the license was suspended due to lack of a bond, workers' compensation, a qualifier, or family support.)

John Field checked the "No" box next to the question. This answer was incorrect in several respects.

47. In 1987 Georgia Field held a license issued by the California Insurance Commissioner and was the Chief Executive Officer of Loma Rica Insurance Agency. Effective November 30, 1987, the Commissioner revoked Georgia's licenses, stayed the revocation, and issued restricted licenses. This action followed an evidentiary hearing before an administrative law judge on October 5, 1987, in Sacramento. Georgia represented herself at this hearing, and also represented Loma Rica Insurance Agency. The basis for the action was trust fund violations. The agency received funds that were deposited into its trust account, but checks written from the account were dishonored because of insufficient funds. This resulted in the cancellation of numerous policies. It was also found, however, that Georgia believed that there was sufficient money to pay the obligations.

48. John and Georgia were married on September 30, 1987. The hearing in the insurance matter took place only five days later. Nonetheless, John testified that he knew nothing about the hearing or the case at the time, and until this hearing. Georgia also testified regarding the insurance matter. She testified extensively that she worked in the insurance industry for many years and about the pride she feels at her accomplishments in that career. Two of the other respondents in the insurance case were her daughters; it was a family business. Nonetheless, she claims that she never received a copy of the judgment and that the first time she learned that the license was disciplined was at this hearing. Further, she testified that she had not told John at the time about the insurance hearing or that she attended it. The testimony of John and Georgia in this regard was not credible.

49. On December 5, 2007, the Board suspended the license held by Fields Well Drilling, Inc. The suspension was automatic, in that Fields had not notified the Registrar within 90 days of a December 11, 2006, entry of judgment for \$40,000 in favor of Dan A. Nevis and against Fields in Yuba County Superior Court.

John testified that he did not know if Nevis sued Fields, and first said there was no judgment. When showed a settlement document with his signature, he said that he did not know why he would have signed it; that Nevis wanted to go into business with him; and that it was a long time ago. This testimony was not credible.

50. On May 5, 2008, the Board suspended the license held by Fields Well Drilling, Inc. The suspension was automatic, in that Fields had not notified the Registrar within 90 days of a November 29, 2007, entry of judgment for \$5,861.72 in favor of Robert Berard against Fields in Mono County Superior Court.

John testified that he was unaware that Fields's license was suspended in 2008. He recalls that Berard sued Fields and stated that the lawsuit was settled.

51. Georgia was aware of the suspensions and recalled that she received notice of each of them in the mail; however, she testified that she did not recall them when John was

filling out the application. Her testimony that she did not recall the suspensions when the application was filled out was not credible.

Restitution – Pope Valley/Wells

52. Board expert Chris Thompson estimated that at the time of his inspection on September 15, 2009, the cost to correct the defective work on the Wells property was between \$9,400 and \$12,900. In addition, Wells was fined \$1,000 by Napa County. Against this, Wells has received \$10,577 from HCC Surety, Field's bonding company. It is unknown whether Wells has received restitution through Nicholls's criminal probation (Findings 44 and 45). Given these facts, it does not appear that a restitution order is warranted.

Restitution – Nice/Wayment

53. Board expert Rob Schroeder estimated that at the time of his inspection on September 28, 2009, the cost to correct the defective work on the Wayment property was between \$21,702 and \$38,902. On July 10, 2010, Wayment paid another company, McLean & Williams, Inc., \$5,150 to complete a well. Against this, Wayment has received \$2,505.75 from HCC Surety, Fields's bonding company. And it appears that Golden Eagle, which insured Nicholls, has paid McLean \$12,000 for additional work performed. Given these facts, it does not appear that a restitution order is warranted.

Cost Recovery

54. In connection with the Nicholls matter, the Registrar incurred costs of \$1,061.19 for investigative services and \$14,135 in attorney general's fees for a total amount of \$15,196.19. In the absence of evidence to the contrary, it is concluded that the costs incurred were reasonable.

55. In connection with the Fields Well Drilling matter, the Registrar incurred costs of \$2,300.55 for investigative services and \$9,157.50 in attorney general's fees for a total amount of \$11,458.05. In the absence of evidence to the contrary, it is concluded that the costs incurred were reasonable.

LEGAL CONCLUSIONS

Pope Valley Wells, Napa County – Respondent Nicholls

1. Cause for license discipline exists pursuant to Business and Professions Code section 7117.6, in that Nicholls acted outside the classification of his contractor's license (Findings 2, 5, and 8 through 17).

2. Cause for license discipline exists pursuant to Business and Professions Code section 7117, in that Nicholls worked under an unlicensed name (Findings 2, 5, and 8 through 17).
3. Cause for license discipline exists pursuant to Business and Professions Code section 7117 in that Nicholls acted in the capacity of a contractor with personnel not listed on his license (Findings 2, 5, and 8 through 17).
4. Cause for license discipline exists pursuant to Business and Professions Code section 7115 as that section interacts with section 7027.3 in that he intentionally used, with intent to defraud, a contractor's license number not his own (Findings 2, 5, and 8 through 17).
5. Cause for license discipline exists pursuant to Business and Professions Code section 7059.1 in that Nicholls used a business name that indicates he was a qualified well driller when he was not (Findings 2, 5, and 8 through 17).
6. Cause for license discipline exists pursuant to Business and Professions Code section 7161 in that Nicholls made substantial misrepresentations to Wells in connection with the home improvement contracts by falsely indicating his company was licensed to drill wells and that his workers were insured (Findings 2, 5, and 8 through 17).
7. Cause for license discipline exists pursuant to Business and Professions Code section 7107 in that Nicholls abandoned the second and third Pope Valley wells without legal justification or excuse (Findings 2, 5, and 8 through 17).
8. Cause for license discipline exists pursuant to Business and Professions Code section 7110, as that section interacts with Water Code sections 13750.50 and 13751, in that Nicholls drilled the Pope Valley wells without possessing a valid C-57 contractor's license and failed to file well logs (Findings 2, 5, and 8 through 17).
9. Cause for license discipline exists pursuant to Business and Professions Code section 7110 in that Nicholls failed to maintain workers' compensation insurance for his employees while drilling Well No. 2 and Well No. 3 (Findings 2, 5, and 8 through 17).
10. Cause for license discipline exists pursuant to Business and Professions Code section 7110 in that Nicholls violated Napa County Ordinance No. 13.12.260 by failing to obtain permits to drill Well No. 2 and Well No. 3 (Findings 2, 5, and 8 through 17).
11. Cause for license discipline exists pursuant to Business and Professions Code section 7116 in that Respondent committed fraudulent or willful acts that injured Mary Wells (Findings 2, 5, and 8 through 17).

– Respondent Fields Well Drilling

12. Cause for license discipline exists pursuant to Business and Professions Code section 7114, in that Fields Well Drilling aided and abetted Nicholls to evade the Contractors State License Law by allowing him to use its license number to obtain a permit (Findings 3, 4 and 8 through 17).

13. Cause for license discipline exists pursuant to Business and Professions Code section 7117, in that Fields Well Drilling acted in the capacity of a contractor under the unlicensed name Napa Valley Well & Pump, Inc. (Findings 3, 4 and 8 through 17).

14. Cause for license discipline exists pursuant to Business and Professions Code section 7117 in that Fields Well Drilling acted in the capacity of a contractor with personnel not listed on its license (Findings 3, 4 and 8 through 17).

15. Cause for license discipline exists pursuant to Business and Professions Code section 7110 as that section interacts with Water Code section 13751 in that Fields Well Drilling failed to file well logs for the Pope Valley wells (Findings 3, 4 and 8 through 17).

16. Cause for license discipline exists pursuant to Business and Professions Code section 7107 in that Fields Well Drilling abandoned Well No. 2 and Well No. 3 without legal justification or excuse (Findings 3, 4 and 8 through 17).

17. Cause for license discipline exists pursuant to Business and Professions Code section 7116, in that Fields Well Drilling committed fraudulent or willful acts that injured another (Findings 3, 4 and 8 through 17).

18. Cause for license discipline exists pursuant to Business and Professions Code section 7059.1, in that Fields Well Drilling conducted business under Fields Well Drilling and Napa Valley Well and Pump, Inc. (Findings 3, 4 and 8 through 17).

Nice Well, Lake County

– Respondent Nicholls

19. Cause for license discipline exists pursuant to Business and Professions Code section 7117.6, in that Nicholls acted outside the classification of his contractor's license (Findings 2, 5, and 18 through 29).

20. Cause for license discipline exists pursuant to Business and Professions Code section 7117, in that Nicholls worked under an unlicensed name (Findings 2, 5, and 18 through 29).

21. Cause for license discipline exists pursuant to Business and Professions Code section 7117 in that Nicholls acted in the capacity of a contractor with personnel not listed on his license (Findings 2, 5, and 18 through 29).

22. Cause for license discipline exists pursuant to Business and Professions Code section 7115 as that section interacts with section 7027.3 in that he intentionally used, with intent to defraud, a contractor's license number not his own (Findings 2, 5, and 18 through 29).

23. Cause for license discipline exists pursuant to Business and Professions Code section 7059.1 in that Nicholls used a business name that indicates he was a qualified well driller when he was not (Findings 2, 5, and 18 through 29).

24. Cause for license discipline does not exist pursuant to Business and Professions Code section 7161. That section describes home improvement contracts, and the Wayment contract involved a business (Findings 2, 5, and 18 through 29).

25. Cause for license discipline exists pursuant to Business and Professions Code section 7107 in that Nicholls abandoned the Nice well without legal justification or excuse (Findings 2, 5, and 18 through 29).

26. Cause for license discipline exists pursuant to Business and Professions Code section 7110, as that section interacts with Water Code sections 13750.50 and 13751, in that Nicholls drilled the Nice well without possessing a valid C-57 contractor's license and failed to file a well log (Findings 2, 5, and 18 through 29).

27. Cause for license discipline exists pursuant to Business and Professions Code section 7110 in that Nicholls failed to maintain workers' compensation insurance for his employees while drilling the Nice well (Findings 2, 5, and 18 through 29).

28. Cause for license discipline exists pursuant to Business and Professions Code section 7110 in that Nicholls violated Lake County Ordinance section 9-66 N by failing to properly secure the Nice well (Findings 2, 5, and 18 through 29).

29. Cause for license discipline exists pursuant to Business and Professions Code section 7116 in that Respondent committed fraudulent or willful acts that injured Richard Wayment (Findings 2, 5, and 18 through 29).

– Respondent Fields Well Drilling

30. Cause for license discipline exists pursuant to Business and Professions Code section 7114, in that Fields Well Drilling aided and abetted Nicholls to evade the Contractors State License Law by allowing him to use its license number to obtain a permit (Findings 3, 4 and 18 through 29).

31. Cause for license discipline exists pursuant to Business and Professions Code section 7117, in that Fields Well Drilling acted in the capacity of a contractor under the unlicensed name Napa Valley Well & Pump, Inc. (Findings 3, 4 and 18 through 29).

32. Cause for license discipline exists pursuant to Business and Professions Code section 7117 in that Fields Well Drilling acted in the capacity of a contractor with personnel not listed on its license (Findings 3, 4 and 18 through 29).

33. Cause for license discipline exists pursuant to Business and Professions Code section 7110 as that section interacts with Water Code section 13751 in that Fields Well Drilling failed to file a well log for the Nice well (Findings 3, 4 and 18 through 29).

34. Cause for license discipline exists pursuant to Business and Professions Code section 7110 in that Fields Well Drilling violated Lake County Ordinance section 9-66 N by failing to properly secure the Nice well (Findings 3, 4 and 18 through 29).

35. Cause for license discipline exists pursuant to Business and Professions Code section 7107 in that Fields Well Drilling abandoned the Nice well without legal justification or excuse (Findings 3, 4 and 18 through 29).

*Lakeview Wells, Lake County
– Respondent Nicholls*

36. Cause for license discipline exists pursuant to Business and Professions Code section 7117.6, in that Nicholls acted outside the classification of his contractor's license (Findings 18, 30, and 31).

37. Cause for license discipline exists pursuant to Business and Professions Code section 7117, in that Nicholls worked under an unlicensed name (Findings 18, 30, and 31).

38. Cause for license discipline exists pursuant to Business and Professions Code section 7115 as that section interacts with section 7027.3 in that he intentionally used, with intent to defraud, a contractor's license number not his own (Findings 18, 30, and 31).

39. Cause for license discipline exists pursuant to Business and Professions Code section 7059.1 in that Nicholls used a business name that indicates he was a qualified well driller when he was not (Findings 18, 30, and 31).

40. Cause for license discipline exists pursuant to Business and Professions Code section 7110 as that section interacts with Water Code section 13751 in that Nichols drilled the Lakeview Wells without possessing a valid C-57 contractor's license (Findings 18, 30, and 31).

41. Cause for license discipline exists pursuant to Business and Professions Code section 7110 in that Nicholls violated Lake County Ordinance section 9-66 N by failing to properly secure the Lakeview Wells (Findings 18, 30, and 31).

– Respondent Fields Well Drilling

42. Cause for license discipline exists pursuant to Business and Professions Code section 7114, in that Fields Well Drilling aided and abetted Nicholls to evade the Contractors State License Law by allowing him to use its license number to obtain a permit (Findings 18 and 30).

43. Cause for license discipline exists pursuant to Business and Professions Code section 7117, in that Fields Well Drilling acted in the capacity of a contractor under the unlicensed name Napa Valley Well & Pump, Inc. (Findings 18 and 30).

44. Cause for license discipline exists pursuant to Business and Professions Code section 7117 in that Fields Well Drilling acted in the capacity of a contractor with personnel not listed on its license (Findings 18 and 30).

45. Cause for license discipline exists pursuant to Business and Professions Code section 7110 in that Fields Well Drilling violated Lake County Ordinance section 9-66 N by failing to properly secure the Lakeview wells (Findings 30 and 31).

Silverado Trail, Napa County

– Respondent Nicholls

46. Cause for license discipline exists pursuant to Business and Professions Code section 7117.6, in that Nicholls acted outside the classification of his contractor’s license (Findings 32 and 33).

47. Cause for license discipline exists pursuant to Business and Professions Code section 7117, in that Nicholls worked under an unlicensed name (Findings 32 and 33).

48. Cause for license discipline exists pursuant to Business and Professions Code section 7115 as that section interacts with section 7027.3 in that Nicholls intentionally used, with intent to defraud, a contractor’s license number not his own (Findings 32 and 33).

Criminal Conviction

– Respondent Nicholls

49. Business and Professions Code section 7123 provides that “conviction of a crime substantially related to the qualifications, functions and duties of a contractor constitutes a cause for disciplinary action.” Business and Professions Code section 7027.3 provides that “Any person, licensed or unlicensed, who willfully and intentionally uses, with intent to defraud, a contractor’s license number that does not correspond to the number on a currently valid contractor’s license held by that person” is guilty of a misdemeanor. Cause for license discipline exists pursuant to Business and Professions Code section 7123 by reason of Nicholls’s conviction of a violation of Business and Professions Code section 7027.3, a substantially related crime (Finding 43).

Spring Valley Pump Co.

50. Business and Professions Code sections 7069 and 7073, as those sections interact with section 480, subdivision (a)(3), provide that the Board may deny an application for licensure when an applicant has done any act that would be cause for discipline if he or she were licensed. Cause for denial of licensure exists under these sections by reason of the matters set forth in Findings 3, 4, 6, and 8 through 33.

51. Business and Professions Code section 7102 provides, in pertinent part, that

[A] license shall not be issued to any member of the personnel of the revoked licensee found to have had knowledge of or participated in the acts or omissions constituting grounds of revocation within a minimum period of one year and a maximum period of five years after the final decision of revocation and then only on proper showing that all loss caused by the act or omissions for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with.

Cause for denial of licensure does not exist under this section because revocation has not yet been imposed on a contractor's license held by John or Georgia Field.

52. Business and Professions Code section 480, subdivision (c), provides that a license may be denied if "the applicant knowingly made a false statement of fact required to be revealed in the application for such license." Business and Professions Code section 7112 states "omission or misrepresentation of a material fact by an applicant or a licensee in obtaining . . . a license . . . constitutes cause for disciplinary action." Cause for denial of licensure exists under these sections by reason of the matters set forth in Findings 6 and 46 through 51.

Cost Recovery

53. Cause exists, under Business and Professions Code section 125.3, to order Nicholls Construction & Investment Company, Inc., to pay the Board \$15,196.19 as reimbursement of its reasonable costs of investigation and enforcement of this case. (Finding 54.)

54. Cause exists, under Business and Professions Code section 125.3, to order Fields Well Drilling, Inc., to pay the Board \$11,458.05 as reimbursement of its reasonable costs of investigation and enforcement of this case. (Finding 55.)

Discussion – Respondent Nicholls

55. The rationale for the licensing scheme surrounding contractors is public protection. Nicholls committed numerous violations of the laws governing contracting when he began to operate a well drilling business without not only the proper C-57 well drilling license, but apparently also without any personal experience, skill or knowledge about drilling wells. His actions harmed members of the public financially and he was convicted of a crime in connection with his activities. As Nicholls decided not to remain as a participant at the hearing, he did not present any evidence of mitigation or rehabilitation. It may be that his version of the involvement of the Fields is correct, that they lied and reneged on an agreement, but it is ultimately irrelevant. He has demonstrated himself untrustworthy as a licensee, and public protection requires that his license be revoked.

Discussion – Respondents Fields Well Drilling and Spring Valley Pump Co.

56. John and Georgia Field also committed numerous violations of the law governing contracting. Even if their version is correct in one respect, that is, that they authorized Nicholls only to drill two wells using their license, doing so was a serious violation. In order for the licensing scheme to protect the public, licensees must be relied upon to not only operate within the scope of their licenses, but also to not “allow” others to use their license. By one of the accounts they gave, the Field’s allowed Nicholls to use their license in the hope that they would be paid the balance of \$50,000 that he owed them. They gave differing stories about whether John ever intended to help Nicholls with any project, but the fact remains that he did not do so. As a result, property owners suffered financial harm and untold hours were spent by these people in trying to figure out what had happened and finally obtain what they needed: functioning water wells. The actions of both John and Georgia give rise to serious concerns about their suitability as licensees, but Georgia’s actions in particular were troubling. In the guise of attempting to help, she badgered the victims and made threatening and obscene comments to Board staff. In addition, the testimony regarding the application for a new license was not credible in several respects. Public protection requires that their license be revoked and that their application for a new license be denied.

ORDER

Nicholls

1. Contractor’s License Number 292965, Classification B-General Building, issued to Nicholls Construction & Investment Company, Inc., William McClintock Nicholls, Sole Owner, is revoked.
2. William McClintock Nicholls is prohibited from serving as an officer, director, associate, partner or qualifying individual of any license under the Registrar’s jurisdiction during the period that discipline is imposed on License Number 292965.

3. If Nicholls Construction & Investment Company, Inc., has contracting projects in progress, it shall provide the Registrar with a listing of all such projects and the anticipated completion date of each.

4. Nicholls Construction & Investment Company, Inc., shall pay the Registrar's costs of investigation and enforcement in the amount of \$15,196.19 within 60 days of the effective date of this decision.

Fields Well Drilling

5. Contractor's License Number 309821, Classification C-57 Well Drilling (Water), issued to Fields Well Drilling, Inc., is revoked.

6. Any other contractor's license for which John Theodore Field provides the qualifying experience or appearance is revoked.

7. Any other contractor's license for which Georgia Dorothea Field provides the qualifying experience or appearance is revoked.

8. Georgia Dorothea Field is prohibited from serving as an officer, director, associate, partner, or qualifying individual of any license under the Registrar's jurisdiction during the period that discipline is imposed on License Number 309821.

9. John Theodore Field is prohibited from serving as an officer, director, associate, partner, or qualifying individual of any license under the Registrar's jurisdiction during the period that discipline is imposed on License Number 309821.

10. If Fields Well Drilling, Inc., has contracting projects in progress, it shall provide the Registrar with a listing of all such projects and the anticipated completion date of each.

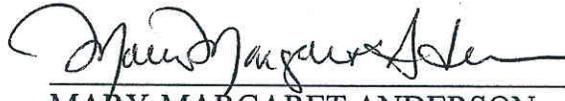
11. Fields Well Drilling, Inc., shall pay the Registrar's costs of investigation and enforcement in the amount of \$11,458.05 within 60 days of the effective date of this decision.

Spring Valley Pump

10. The application of Spring Valley Pump Co., John T. Field, sole owner, for a contractor's license is denied.

11. John Theodore Field is prohibited from serving as an officer, director, associate, partner, or qualifying individual of any licensee of the Contractors' State License Board.

DATED: November 2, 2011



MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings