STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT,	)	
Petitioner,	)	
vs.	)	CASE NO. 86-4866
STANLEY U. MONDS,	)	
Respondent.	)	

RECOMMENDED ORDER

Pursuant to notice, this cause came on for formal hearing before P. Michael Ruff, duly designated Hearing Officer, in Jacksonville, Florida, on August 18, 1987. The appearances were as follows:

APPEARANCES

For Petitioner: Wayne E. Flowers, Esquire
St. Johns River Water
Management District
Post Office Box 1429
Palatka, Florida 32078-1429

For Respondent: Stanley U. Monds:
No appearance

This is a license revocation proceeding whereby the St. Johns River Water Management District (District) seeks to revoke the water well contractor license and water well driller's registration issued to the Respondent by the District. The District maintains in essence that revocation is appropriate because of repeated failures by Respondent to conform to well construction standards and related rules enacted by the District in connection with the construction of water wells by the Respondent or wells constructed under his supervision, as well as incorrect, unlawful abandonment of wells.

At the hearing, after being given approximately one-half hour after the noticed starting time to appear, the Respondent failed to appear. The Notice of Hearing was sent to the Respondent at the Respondent's last known address.

At the hearing the Petitioner, St. Johns River Water Management District, offered the testimony of witnesses Danisse Kemp, J. C. Varnes and James Frazee. The District also introduced Exhibits 1-15, all of which were admitted into evidence.

The issue to be resolved in this proceeding concerns whether the Respondent has committed acts or omissions which constitute violations of the pertinent provisions of Chapter 373, Florida Statutes, and Chapter 40C-3, Florida Administrative Code, so as to justify revocation or other disciplinary action against his licensure status as a water well driller and water well contractor.

FINDINGS OF FACT

1. The State of Florida Department of Environmental Regulation is the administrative agency of the State of Florida charged with the duty to protect the water resources of the State and to administer and enforce the Florida Water Resources Act of 1972, embodied in Chapters 373, Florida Statutes, as well as the rules promulgated thereunder. The St. Johns River Water Management District is a unit of government established by Chapter 373, Florida Statutes, also charged with the duty to administer and enforce that chapter and related rules. The Department of Environmental Regulation, pursuant to Section 373.103, Florida Statutes, and Section 317.104(8), Florida Administrative Code, has delegated to the District the power and authority to administer and enforce Part III of Chapter 373, Florida Statutes, and the rules and regulations adopted pursuant to that part which implement it. Those rules are embodied in Chapter 40C-3, Florida Administrative Code.

2. Stanley U. Monds is a licensed water well contractor licensed by St. Johns River Water Management District. He has been issued license number 2257. Mr. Monds is also registered by the District as a "water well driller." That registration bears the number 2257.

3. The Respondent on various dates in 1984-1986 contracted to construct and constructed water wells from which water was to be drawn for drinking or other domestic purposes, within the geographical boundaries of the District, for the following named individuals:

WELL OWNER	COUNTY	YEAR CONSTRUCTED
Ray Howell	Clay	1986
Clayton McCumbers	Clay	1986
Joe Eddy	Nassau	1986
Joe Eddy	Nassau	1986
Kevin Brooks	Clay	1984
Nancy Harris	Duval	1985
Marcus Rhoden	Baker	1985
Cecil Hagen	Baker	1985
Ken Tenson	Baker	1985
Jim Griffis	Baker	1985
Tom Scott	Baker	1985
Tom Ott	Baker	1985
J. Ray Gatlin	Baker	1984
J. Ray Gatlin	Baker	1984

4. The Respondent never filed "well completion reports" with the District for these wells, as required by District rules.

5. The Respondent also contracted to construct and constructed wells for domestic water use, including drinking, located within the geographical boundaries of the District for the following named individuals and thereafter filed well completion reports, however, the reports were actually filed more than 30 days after the wells were completed and thus in violation of District rules:

WELL OWNER	COUNTY	DATE COMPLETED	COMPLETION REPORT FILED
James Hall	Clay	3/10/86	5/06/86
Dennis Bennett	Duval	6/16/83	5/04/85
Bennett's Hardware	Duval	6/17/83	5/23/85
Don Tenbush	Clay	1/08/86	10/1/86

6. In March 1986, the Respondent installed a water well for a Mr. Joe Eddy in Nassau County, Florida. This well was abandoned by the Respondent and a second well was drilled nearby in June 1986. The Respondent failed to properly abandon the first well by filling it from top to bottom with grout. The Respondent was warned of this condition and reminded to correct it by certified letter sent him by District personnel concerning his improper abandonment of the first well. He acknowledged receiving that letter in a conversation with witness J. C. Varnes, a District field representative. The Respondent, however, refused or failed to later properly abandon the first well by filling it with grout from bottom to top.

7. In June 1986, the Respondent contracted to construct and did construct a second water well for the same Mr. Eddy on his property in Nassau County. That well penetrated multiple aquifers, but the Respondent refused or failed to complete the well so as to prevent cross-contamination of different aquifers or water-bearing strata by water of significantly different quality. This should have been prevented by proper casing of the well which Respondent failed to do. Further, the Respondent used PVC (polyvinylchlride) plastic casing instead of metallic casing in constructing the well and seated the casing by driving it into the ground which resulted in the plastic casing being cracked. The Respondent also failed to grout and seal the annular space between the well casing and the naturally occurring geological formations through which the well bore passed. Another certified letter was sent him by District personnel advising him of these violations of District rules which he acknowledged. He refused or failed to correct the well construction violations, however. Failing to case a well to the bottom of a well or having cracks in the casing allows water and/or other materials from one geological strata to enter the casing, migrate upward or downward and enter aquifers or water-bearing strata at other levels, thus posing a potential of cross-contamination of different aquifers or water-bearing strata due to improper "short casing" or due to cracked casing.

8. In 1984, the Respondent constructed a water well for Kevin Brooks on his property in Clay County, Florida. The well was constructed into an "unconsolidated aquifer," but the Respondent failed to attach a well screen to the bottom of the casing as a filtering device, in violation of well construction standards promulgated by the District.

9. In June 1983, the Respondent contracted to construct and did construct a well for Bennett's Hardware on its property in Duval County. He failed to grout and seal the annular space between the well casing and the naturally occurring geological formations from the bottom to the top of the well in violation of District well construction standards.

10. In 1984, the Respondent constructed two four-inch water wells for J. Ray Gatlin on his property in Baker County, Florida. The Respondent failed to grout and seal the upper three feet of annular space in each of these two wells. He was sent a certified letter on July 14, 1986, advising him of the

deficiencies in the well construction. He acknowledged receiving that letter in a conversation with witness J. C. Varnes, but failed to grout the well properly anyway.

11. Also in 1984, he constructed an eight-inch water well for J. Ray Gatlin on property in Baker County, Florida. He failed to grout and seal the annular space between this well's casing and the surrounding geological formations from the bottom to the top of the casing. He also failed to install a water tight seal at the top of the well casing. After being sent a certified letter advising of these violations by District personnel, he acknowledged to Mr. Varnes once again that he had received that letter. He still failed to properly grout or seal the well after being so warned. On September 16, 1986, he was sent a second certified letter which he acknowledged receiving which instructed him to properly abandon the well. He refused to follow that instruction.

12. In January 1986, the Respondent constructed a water well for Don Tenbush on his property in Clay County. He failed to grout and seal the annular space between the well casing and the geological formation surrounding the casing in this well from top to bottom. This well penetrated multiple aquifers or water-bearing zones and yet the Respondent failed to complete the well so as to prevent potential cross-contamination of different zones or aquifers by water of significantly different quality. He did not case the well all the way down to the producing aquifer at the bottom of the well. Here, again, he acknowledged receiving a certified letter advising him of these violations and requiring correction and yet failed to correct the violations.

13. The Respondent began construction of a second well for Mr. Tenbush on the same parcel of property in January 1986 after abandoning the first well described above. He failed to properly abandon the first well by filling it from bottom to top with grout. He was notified of that deficiency or failure, but refused to correct that condition.

14. In constructing the second well for Mr. Tenbush, he refused to or failed to extend the well casing from the land surface all the way down to the producing aquifer and to seat it. After being sent a certified letter advising him of this violation, receipt of which he acknowledged to Mr. Varnes, he again refused or failed to correct the violation. Both wells drilled by Respondent for Mr. Tenbush subsequently had to be abandoned by another water well contractor.

CONCLUSIONS OF LAW

15. The Division of Administrative Hearings has jurisdiction of the parties to and the subject matter of this proceeding. Section 120.57(1), Florida Statutes.

16. The Respondent is licensed by the District as a water well contractor and is registered as a water well-driller by the District and is subject to the requirements of Part III of Chapter 373, Florida Statutes, and Chapters 4C-3 and 17-20, Florida Administrative Code. Each of the wells referred to in the complaint were drilled within the geographical boundaries of the St. Johns River Water Management District. Each of the allegations of the Administrative Complaint have been substantiated by clear and convincing proof. Ferris vs. Turlington, _____ So.2d _____ (Fla. 1987), (Case No. 69,561; Fla. Sup. Ct. 7/16/87)

17. Failure to file the subject well completion reports, referenced above, within 30 days of completion of the wells constitutes a violation of Section 40C-3.411, Florida Administrative Code. The repeated failure by the Respondent to file well completion reports within the specified time constitutes "willful disregard of a rule or regulation of the district" justifying revocation of his contractor's license and driller's registration in this instance, especially in view of the repeated warnings regarding these and the other violations he was proven to have committed. See Section 40C-3.0391(4) and 40C-3.752(1)(c), Florida Administrative Code.

18. The repeated failure by Respondent to construct water wells in conformance with duly adopted well construction standards of the District, as outlined in the above Findings of Fact, constitutes gross incompetency in the performance of work justifying the revocation of his contractor's license and driller's registration as envisioned by Sections 40C-3.0391(4) and 40C-3.752(c), Florida Administrative Code.

19. The failure of the Respondent to correct the violations of the well construction standards delineated in the above Findings of Fact, after having been repeatedly advised of the violations verbally and in writing and given an opportunity to correct them, clearly constitutes willful disregard of an order issued by the District, for purposes of Section 40C-3.0391(2), Florida Administrative Code.

20. In view of the above Findings of Fact and the evidence of record, the multiple violations committed and the failure to correct them after a reasonable, good faith opportunity was extended to him by District personnel to do so, and upon consideration of the totality of the evidence presented, it is, therefore

RECOMMENDED that Respondent's water well contractor's license number 2257 issued to the Respondent be revoked and that his water well driller's registration number 30354 be revoked by Final Order entered by the St. Johns River Water Management District.

DONE and ORDERED this 28th day of September 1987, in Tallahassee, Florida.

P. MICHAEL RUFF
Hearing Officer
Division of Administrative Hearings
The Oakland Building
2009 Apalachee Parkway
Tallahassee, Florida 32399-1550
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FILED with the Clerk of the
Division of Administrative Hearings
this 28th day of September 1987.

COPIES FURNISHED:

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