

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF)	Case No. 3648
KELBY NELSON)	
)	COMPLAINT,
LICENSE #39594)	NOTICE OF REVOCATION,
)	AND NOTICE OF
Respondent.)	OPPORTUNITY FOR HEARING

I. INTRODUCTION

1. This Complaint, Notice of Revocation, and Notice of Opportunity for Hearing is issued pursuant to the Water Well Standards and Contractors' Practice Act, Neb. Rev. Stat. § 46-1201 to 46-1241 (the "Act").

2. The Complainant is the Interim Director of the Nebraska Department of Environment and Energy (Director). The Respondent is Kelby Nelson, who holds Water Well/Pump Installation Contractor License no. 39594.

II. JURISDICTION

3. Pursuant to Neb. Rev. Stat. § 46-1235, the Director may deny, refuse renewal of, suspend, or revoke a Water Well/Pump Installation Contractor License or may take other disciplinary action following notice and an opportunity for a hearing for:

- a. violation of the Water Well Standards and Contractors' Practice Act or any standards, rules, or regulations adopted and promulgated pursuant to such act;
- b. failure to exercise reasonable care in the practice of the trade;
- c. conduct or practices detrimental to the health or safety of persons hiring the services of the licensee or of members of the general public; or
- d. failing to file a water well registration as required by Neb. Rev. Stat. § 46-602.



4. Pursuant to Neb. Rev. Stat. § 46-1229(3), all rules and regulations adopted prior to July 1, 2021, under the Uniform Credentialing Act and the Water Well Standards and Contractors' Practice Act shall continue to be effective to the extent not in conflict with the changes made by Laws 2021, LB148.

5. Pursuant to Neb. Rev. Stat. § 46-1227, the Nebraska Department of Health and Human Services (DHHS) adopted and promulgated rules and regulations codified as Neb. Adm. Code, Title 178 (Title 178), effective date August 26, 2014.

III. COMPLAINT

6. Respondent constructed fifteen (15) wells and failed to register the wells with the Nebraska Department of Natural Resources in accordance with Neb. Rev. Stat. § 46-602 and NAC 178 12-003.13. The fifteen (15) wells were constructed at the following locations;

- a. Section 5, Township 31 North, Range 50 West;
- b. Section 10, Township 29 North, Range 47 West;
- c. Section 7, Township 27 North, Range 50 West;
- d. Section 32, Township 26 North, Range 50 West;
- e. Section 29, Township 26 North, Range 50 West;
- f. Section 9, Township 24 North, Range 47 West;
- g. Section 18, Township 24 North, Range 45 West;
- h. Section 6, Township 18 North, Range 48 West;
- i. Section 14, Township 21 North, Range 55 West;
- j. Section 13, Township 33 North, Range 49 West;
- k. Section 19, Township 33 North, Range 38 West;
- l. Section 9, Township 27 North, Range 51 West;
- m. Section 26, Township 27 North, Range 53 West;

- n. Morrill County for Weborg Farms; and
- o. Box Butte County for Ditsch Farms.

7. Respondent constructed a well located at Section 5, Township 31 North, Range 50 West without a secure cover pursuant to NAC 178 12-003.02B.

III. NOTICE OF REVOCATION

8. Pursuant to Neb. Rev. Stat. § 46-1235, the Director finds that Respondent's failure to register fifteen (15) wells is a violation of Neb. Rev. Stat. § 46-602 and NAC 178 12-003.13, a failure to exercise reasonable care in the practice of the trade, and a conduct detrimental to the health or safety of persons hiring the services of Respondent and of members of the general public.

9. Pursuant to Neb. Rev. Stat. § 46-1235, the Director finds that Respondent's failure to install a secure cover or cap when constructing the well located at Section 5, Township 31 North, Range 50 West is a violation of is a violation of Neb. Rev. Stat. § 46-1233(1) and NAC 178 12-003.02B, a failure to exercise reasonable care in the practice of the trade, and a conduct detrimental to the health or safety of persons hiring the services of Respondent and of members of the general public.

10. Pursuant to Neb. Rev. Stat. § 46-1235, Respondent is hereby given NOTICE OF REVOCATION of license number 39205. This revocation is final 30 days from receipt of this Notice unless a hearing is requested pursuant to Section IV.

IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

11. Pursuant to Neb. Rev. Stat. § 46-1235, Respondent has the right to appeal this decision and REQUEST A HEARING. Respondent must request a hearing, in writing, no later than thirty (30) days after receipt of this Notice.

12. A written request for a hearing must conform to the requirements of Neb. Admin. Code, Title 115, Rules of Practice and Procedure. A request for a hearing may be filed by mail to:

Kara Valentine, Interim Director
Nebraska Department of Environment and Energy
P.O. Box 98922
Lincoln, Nebraska 68509-8922

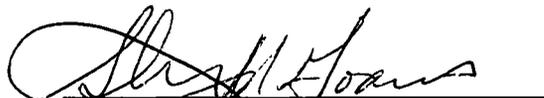
or may be delivered to the NDEE's Lincoln office located at 245 Fallbrook Blvd., Lincoln, Nebraska.

V. RESERVATION OF OTHER ACTIONS AND REMEDIES

13. Nothing in this Complaint, Notice of Revocation, and Notice of Opportunity for Hearing precludes the Complainant from pursuing other equitable remedies or legal action.

Dated this 26th day of December, 2024.

ON BEHALF OF THE DIRECTOR

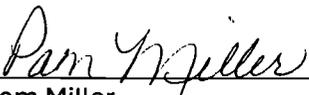


Steve Goans,
Deputy Director

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Complaint, Notice of Revocation, and Notice of Opportunity for Hearing* has been served upon Respondent by both Certified Mail and First-Class mail through the United States Postal Service on this 26 day of December, 2024 addressed to Petitioner as follows:

Kelby T Nelson
1611 County Road 66
Alliance, NE 69301 5240



Pam Miller