

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF)	Case No. 3656
MICHAEL D. BEHREND'S)	
)	COMPLAINT,
LICENSE #39614)	NOTICE OF PROBATION,
)	AND NOTICE OF
Respondent.)	OPPORTUNITY FOR HEARING

I. INTRODUCTION

1. This Complaint, Notice of Probation, 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 (the "Director"). The Respondent is Michael D. Behrends, who holds Water Well/Pump Installation Contractor License no. 39614.

II. JURISDICTION

3. Pursuant to Neb. Rev. Stat. § 46-1229, the Department of Environment and Energy (the "Department") is tasked with issuing licenses to engage in the construction or decommissioning of water wells or the installation of pumps or pumping equipment to individuals who apply to the Department and demonstrate professional competency.

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

¹ Laws 2021, LB 148, transferred the powers and duties of the Department of Health and Human Services pursuant to Water Well Standards and Contractors' Practice Act, Neb. Rev. Stat. § 46-1201 to 46-1241, to the Department of Environment and Energy and its director, with an operative date of July 1, 2021.



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

6. 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 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.

III. COMPLAINT

7. At all times relevant, Respondent was licensed as a Pump Installation Contractor and a Well Drilling Contractor under license no. 39614.

First Cause of Action

8. Neb. Rev. Stat. § 46-602(1) requires that each water well, constructed in the state, to be registered with the Department of Natural Resources within sixty (60) days after completion of construction by the licensed water well contractor who constructed the water well.

9. Title 178 requires licensed water well contractors to register all wells with the Nebraska Department of Natural Resources on forms provided by that Department. Title 178 12-003.13.

10. Respondent constructed three (3) wells at the following locations:

- a. Section 12, Township 9 North, Range 4 East (Well 1);
- b. Section 12, Township 9 North, Range 4 East (Well 2); and

c. Section 30, Township 12 North, Range 7 East.

11. Respondent failed to register the wells identified in Paragraph 10 with the Nebraska Department of Natural Resources in accordance with Neb. Rev. Stat. § 46-602(1) and NAC 178, 12-003.13.

Second Cause of Action

12. Respondent constructed nine (9) wells and failed to register those wells within sixty (60) days after completion of construction as required by Neb. Rev. Stat. § 46-602(1). The construction completion date and registration date for those wells were as follows:

Well Registration Number	Completion Date	Registration Date
G-188460	7/11/2019	11/04/2019
G-188461	7/4/2019	11/04/2019
G-201125	6/19/2024	9/19/2024
G-201126	6/19/2024	9/19/2024
G-201127	6/19/2024	9/19/2024
G-201128	12/3/2020	9/19/2024
G-201129	12/2021	9/19/2024
G-201133	12/2021	9/19/2024
G-201241	5/26/2020	10/1/2024

Third Cause of Action

13. Title 178, 12-003.02B requires that all water wells be protected with a secure cover or cap.

14. The Department inspected a well which Respondent constructed in Section 12, Township 9 North, Range 4 East (Well 1). The well was constructed without a secure cover as required by NAC 178, 12-003.02B.

III. NOTICE OF PROBATION

15. Pursuant to Neb. Rev. Stat. § 46-1235, the Director finds that:

- a. Respondent's failure to register the three (3) wells identified in the First Cause of Action is a violation of Title 178 (Neb. Rev. Stat. § 46-1235(1)), a failure to exercise reasonable care in the practice of the trade (Neb. Rev. Stat. § 46-1235(3)), and a failure to file a water well registration required by subsection (1) of 46-602 (Neb. Rev. Stat. § 46-1235(8));
- b. Respondent's failure to register the nine (9) wells identified in the Second Cause of Action within sixty (60) days after completion of construction is a failure to file a water well registration required by subsection (1) of 46-602 (Neb. Rev. Stat. § 46-1235(8)); and
- c. Respondent's construction of the well identified in the Third Cause of Action without a secure cap or cover is a violation of Title 178 (Neb. Rev. Stat. § 46-1235(1)), a failure to exercise reasonable care in the practice of the trade (Neb. Rev. Stat. § 46-1235(3)), and is conduct or practices detrimental to the health or safety of persons hiring the services of Respondent or of members of the general public (Neb. Rev. Stat. § 46-1235(6)).

16. Pursuant to Neb. Rev. Stat. § 46-1235, Respondent is hereby given NOTICE OF PROBATION of license number 39614. This NOTICE OF PROBATION will become final 30 days from receipt of this Notice unless a hearing is requested pursuant to Section IV.

17. License number 39614 shall remain on probation for a period of ninety (90) days from the date that this NOTICE OF PROBATION becomes final. Respondent is subject to the following conditions of the probation:

- a. Respondent is prohibited from engaging in any activity which requires a license under the Act, unless Respondent provides notice to NDEE at least three (3) working days prior to the activity taking place. The Notice must provide NDEE with the time and place where the activity is to be performed and any other information necessary to facilitate oversight of the activity by Department staff. Working day means Monday through Friday but shall not include Saturday, Sunday, or a federal or state holiday. Notice must be made by email or phone call to:

David Miesbach
david.miesbach@nebraska.gov
(402)471-4982

- b. Respondent must register the three (3) wells identified in the First Cause of Action of Section III in accordance with Neb. Rev. Stat. § 46-602 within fourteen (14) days from the date that this NOTICE OF PROBATION becomes final; and
- c. Respondent must register any other well which has not been registered in accordance with Neb. Rev. Stat. § 46-602.

18. A failure to comply with any of the conditions in Paragraph 17 may result in additional disciplinary action, including but not limited to, extension of the probationary period, license suspension, or license revocation.

IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

19. 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.

20. 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:

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

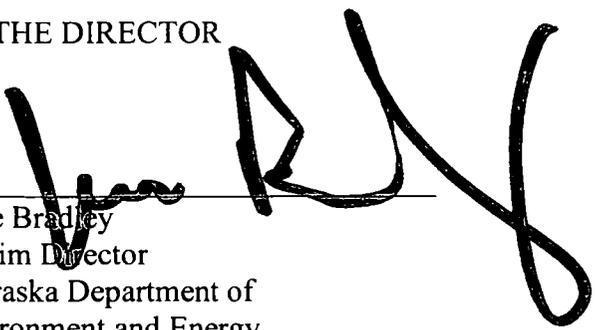
or may be delivered to the NDEE's Lincoln office located at 245 Fallbrook Blvd., Lincoln, Nebraska.

V. RESERVATION OF OTHER ACTIONS AND REMEDIES

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

Dated this 28 day of April, 2025.

BY THE DIRECTOR



Jesse Bradley
Interim Director
Nebraska Department of
Environment and Energy