

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF)	Case No. 3562
DENNIS E. WALSH)	
)	COMPLAINT,
IIS 397540)	NOTICE OF REVOCATION,
LICENSE #39205)	AND NOTICE OF
)	OPPORTUNITY FOR HEARING
Respondent.)	

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").¹

2. The Complainant is the Director of the Nebraska Department of Environment and Energy (Director). The Respondent is Dennis Walsh, who holds Water Well/Pump Installation Contractor License no. 39205.

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;

¹ Laws 2021, LB 148, transferred the powers and duties of the Department of Health and Human Services (DHHS) 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.



- 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. practice of the trade in contravention of any limitation placed upon the license.

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. On September 19, 2019, DHHS received a complaint regarding two water wells drilled by Respondent in Dixon County, NE. A subsequent inspection performed by DHHS on October 4, 2019, determined that Respondent failed to properly decommission one well in accordance with Title 178 and failed to construct a second well according to the design standards in contained in Title 178. Respondent failed to register both wells in accordance with Neb. Rev. Stat. § 46-602.

7. On December 5, 2019, pursuant to Neb. Rev. Stat. § 46-1235 (Reissue 2010), a Notice of Disciplinary Action placing Respondent's Water Well/Pump Installation Contractor license on probation was signed by Darrell Klein, Deputy Director of Public Health for DHHS. The license was placed on probation until December 31, 2020. During the probation period, Respondent was to notify the DHHS 48 hours prior to engaging in any activities which required a Water Well Contractor's License.

8. On January 12, 2020, Respondent drilled a well in Dixon County, NE, registration number G-189085, without installing a primary aquifer seal.

9. On March 18, 2020, Respondent drilled a well in Dakota County, NE, registration number G-189342, without providing DHHS with notice 48 hours prior.

10. On July 28, 2020, Respondent drilled a well in Dixon County, NE, registration number G-190157, without providing DHHS with notice 48 hour prior and without installing a primary aquifer seal.

11. Title 178, Chapter 12, 12-003.08A requires that all water wells, with the exception of bored wells, temporary dewatering wells, and wells that require surface casing and additional gravel pack throughout the life of the well, have a 5 foot primary aquifer seal of nonslurry bentonite or high solids bentonite slurry.

12. Construction of wells G-189085 and G-190157 without installing a primary aquifer seal was a violation of Title 178, Chapter 12, 12-003.08A.

13. Construction of wells G-189342 and G-190157 without providing DHHS with notice 48 hours prior to performing the activity was a violation of the probationary condition placed upon Respondent's license.

III. NOTICE OF REVOCATION

14. Pursuant to Neb. Rev. Stat. § 46-1235, the Director finds that Respondent's failure to install a primary aquifer seal on wells G-189085 and G-190157 is a violation of regulations promulgated pursuant to the Act, a failure to exercise reasonable care in practice of the trade, and a practice that is detrimental to the health or safety of the public. The Director further finds that by failing to provide DHHS with notice 48 hours prior to drilling wells G-189342 and G-190157, Respondent practiced the trade in contravention of a limitation placed upon Respondent's license.

15. 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

16. 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.

17. 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:

Jim Macy, 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

18. 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 25th day of October, 2021.


BY THE DIRECTOR


Jim Macy
Director

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Complaint, Compliance Order and Notice of Opportunity for Hearing, with attachments, were served by certified United States mail, postage prepaid, return receipt requested this 25th day of October, 2021, upon the Respondent listed below:

Dennis Walsh
1004 Ithaca Way
Dakota City, NE 68731
USPS Label # 9414811898765856861717



Lauren Triplett
Office Specialist - Legal Division