

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

**IN THE MATTER OF GERALD L.
BROWN**

NDEQ ID # 397958

Respondent.

CASE NO. 3382

**COMPLAINT, COMPLIANCE ORDER,
AND NOTICE OF OPPORTUNITY
FOR HEARING**

I. INTRODUCTION

1. This Complaint, Compliance Order, and Notice of Opportunity for Hearing is issued pursuant to the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq. (Reissue 2014, Cum. Supp. 2016) and the Nebraska Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act, § 81-15, 236 et seq. (Reissue 2014, Cum. Supp. 2016).

2. The Complainant is the Director, Nebraska Department of Environmental Quality (“Department”). The Respondent is Gerald L. Brown, a Certified Onsite Wastewater Treatment Systems Professional (Certificate No. 1179).

3. Pursuant to Neb. Rev. Stat. § 81-1504(10) and (15) the Department is authorized to require submission of plans, specifications and other data relative to disposal systems and to require access to records relating to discharges which cause or contribute to land or water pollution.

4. Neb. Rev. Stat. §§ 81-1506(2)(b) and 81-15, 251 make it unlawful for a certified professional to construct or install any onsite wastewater treatment system or part thereof without obtaining the necessary permits from the Department.



5. Pursuant to Neb. Rev. Stat. §§ 81-1505, 81-15, 247 and 81-15, 248.01, the Council adopted and promulgated rules and regulations codified as Neb. Adm. Code, Title 124 - *Rules and Regulations for the Design, Operation and Maintenance of On-site Wastewater Treatment Systems*.

6. Title 124, Ch. 22, 001 requires any onsite wastewater treatment system constructed, reconstructed, altered, modified, or otherwise changed by a certified professional to be registered with the Department within 45 days of completion.

7. Title 124, Ch. 22, 004 establishes a \$140.00 registration fee for an onsite system registration received by the Department within 45 days of completion and a non-refundable \$450.00 final late fee for any onsite system registration received by the Department more than 90 days after completion.

II. COMPLAINT

8. On or about May 9, 2018 the Department issued a Notice of Violation letter to Respondent requesting registration forms, fees and late fees for thirty-two (32) unregistered onsite wastewater systems that were identified through a search of the state one-call system. Respondent provided registration forms and fees for six of the systems.

9. The Department subsequently attempted to contact the remaining homeowners and at this time has received correspondence from seven homeowners verifying that Respondent had installed or modified an onsite wastewater system. A list of the seven systems is attached.

10. According to Department records, Respondent has not registered or paid the initial registration fee of \$140.00 or the final late registration fee of \$450.00 for the seven systems in violation of Neb. Rev. Stat. §§ 81-1506(2)(b), 81-15, 251 and Neb. Adm. Code Title 124, Ch. 22.

11. Respondent accordingly owes late fees of \$4,130.00 (seven systems at \$140.00 registration fee per system and \$450.00 final late fee per system).

III. COMPLIANCE ORDER

12. It is hereby ORDERED that Respondent shall within sixty (60) days of this Order:

- a. Register the seven onsite wastewater systems identified in the attachment to this Order and pay \$4,130.00 in registration fees and final late fees to the Department.
- b. Provide the Department with records relating to any onsite wastewater system constructed, reconstructed, altered, modified or otherwise changed by the Respondent within the previous four years from the date of this Order.

13. Respondent shall send the registration forms and check(s) or money order(s) payable to the Nebraska Department of Environmental Quality at the address below:

Nebraska Department of Environmental Quality
Attn: Shelley Schneider, P.E.
P.O. Box 98922
Lincoln, Nebraska 68509-8922

IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

14. This Order shall become final, pursuant to Neb. Rev. Stat. §§ 81-1507(1) and 81-15,251, unless the Respondent files an answer and requests, in writing, a hearing no later than thirty days after receipt of this Order. Failure to answer within thirty days shall be deemed an admission of the allegations of the Complaint.

15. A written answer to the Complaint, Compliance Order, and Notice of Opportunity for Hearing must conform to the requirements of Title 115, Neb. Admin. Code *Rules of Practice and Procedure*, Ch. 7. The answer and request for hearing may be filed by mail to:

Jim Macy
Director
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922

or may be delivered to the Department's Lincoln office located at 1200 N Street, Suite 400, Lincoln, Nebraska.

V. SETTLEMENT CONFERENCE

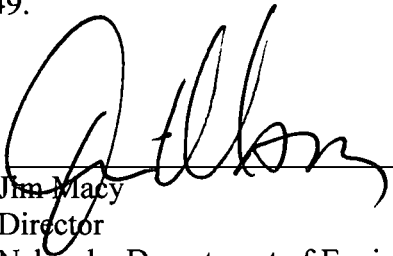
16. Whether or not the Respondent requests a hearing, an informal settlement conference may be requested by writing to Thomas O'Connor, Attorney, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or have your attorney make such a request.

17. A request for settlement conference does not extend the thirty (30) day period during which a written answer and request for hearing must be submitted or otherwise delay the final effective date of this Order.

VI. INJUNCTIVE RELIEF AND PENALTY PROVISIONS

18. The Department reserves the right to pursue enforcement in the proper court of law for injunctive relief or to seek civil or criminal penalties for any violations that are the subject of this Complaint, Compliance Order, and Notice of Opportunity for Hearing. Nothing in this Complaint, Compliance Order, and Notice of Opportunity for Hearing precludes the Department from pursuing such enforcement. Failure to obey this Order may result in fines up to \$10,000 per violation per day, as set out in Neb. Rev. Stat. § 81-1506 and 81-15, 253 in addition to revocation or suspension of your certification as described in Neb. Rev. Stat. § 81-15, 249.

3-21-19
Date



Jim Macy
Director
Nebraska Department of Environmental
Quality

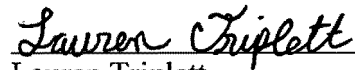
**ATTACHMENT TO ORDER
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Name	Address	City	Facility ID	Work Done	Registration/Late Fee Required
Tavis Sparks	10180 US Highway 26	Bridgeport	110919	Septic Line Repair	Yes
Sheila Newell	3475 County Road 36	Kimball	69157	full septic install	Yes
Ken Koppell	Country Road 54	Bushnell	110343	full septic install	Yes
Sherryl Geillespie	233 Lingholm St	Sidney	110912	full septic install	Yes
Michael Schmidt	4836 Road 99	Gurley	110918	Homeowner Repaired	Yes
Norman Marshall	US Highway 30	Kimball	110900	full septic install	Yes
Tom Gardner	7 Stahla Dr	Kimball	110901	Gerry Brown	Yes

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint, Compliance Order and Notice of Opportunity for Hearing, was served by certified United States mail, postage prepaid, return receipt requested this 10th day of April, 2019, upon the Respondent listed below:

Gerald Brown
1 Maple Cir
Kimball, NE 69145



Lauren Triplett
Staff Assistant - Legal Division