

MINUTES
Middle Republican Natural Resources District
Penalty Hearing
Wednesday, August 24, 2022 at 1:00 p.m.
Curtis, Nebraska

Board Members Present: Tracy Zink, Joe Anderjaska, Shane Rippen, Benjie Loomis, Travis Rousselle, Dan Nelsen, Dan Estermann, Jay Schilling, Jolene Messinger, Brad Randel, Rick McConville

Board Members Absent: None

NRD Staff: Jack Russell, Sylvia Johnson and Stacie Owens

Hearing Officer: Jeffery P. Ensz

NRD Attorney: Jeffrey Cox

Applicant: Ami Hauxwell

Applicant's Attorney: George Vinton

Court Reporter: Jen McCarter

Other Witnesses: None

1. CONVENE HEARING. The hearing was called to order by Chairman Zink at 1:25 p.m. The agenda was circulated to those present.

The Board Secretary recorded those present. This hearing was recorded by a court reporter. The official Transcript and Exhibits will be filed at the Middle Republican NRD, Curtis, Nebraska.

2. STATEMENT OF PURPOSE

The purpose of this meeting is for the MRNRD to review evidence of alleged violations of the Nebraska Groundwater Management and Protection Act and the MRNRD's Rules and Regulations by Ruggles Farms Inc./Bryan and Ami Hauxwell.

3. DESIGNATION OF HEARING OFFICER

Chairman Zink named Jeffery Ensz as the hearing officer and turned the hearing over to him. Ensz restated the reason the for hearing and the introduction of Jeffrey Cox, attorney for the MRNRD; George Vinton, attorney for Ruggles Farms Inc./Bryan and Ami Hauxwell; and, Ami Hauxwell.

4. NOTE APPEARANCES FOR THE RECORD.

Sign in sheet was distributed.

5. OPENING STATEMENTS.

Cox waived his opening statement.

Vinton stated he will limit his testimony based all everything previously submitted in the cases. Requested the Board think about a penalty as being no pooling for this year.

6. PRESENTATION OF EVIDENCE AND TESTIMONY.

Cox offered Exhibit 1 - 9. Vinton: No objection to 1, 4, 5, 7 and 8. Objected to 2, 3, 6 and 9. Ensz noted objection and overruled. Exhibit 1 - 9 received.

Russell was sworn in by McCarter.

Russell was questioned about his history with the MRNRD and his familiarity with the Hauxwell case. Vinton had a number of objections which were all overruled.

Cox offered Exhibit 10. Vinton objected. Noted and overruled.

Cox offered Exhibit 11. Vinton objected. Noted and overruled.

Vinton requested additional time. Ensz denied. Vinton went on the question Russell on prior hearings, meetings, board members over the last few years, Blankenau's involvement. Cox objected to some of the questioning. Ensz noted and overruled.

Vinton offered Exhibits 12 -17. Cox: No objection to 14 – 17. Objected to 12 and 13. Ensz noted and overruled.

Nothing further for Russell.

Vinton requested to call Tracy Zink to the stand. Cox objected that it was inappropriate to call a board member to testify on a subject that she needs to make a decision on. Ensz denied the request for Zink to take the stand.

7. CLOSING STATEMENTS

Cox expressed the importance of giving due consideration to Russell's recommendation.

Vinton went on the explain that Hauxwell's tried to cooperate and acted in good faith, they have already endured penalties from not being allowed to pool, expressed a desire to have a hearing with an impartial Board and a number of other items relating to previous hearings.

Ensz turned hearing back over to Chairman Zink.

The hearing was closed at 2:54 p.m.

Stacie M. Owens
Secretary to the Board

MINUTES
Middle Republican Natural Resources District
Special Meeting
Wednesday, August 24, 2022 at 1:30 P.M.
MRNRD Office, 208 Center Avenue, Curtis, NE

Board Members Present: Tracy Zink, Joe Anderjaska, Shane Rippen, Benjie Loomis, Travis Rousselle, Dan Nelsen, Dan Estermann, Jay Schilling, Jolene Messinger, Brad Randel, Rick McConville

Board Members Absent:

NRD Staff: Jack Russell, Sylvia Johnson and Stacie Owens

Others: Don Blankenau, Jeffrey Cox, George Vinton, Ami Hauxwell, Jen McCarter, Jen McCarter

Information Provided the Board

Agenda

SPECIAL MEETING

1. The special meeting was called to order by Chairman Zink at 2:55 P.M.

a. Verify Quorum.

2. The agenda was circulated to those present.

a. Items added since mailing. None.

3. Official notice of this meeting was published in the North Platte Telegraph and the McCook Daily Gazette and was posted at the MRNRD Office and on the District Website at www.mrnrd.org. As a courtesy it was also provided to local radio stations. Guests should also note the location of a current copy of the statutes dealing with public meetings.

4. The purpose of this meeting is for the MRNRD to review evidence of potential violations of the Nebraska Groundwater Management and Protection Act and the MRNRD's Rules and Regulations by a landowner.

5. Open Forum.

None.

6. Executive Session.

Penalty Assessment.

◆ Anderjaska moved to enter into executive session to penalty assessment with the Board, hearing officer and Owens. Seconded by Schilling.

Ayes – 11 Nays – 0 Motion Carried

Chairman Zink restated, for the record, the limitation of the subject matter of the closed session.

Entered at 3:14 P.M.

- ◆ Randel moved to exit the executive session. Seconded by Schilling.
Ayes - 11 Nays – 0 Motion Carried

Exited at 4:37 P.M.

Chairman Zink reminded everyone that entered into executive session that the discussions held within that timeframe were private and should not be discussed.

7. Action on Public Hearing.

- ◆ Anderjaska moved to approve MR10-2022 as read out loud by the Chairman and filed with these minutes. Seconded by Schilling.
Ayes - 11 Nays – 0 Motion Carried

The meeting was adjourned at 5:05 P.M.

Stacie M. Owens, Board Secretary