

MINUTES
Middle Republican Natural Resources District
Penalty Hearing
Wednesday, August 24, 2022 at 10:00 a.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: Don Blankenau

Applicant: David Miller

Applicant's Attorney: None

Court Reporter: Jen McCarter

Other Witnesses: None

1. **CONVENE HEARING.** The hearing was called to order by Chairman Zink at 10:00 a.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 David and Jessica Miller.

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 for hearing and the introduction of Don Blankenau, attorney for the MRNRD and David Miller, representing himself.

4. **NOTE APPEARANCES FOR THE RECORD.**

Sign in sheet was distributed.

5. **OPENING STATEMENTS.**

Blankenau stated the reason for the hearing and what the Board's responsibilities were here today.

6. **PRESENTATION OF EVIDENCE AND TESTIMONY**

Blankenau offered Exhibit 1. Miller: No objection. Exhibit 1 received.

Blankenau offered Exhibit 2. Miller: No objection. Exhibit 2 received.

Blankenau then called Jack Russell to testify. Russell was sworn in by McCarter.

Blankenau offered Exhibit 4. Miller: No objection. Exhibit 4 received.

Russell went over the discussions he had with Miller that gave him ideas of what options he had to get in compliance.

Blankenau offered Exhibit 5. Miller: No objection. Exhibit 5 received.

Blankenau offered Exhibit 3. Miller: No objection. Exhibit 3 received.

Russell stated the Miller had shut off the pivot when he was alerted that he was out of compliance and it has not run since.

Blankenau offered Exhibit 6. Miller: No objection. Exhibit 6 received.

Board members asked a number of questions relating to history of land, surface water acres and options that were discussed.

Russell was dismissed.

Miller requested a continuance to get things in order. Ensz denied request. Miller was sworn in by McCarter.

Miller offered Exhibit 7 – 12. Blankenau: No objection. Exhibits 7 – 12 received.

Board members asked a number of questions of Miller as to original certification, why he is selling the property, surface water rights clarification, water report identifying the number of groundwater acres on the property, clarification of how much of the parcel was being sold under the agreement to Hauxwell's and DNR's acres on their website compared to NRD certification documents.

7. CLOSING STATEMENTS

Blankenau made a brief closing statement. Miller also provided a brief closing statement covering the fact he hadn't fully understood the rules.

Both parties rest.

The hearing was closed at 10:40 a.m.

Stacie M. Owens
Secretary to the Board

MINUTES
Middle Republican Natural Resources District
Special Meeting
Wednesday, August 24, 2022 at 10:30 A.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: None

NRD Staff: Jack Russell, Sylvia Johnson and Stacie Owens

Others: Don Blankenau, David Miller, Jeffrey Cox, Jen McCarter

Information Provided the Board

Agenda

SPECIAL MEETING

1. The special meeting was called to order by Chairman Zink at 10:41 A.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.

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

Ayes – 11 Nays – 0 Motion Carried

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

Entered at 11:27 A.M.

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

Exited at 12:44 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 MR9-2022 as read out loud by the Chairman and filed with these minutes. Seconded by Loomis.
Ayes - 9 Nays – Rippen, Rousselle Motion Carried

The meeting was adjourned at 1:10 P.M.

Stacie M. Owens, Board Secretary