

MINUTES
Middle Republican Natural Resources District
Public Hearing
Monday, August 17, 2020 at 1:00 pm
Curtis, Nebraska

Board Members Present: Joe Anderjaska, John Palic, Shane Rippen, Benjie Loomis, Jolene Messinger, Brian Schafer, Dan Nelsen, Tracy Zink, Dan Estermann, Jay Schilling, Brad Randel, Rick Spencer

Board Members Absent: Rick McConville

NRD Staff: Jack Russell, Sylvia Johnson, Alex Boyce and Stacie Owens

Hearing Officer: Tim Thompson

NRD Attorney: Dan Lindstrom, Nick Ridgeway

Applicant: Bryan & Ami Hauxwell

Applicant's Attorney: George Vinton, Nathan Vinton

Court Reporter: Sara Becker

Other Witnesses: None.

ADJUDICATORY HEARING

1. CONVENE HEARING. The hearing was called to order by Vice Chairman Randel at 1:05 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. Notice of the hearing was published in the **North Platte Telegraph** and the **McCook Daily Gazette** and was posted at the **MRNRD office**. 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.

3. STATEMENT OF PURPOSE

The purpose of this hearing is to receive evidence and testimony concerning a potential violation to the Nebraska Groundwater Management and Protection Act and the District's Rules and Regulations by Bryan and Ami Hauxwell.

4. DESIGNATION OF HEARING OFFICER

- ◆ Rippen moved to name Attorney Tim Thompson from North Platte, a neutral party, as the authorized hearing examiner. Seconded by Zink.
Ayes – 12 Nays – 0 Motion Carried

Vice Chairman Randel named Tim Thompson as the hearing examiner and turned the hearing over to him.

Thompson introduced himself, went over his background and credentials.

5. PRESENTATION OF EVIDENCE AND TESTIMONY

MRNRD Staff

Defendant(s)

Rebuttal

Thompson stated the reason for the hearing and explained the process.

Vinton stated he did not get adequate time to review the exhibits from the District and protested the publication time of the meeting.

Lindstrom waived his opening statement.

Vinton stated that the Hauxwell's were willing to get along and do whatever it takes to be compliant.

Thompson introduced Sara Becker as the court reporter.

Thompson requested Lindstrom call his first witness. Lindstrom called Jack Russell. Becker swore Russell in. Russell offered Exhibit 1.

Vinton objected that he did not have adequate time to review the Exhibit. Thompson overruled the objection. Exhibit 1 has been recorded as received.

Russell went over Exhibit 1 and described the timeline that took place with the Hauxwell's and discussions held.

Vinton requested that B. Hauxwell would be able to respond to each item as they were being presented. Thompson said no, he will respond to all after Russell's testimony is complete.

Russell went on to explain all tabs in detail and Alex Boyce was requested to pull up specific tabs as Russell went over them on the 2 wall screens in the conference room for public view.

Lindstrom then presented Russell with a Legal Notice of the Hearing and asked him what it was which Russell identified as such. Lindstrom then requested to offer it as Exhibit 5. Lindstrom then requested Russell to identify a letter written to Hauxwell's on July 30, 2020 which Russell also identified as such. Thompson asked if there were any objections and Vinton responded no objection. Exhibit 5 has been recorded as received.

Lindstrom then requested to offer Exhibit 6. Thompson asked if there were any objections and Vinton responded no objection. Exhibit 6 has been recorded as received.

Thompson called for cross examination of Russell by Vinton.

Vinton asked Russell how you calculate water usage off electric records. Russell explained. Vinton remarked that the gpm used by the NRD would be based on what the well driller filed with the Department of Natural Resources when the well was drilled and most likely much less as the well grows older. Vinton asked Russell if he would be willing to work with the Hauxwell's to get the accurate gpm that the wells pumped to refigure usages? Russell responded that he would if the Board directed him to.

Vinton asked Russell if he went to the Hauxwell's to discuss what was found. Russell responded yes. Vinton went on to the question Russell on the specifics of different meetings they had with both Bryan and Ami on different occasions.

Vinton had no further questions. Thompson asked Lindstrom if he had any redirect and Lindstrom said no.

Thompson called for a short break at 2:11 pm.

Hearing resumed at 2:40 pm.

Thompson requested Vinton call his first witness. Vinton called Bryan Hauxwell. Becker swore him in.

Vinton began questioning B. Hauxwell on the tabbed items in Exhibit 1.

Vinton offered the Hauxwell's NRD water report for 2013-2017 allocation period as Exhibit 3. Lindstrom objected as it relates to an earlier period. Thompson noted the objection and recorded Exhibit 3 as received.

Vinton went on to question Mr. Hauxwell on a variety of items under each tab which Hauxwell went on to answer. Vinton offered Hampton flow meter pictures as Exhibit 9. Thompson asked if there were any objections and Lindstrom responded no objection. Exhibit 9 has been recorded as received.

Vinton offered a copy of the Bryan and Ami Hauxwell Pooling Agreement with the Middle Republican NRD as Exhibit 4. Thompson asked if there were any objections and Lindstrom responded no objection. Exhibit 4 has been received.

Vinton offered north well Dumler flow meter pictures as Exhibit 7. Thompson asked if there were any objections and Lindstrom responded no objection. Exhibit 7 has been received.

Vinton offered Merlin East flow meter pictures as Exhibit 8. Thompson asked if there were any objections and Lindstrom responded no objection. Exhibit 8 has been received.

Questioning on all exhibits continued.

Vinton stated he had no further questions. Thompson asked for cross examination by Lindstrom.

Lindstrom questioned B. Hauxwell on a number of specific items. Lindstrom then stated he had no further questions.

Thompson called for a recess at 4:48 pm.

Thompson resumed the hearing at 5:00 pm. Vinton called Ami Hauxwell as a witness. Becker swore her in.

A. Hauxwell was questioned on a number of items regarding the pipelines which she stated she didn't know. He questioned her about the pooling agreement which she filled out and filed and stated she had been unaware it had not been approved until just recently. Vinton had no further questions.

Thompson called for cross examination by Lindstrom. Lindstrom questioned A. Hauxwell and introduced Exhibit 2 which was a letter sent out to all producers that had pooling agreements in the past and a copy of the District's blank pooling agreement. Thompson asked if there were any objections and Vinton responded no objection. Exhibit 2 has been received.

Lindstrom had no further questions. Vinton had a short redirect and then stated that the Hauxwell's rest.

Lindstrom provided his closing statement followed by Vinton. Lindstrom followed with a redirect.

6. EXHIBITS

1 – NRD

Introduced by Lindstrom

2 – NRD

Introduced by Lindstrom

3 – NRD

Introduced by Vinton

4 – NRD

Introduced by Vinton

5 – NRD

Introduced by Lindstrom

6 – NRD

Introduced by Lindstrom

7 – NRD

Introduced by Vinton

8 – NRD

Introduced by Vinton

9 – NRD

Introduced by Vinton

The hearing was closed at 5:21 p.m. by Hearing Officer Thompson.

Stacie M. Owens
Secretary to the Board