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MINUTES OF THE 241ST MEETING
OF THE WATER MANAGEMENT BOARD
FLOYD MATTHEW TRAINING CENTER
523 EAST CAPITOL AVENUE
PIERRE, SOUTH DAKOTA
MARCH 8, 2023

CALL TO ORDER: Chairman William Larson called the meeting to order at 9:30 a.m. Central Time. The roll was called, and a quorum was present.

Chairman Larson announced that the meeting was streaming live on SD.net, a service of South Dakota Public Broadcasting.

The following attended the meeting:

Board Members: William Larson, Rodney Freeman, Chad Comes, Peggy Dixon, and Leo Holzbauer attended remotely. Tim Bjork and Jim Hutmacher were absent.

Department of Agriculture and Natural Resources (DANR): Eric Gronlund, Chief Engineer, Ron Duvall, Adam Mathiowetz, Whitney Kilts, Genny McMath, Karen Schlaak, Nakaila Steen, and Rachel Rodriguez, Water Rights Program.

Attorney General's Office: David McVey, board counsel; Ann Mines Bailey, Water Rights Program counsel.

Court Reporter: Carla Bachand, Capital Reporting Services.

Water Permit Application No. 8614-3, Lewis & Clark Regional Water System: Leslie Murphey, Banner Associates.

ADOPT FINAL AGENDA: Ron Duvall, Water Rights Program, reported that Chairman Freeman signed an Order granting a motion to continue the hearing in the matter of Water Permit Application No. 2850-3 until the next regularly scheduled meeting in May due to a significant winter weather event; therefore, the contested case for this matter was removed from the March meeting agenda. He noted that the board would still hear the appeal of the Order granting the Motion to Dismiss the Martinez petition.

Motion by Freeman, seconded by Dixon, to adopt the amended agenda. A roll call vote was taken, and the motion carried with Comes, Dixon, Freeman, and Larson voting aye. Holzbauer did not vote.

CONFLICT DISCLOSURES AND REQUESTS FOR STATE BOARD WAIVERS: None.

ADOPT DECEMBER 7, 2022, MINUTES: Motion by Freeman, seconded by Holzbauer, to approve the minutes of the December 7, 2022, Water Management Board meeting. A roll call vote

was taken, and the motion carried unanimously.

MAY 3-4, 2023, MEETING LOCATION: Motion by Freeman, seconded by Comes, to hold the May 3-4, 2023, meeting in Pierre. A roll call vote was taken, and the motion carried unanimously.

PUBLIC COMMENT PERIOD IN ACCORDANCE WITH SDCL 1-25-1: There were no public comments.

STATUS AND REVIEW OF WATER RIGHTS LITIGATION: None.

UPDATE ON DANR ACTIVITIES: Eric Gronlund, Chief Engineer, Water Rights Program, reported that since the last board meeting the Water Rights Program issued more than usual unopposed new water permit applications. The drought in 2021 and 2022 has caused an uptick in applications, which has kept staff very busy. The processing of water permit applications is the Water Rights Program's priority, and the Water Rights Program has been trying to meet the statutory deadlines associated with that.

Mr. Gronlund provided a brief update on House Bill 1134, which proposed to amend Chapter 46-1, the Water Rights Code. The bill sought that before any state agency or political subdivision may issue a permit authorizing the construction of a channel, canal, or other shoreline modification that would expand the water surface area of an artificial body of water by more than four thousand square feet, the person or business seeking the permit would need the consent of a majority of the property owners around the lake or the waterbody.

Mr. Gronlund stated that DANR testified in opposition to the bill largely on the grounds that when a water right permit application or a flood control permit application are filed there is a well-established water rights procedure affording public participation and a public hearing before the Water Management Board. If this bill would have passed, it would have basically circumvented the process, depending on the consent of the majority of the property owners around that water body. Additionally, the bill's language included other political subdivisions and permitting authority that are beyond Title 46.

The bill was heard by the House Agriculture and Natural Resources Committee, and it was deferred to the 41st day on a 12 to 0 vote.

Mr. Gronlund also reported on House Bill 1196. In 2022, the Legislature provided funding for making improvements around the Capitol complex. There is active dredging occurring on Capitol Lake at this time, and the cost of the dredging is more than what was anticipated. House Bill 1196 provided an additional \$5,200,000 of expenditure authority specifying that the funds will be used for plugging the flowing well supplying water to Capitol Lake, replacing the water source for Capitol Lake, and preserving and accommodating existing and additional memorials and improvements.

House Bill 1196 passed the House and the Senate and is awaiting the Governor's signature.

Whitney Kilts, Water Rights Program, provided a PowerPoint presentation discussing dam project updates.

Ms. Kilts stated that over the last few Legislative Sessions there has been funding put toward rehabilitating and doing various projects concerning several state-owned and state-regulated dams.

Elm Lake Dam is a School and Public Lands dam in Brown County. The dam serves as part of the city of Aberdeen's water supply. Elm Lake Dam is a Category 1 high hazard dam. During the 2019 Legislative Session approximately \$500,000 was appropriated for spillway repairs. At that time, the overall spillway age was in excess of 80 years, and it was reaching the end of its design life. In July 2020, the dam experienced the event of record. Flows were going through the primary spillway and the secondary spillway. Following that event, Water Rights staff visited the dam to assess the damage to the primary spillway and the erosion that occurred at the secondary spillway.

With the initial funds received in 2019, School and Public Lands began design work. As part of that, a comprehensive dam evaluation was done. This was basically a full review of the dam and where it stood in relation to current standard of practice across the dam safety industry. As a result of the review, the engineering firm indicated that the spillway capacity needed to be increased by almost double. That was done through a combination of raising the dam approximately four feet and widening the primary spillway. Analysis of the hydraulics also indicated that a stilling basin was needed on the primary spillway. The auxiliary spillway needed erosion protection and it was determined that the auxiliary spillway should not operate as frequently. Slope stability improvements were also recommended around the low level outlet.

During the 2021 Legislative Session, approximately \$9,000,000 was appropriated to School and Public Lands for dam repair and improvements. Of that, approximately \$6,500,000 was for Elm Lake Dam. The design process continued, the plans and specifications were approved by the Water Rights Program in July 2021, and construction occurred during 2022.

During the 2022 Legislative Session, School and Public Lands requested \$6,500,000 to replace the spillway at Richmond Dam in Brown County. This is also a Category 1 high hazard dam, and the spillway age is in excess of 80 years, so it is reaching its end of design life. At this time, the initial evaluation is almost complete, and they are starting to move into design.

The 2022 Legislature appropriated \$5,600,000 to Game, Fish and Parks for Lake Alvin Dam in Lincoln County and Newell Dam in Butte County for spillway replacement and additional dam improvements. Construction work is currently in progress at Newell Dam. Both of these dams are Category 3, low hazard dams.

ADMINISTER OATH TO DANR STAFF: The court reporter administered the oath to DANR staff who were present and intended to testify during the meeting.

APPOINTMENT OF RAPID VALLEY WATER MASTER: Nakaila Steen, DANR Water Rights Program, reported the Rapid Valley Conservancy District has requested that Kevin Ham be appointed as the water master for the 2023 irrigation season for the Rapid Creek area. Mr. Ham has been water master since 2005.

Motion by Comes, seconded by Dixon, to appoint Kevin Ham as the Rapid Valley water master for the 2023 irrigation season. A roll call vote was taken, and the motion carried unanimously.

CANCELLATION CONSIDERATIONS: A table listing the proposed cancellations, the notices of cancellation, and the chief engineer's recommendations were included in the packet the board members received prior to the meeting.

Ten water rights and water permits were scheduled for cancellation. Mr. Duvall stated that the owners were notified of the hearing and the reasons for cancellation. The department received no comments or letters in response to the notices of cancellation.

The chief engineer recommended cancellation of the following water rights and water permits for the reasons listed.

Number	Original Owner	Present Owner(s) and Other Persons Notified	Reason
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DIVISION I WATER PERMIT

PE 25-1A	Elmer Biers or Dorothy J Biers Revocable Trust	Jerry Biers	Abandonment
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DIVISION II WATER RIGHT

RT 159-2	Dianna K Dinsmore	Dianna K Dinsmore & Matthew Eldridge	Abandonment
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DIVISION III WATER PERMITS & WATER RIGHTS

RT 2539B-3	R H & S H Farms	Same (% Ron Heine)	Abandonment/Forfeiture
RT 4918-3	Jensen Rock & Sand Inc.	Same (% Delwin Yost)	Abandonment/Forfeiture
RT 6364-3	Jensen Rock & Sand Inc.	Same (% Delwin Yost)	Abandonment/Forfeiture
PE 6980-3	Marquardt Farms	Marquardt Family LP, % Ralph Marquardt	Non-Construction/ Abandonment
PE 7411-3	Danny Peterson	Same	Non-Construction
PE 7433-3	Poinsett Hutterian Brethren Inc	Same (% Levi Tschetter)	Non-Construction
PE 7550-3	Estelline Alumni Association	Same (% Hilary Suther)	Non-Construction
PE 8315-3	Steven M Maag	Same	Non-Construction

Motion by Freeman, seconded by Dixon, to accept the chief engineer's recommendations for cancellation of the water rights and water permits for the reasons listed in the table. A roll call vote was taken, and the motion carried unanimously.

IRRIGATION QUESTIONNAIRE VIOLATIONS FOR FAILURE TO REPORT 2022 WATER USE: Genny McMath, Water Rights Program, presented her report on irrigation questionnaire violations.

On October 21, 2022, 3,925 irrigation questionnaires were mailed by first class mail to 1,992

irrigators for reporting water use for 2022. The permit holders were given until December 5, 2022, to return the forms. The cover letter included examples of how questionnaires could be completed and returned. The three options for returning the irrigation forms are online, by mail, or by fax with the preferred method being online submission.

On January 20, 2023, 196 notices were mailed to those irrigators who had not returned the irrigation questionnaires by the deadline. Additional questionnaire forms were included with the mailing, and all notices were sent by Certified Mail.

The January 20, 2023, notice advised permit holders that the board may take one or more of the following actions pursuant to SDCL 46-1-12 and SDCL 46-1-14:

The permit(s) could be suspended for:

1. A period of up to one year (first violation); or
2. A period of up to three years (second violation – includes one previous suspension).

The permit(s) could be canceled for a third violation (includes at least two previous suspensions).

Permit(s) could be amended to include the mandatory irrigation questionnaire qualification.

Postpone any action or take no action.

The Water Rights Program recommended that the board take the following action for permits with irrigation questionnaires not received by March 8, 2023:

Suspend the following permits/rights for one year (effective April 8, 2023) unless the questionnaires are received prior to the effective date.

Violation 1

1970-1	Boulder Canyon Country Club
2542-2	Douglas School District
3487-3	Dave Hanson
1994-3	Albert Hattum
2072-3	David Ulvestad
2126-3	David Ulvestad
3204-3	David Ulvestad
7236-3	David Ulvestad
7237-3	David Ulvestad
1252-1	Robert or Jennifer Weyrich

Suspend the following permits/rights for three years (effective April 8, 2023) unless the questionnaires are received prior to the effective date.

Violation 2

577-1 Max & Brenda Bowen
6291-3 Flandreau Park Golf Club
1692A-2 Ed McMahon, Mgr.

Violation 3

Cancel the following permits/rights (effective April 8, 2023) unless the questionnaires are received prior to the effective date.

495-2 Harlan Eisenbraun
618-2 Soderquist Family Ranch

Violation A

Amend the following permit/right to include the mandatory irrigation questionnaire qualification (effective March 8, 2023)

1014-2 Donn Paulson

Motion by Comes, seconded by Dixon, to suspend for one year those permits listed under Violation 1 effective April 8, 2023, to suspend for three years those permits listed under Violation 2 effective April 8, 2023, to cancel those permits listed under Violation 3 effective April 8, 2023 unless the questionnaires for the permits/rights subject to Violation 1, 2, or 3 were submitted prior to the April 8, 2023 effective date, and to add the qualification to the permit listed under Violation A, effective March 8, 2023. A roll call vote was taken, and the motion carried unanimously.

UNOPPOSED NEW WATER PERMITS ISSUED BY THE CHIEF ENGINEER WITHOUT A HEARING BEFORE THE BOARD: Prior to the meeting, the board received a copy of the table listing the unopposed new water permits issued by the Chief Engineer. See attachment.

NEW WATER PERMIT APPLICATIONS: The pertinent qualifications attached to approved water permit applications throughout the hearings are listed below:

Well Interference Qualification

The well(s) approved under this permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

Well Construction Rule Qualification No. 1

The well(s) authorized by Permit No. shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28.

Well Construction Rule Qualification No. 2

The well(s) authorized by Permit No. shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

Irrigation Water Use Questionnaire Qualification

This permit is approved subject to the irrigation water use questionnaire being submitted each year.

Low Flow Qualification

Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

CONSIDER WATER PERMIT APPLICATION NO. 8614-3, LEWIS & CLARK REGIONAL WATER SYSTEM: Adam Mathiowetz, Water Rights Program, stated that this application was not contested, and the Chief Engineer recommended approval of the application. Mr. Mathiowetz presented his report on the application.

Water Permit Application No. 8614-3 proposes to appropriate 8,277 acre-feet of water annually from up to 12 existing wells completed into the Missouri: Elk Point aquifer south of Vermillion.

The Missouri: Elk Point aquifer, is a deposit of glacial outwash lying within the Missouri River flood plain from the Yankton area to the southeastern tip of South Dakota.

Within the last year, the South Dakota Geological Survey completed a study determining how much recharge was induced from the Missouri River into the aquifer based on pumping done by Lewis & Clark Regional Water System (RWS). The SD Geological Survey ran several models and the publication they produced had two different model runs included.

A 31 day and a 365-day model run were conducted. During the 31-day model run, it was determined 71.1 percent of the water that would be pumped from the wells is river water. During the 365-day run, it was determined 84.6 percent of the water pumped from the well field was river water. The capture zone for the 365-day model run did not extend more than one mile from the river.

Lewis & Clark RWS is currently permitted to pump 45,165 acre-feet of water per year and this application proposes to authorize pumping 8,277 acre-feet of water per year for a total of 53,442 acre-feet of water per year. Assuming the 84.6 percent capture, that equates to 45,211.9 acre-feet of water per year captured as induced recharge from the Missouri River.

There are other water right holders, such as the city of Yankton, which are near the river and also induce recharge. The study was conducted for siting a collector well. Part of the study was determining the water quality, which included trying to determine the source water supply, induced Missouri River water or groundwater, from the Missouri: Elk Point aquifer. While the amount of induced surface water was not modeled for the city of Yankton, it was estimated that induced surface water to the well would be in the range of 40 to 90 percent. There are also a number of irrigators in very close proximity to the river.

The estimated recharge rate to the Missouri: Elk Point aquifer, 3.8 inches per year, was first estimated by Hedges and others in the 1980's using observation well analysis. Applying that recharge rate over the approximate aquifer extent, 219,100 acres, yields an annual average recharge estimate of 69,382 feet per year. The data used for observation well analysis represents both withdrawals from and recharge to the aquifer simultaneously. Therefore, observation well analysis always produces an estimated recharge rate less than the actual recharge rate. The wells for the Lewis & Clark RWS induce recharge to the aquifer from the Missouri River. It was estimated, in the past, at least 50 percent of Lewis & Clark RWS pumping in the well field this application proposes to use, also known as Mulberry Bend Well Field, will be induced recharge from the Missouri River. The estimated percentage of induced recharge has increased with the recent Geological Survey study.

The estimated average annual recharge to the Missouri: Elk Point aquifer is 114,593.9 acre-feet per year. The estimated average annual withdrawals from the Missouri: Elk Point aquifer, assuming approval of this application and the three pending irrigation applications is 100,255.3 acre-feet per year.

The Chief Engineer recommended approval of Application No. 8614-3 with the Well Interference qualification and the following qualifications: 1. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Missouri Elk Point aquifer, and 2. Water Permit No. 8614-3 authorizes a total annual diversion of up to 8,277 acre-feet of water.

Mr. Gronlund stated that generally on a water permit application the Water Rights Program has the ability to schedule the matter that, if no one petitions to intervene, it is approved based on the Chief Engineer's recommendation. However, there is a provision in law that, if there is public policy or public interest issues involved, the Chief Engineer can schedule it directly for the board. This application was uncontested, but Mr. Gronlund said he wanted to highlight the South Dakota Geological Survey study and what the Water Rights Program is doing so the board and public are aware. This is the reason the application was scheduled for hearing before the board today.

In response to a question from Mr. Comes, Mr. Mathiowetz stated that at the time he wrote the report approximately 14,000 acre-feet was available for appropriation. Since that time, several hundred acres of irrigation has been added, so the available amount is now less. There could be a point in time when this aquifer may be considered fully appropriated. Mr. Mathiowetz stated that part of the study showed that, at least for the Lewis & Clark RWS, the inducement only extended approximately one mile from the river, so in terms of a mathematical aspect for a hydrologic budget staff could continue looking at individual irrigation applications or existing permits, but staff is also going to rely on the observation well data. The Water Rights Program is accounting for the entrenchment flood events have caused on the Missouri River, including lowering the riverbed and widening of the channel.

Responding to a question from Ms. Dixon, Mr. Mathiowetz stated that the model in detail is only applicable to the well field for Lewis & Clark RWS at that place in the river because it is dependent on the thickness of the aquifer materials, the head in the river during the time the models were run, and the transmissivity, which is the hydraulic conductivity, how much water can move through a unit's base times the thickness. It can be broadly applicable to other portions of the Missouri: Elk Point aquifer and give us indications for other water sources, but not specifically. Mr. Mathiowetz

stated that to use the model in a somewhat specific manner at other places of the Missouri: Elk Point aquifer would take deep thought before the Water Rights Program could consider whether or not it could be used.

Motion by Comes, seconded by Freeman, to approve Water Permit Application No. 8614-3, Lewis & Clark Regional Water System with the qualifications set forth by the Chief Engineer. A roll call vote was taken, and the motion carried unanimously.

CONSIDER PREHEARING MOTIONS OR APPEALS IN THE MATTER OF WATER PERMIT APPLICATION NO. 2850-2, ELK MOUNTAIN WATER USERS ASSOCIATION, INC.

Rodney Freeman was the prehearing chair for this matter.

Matt Naasz, attorney from Rapid City, represented Tomas and Eraclio Martinez.

Ann Mines Bailey, Assistant Attorney General, represented the Water Rights Program.

Ms. Mines Bailey stated the Elk Mountain Water Uses Association, Inc. matter was timely noticed pursuant to SDCL 46-2A-23. That particular section allows the Chief Engineer to issue a permit without hearing if there is no opposition to the Chief Engineer's recommendation. SDCL 46-2A-23 requires that the notice be published as provided in SDCL 46-2A-4 (1) to (8), inclusive, and (12). Of particular importance to this matter is the requirement under SDCL 46-2A-4 (4)(c). Ms. Mines Bailey noted that in her motion to dismiss, she mistakenly cited SDCL 46-2A-4(6). SDCL 46-2A-4(4)(c) requires that a statement in the notice that petitions to oppose must be received within ten days of the published notice. ARSD 74:02:01:12.04 requires that petitions must be postmarked or hand-delivered within ten days of the published notice.

Ms. Mines Bailey stated that in this particular matter the notice was published in the appropriate legal newspapers on September 28, 2022. The notice provided specifically that the petition deadline was October 11, 2022. On October 28, 2022, just over two weeks after the deadline, the Water Rights Program received the Martinez petition, and that petition was postmarked October 25, 2022. Therefore, the petition is untimely, and that is the basis for Ms. Mines Bailey's Motion to Dismiss.

Ms. Mines Bailey stated that one of the major concerns in the Martinez petition is the location of their well. When the technical review was performed by Kim Drennon, an engineer with the Water Rights Program, she referred to the well completion database. The well completion report on file noted the nearest domestic well to be in a different quarter section than what the Martinez petition indicated. With the Martinez petition, that well completion report, which was submitted by the well driller, has been corrected. Ms. Drennon has reviewed the corrected location from the Martinez's, and that is what will be addressed and used during the contested case hearing, which will take place in May 2023.

Ms. Mines Bailey stated that for those reasons, she filed a Motion to Dismiss the Petition in Opposition filed by Tomas and Eraclio Martinez.

Mr. Naasz, attorney for Tomas and Eraclio Martinez, stated that this application seeks to divert 150

gallons per minute from the Madison aquifer. A domestic well can only pump up 25 gallons per minute for average daily consumption or pumping of 18 gallons per minute, so this application is for much greater than any domestic well at the same location. The Martinez ranch is adjacent to and essentially surrounds the property on which this proposed well site will be completed. The Martinez ranch uses a domestic Madison aquifer well for its ranch purposes. This well waters their cattle, they drink it and use it for all domestic purposes. It is essentially the lifeline of their ranching operation at this location.

Mr. Naasz stated that Exhibit C, which was included in the Martinez's response to the Motion to Dismiss, shows that the Martinez well is located approximately 900 feet from the proposed point of diversion. When the notice of Application No. 2850-2 was published in the newspapers, the Martinez family was on vacation. There is an Affidavit of Eraclio Martinez attached to the response to the Chief Engineer's Motion to Dismiss stating that the family was on a summer vacation. When the Martinez family returned from vacation, a neighbor contacted them and informed them of the published notice and the quantity of water being sought, and shortly thereafter the Martinez filed their petition to intervene and oppose the application with the Water Rights Program.

Mr. Naasz stated that Ms. Mines Bailey indicated to the board that the date the petition was received was October 25, 2022. He said there is no prejudice to anyone involved regarding hearing the Martinez petition and allowing them to intervene. The contested case hearing has been delayed twice, and there is plenty of time for the Martinez family to make its prehearing submissions of witnesses and exhibits prior to the contested case being heard by the Water Management Board. Neither the Chief Engineer or any other party has come forward with any sort of allegation or suggestion that they would be prejudiced by allowing the Martinez family to participate in this hearing.

Mr. Naasz stated that the report to the Chief Engineer says that the nearest domestic well is 7/10 of a mile away from the proposed point of diversion. He said that is not true; the point of diversion is 900 feet away from the Martinez well. The report to the Chief Engineer says that "some drawdown from this application is likely to occur." Mr. Naasz said if any drawdown occurs, it is going to occur at the Martinez well, the closest well to the proposed point of diversion. If any drawdown occurs it will impact the Martinez family ranching operation.

Mr. Naasz said Ms. Mines Bailey indicated that the engineer, Ms. Drennon, who filed the report to the Chief Engineer has updated the report to make it consistent with the location of the Martinez well. That is a change to the report that could change this process. Mr. Naasz said his client hasn't seen that. He said fairness would allow, based on that update, that the Martinez family should be allowed to participate. There is no jurisdictional bar to participation in either the statute or the rules. As it relates to the administrative rules cited in the Order, Mr. Naasz said he believes that is essentially a recitation of how a petition for intervention is to be filed. The statute does not say that a jurisdictional bar exists for participation if a petition is filed untimely. In the past the Water Management Board has allowed untimely petitions and intervention.

Mr. Naasz asked the Water Management to look at Exhibit 3 before it votes on this matter. This exhibit shows how close the proposed point of diversion is to the Martinez well.

Mr. Naasz asked the board to allow the Martinez's to participate as full parties in this matter.

Ms. Mines Bailey stated that Ms. Drennon reviewed the corrected location of the Martinez well. There is not a new report, and the Water Rights Program's intention is to testify and present evidence at hearing consistent with the correct location of the well.

Prehearing Chair Freeman stated that he has a great deal of sympathy for the Martinez's and, if the board had discretion, he would have said no to the Motion to Dismiss without hesitation. Mr. Freeman said his Order granting the Motion to Dismiss was based on the fact that the language in the administrative rules and the statute is mandatory and does not grant the board the discretion to do away with the deadline. Mr. Freeman said he also believes that the board is not bound by his Order granting the Motion to Dismiss.

Board discussion took place regarding the report by Ms. Drennon and the error on the well completion report.

Motion by Comes to sustain the Motion to Dismiss. The motion died for lack of a second.

Chairman Larson stated that if there is no board action, the Order granting the Motion to Dismiss must be sustained.

Motion by Dixon, seconded by Comes, to overrule the Order granting Motion to Dismiss. A roll call vote was taken, and the motion carried with Comes, Dixon, Holzbauer, and Larson voting aye. Freeman abstained.

Ms. Mines Bailey suggested that new deadlines be set for the Martinez's to disclose any expert witnesses, a witness list, and exhibits prior to the contested case, as the other parties have already done. She suggested an April 10, 2023, deadline for disclosure of expert witnesses and an April 21, 2023, deadline for submitting a witness list and exhibits.

Ms. Mines Bailey will prepare, for Chairman Larson's signature, an Order setting aside Prehearing Chair's Order to Dismiss the late filed petition.

ADJOURN: Motion by Freeman, seconded by Holzbauer, to adjourn. A roll call vote was taken, and the motion carried unanimously.

A court reporter was present for the hearing and a transcript of the proceedings may be obtained by contacting Carla Bachand, Capital Reporting Services, PO Box 903, Pierre SD 57501, telephone number (605) 222-4235.

An audio recording of the meeting is available on the South Dakota Boards and Commissions Portal at <https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=106>.

Approved May 3, 2023.

ATTENDANCE SHEET
WATER MANAGEMENT BOARD

Date March 8, 2023

NAME (PLEASE PRINT)

Leslie Murphy

MAILING ADDRESS

207 Sunshine Loop, Pierre

CITY, STATE & ZIP

Pierre, SD

ITEM OF
INTEREST

L+C Water Right

WATER MANAGEMENT BOARD MEETING

March 8, 2023

Unopposed New Water Permit Applications Issued Based on the Chief Engineer Recommendations

Qualifications:
wi - well interference
wcr - well construction rules
iq - irrigation questionnaire
lf - low flow

No.	Name	Address	County	Amount	Use	Source	Qualifications
2025-1	JKRK Properties LLC	Rapid City	MD	2.67 cfs	wds	1 well-Madison	wi, 3 special
2855-2	Chad Robison Living Trust	Bertrand NE	BT	3.56 cfs	420 acres	2 wells-Arikaree	wi, wcr, iq
2856-2	Chad Robison Living Trust	Bertrand NE	BT	1.78 cfs	140 acres	1 well-Arikaree	wi, wcr, iq
2857-2	Chad Robison Living Trust	Bertrand NE	BT	1.78 cfs	110 acres	1 well-Arikaree	wi, wcr, iq, 1 special
2858-2	Chad Robison Living Trust	Bertrand NE	BT	1.78 cfs	140 acres	1 well-Arikaree	wi, wcr, iq
2859-2	Chad Robison Living Trust	Bertrand NE	BT	1.78 cfs	60 acres	1 well-Arikaree	wi, wcr, iq, 1 special
2860-2	Chad Robison Living Trust	Bertrand NE	BT	1.78 cfs	140 acres	1 well-Arikaree	wi, wcr, iq
2861-2	Chad Robison Living Trust	Bertrand NE	BT	1.78 cfs	140 acres	1 well-Arikaree	wi, wcr, iq
2862-2	Chad Robison Living Trust	Bertrand NE	BT	1.78 cfs	140 acres	1 well-Arikaree	wi, wcr, iq
2863-2	Chad Robison Living Trust	Bertrand NE	BT	1.78 cfs	140 acres	1 well-Arikaree	wi, wcr, iq
8663-3	Chad Boomgarden	Davis	TU	1.78 cfs	60 acres	2 wells-Parker Centerville	wi, wcr, iq, 1 special
8664-3	Reetz Farms	Webster	DA	1.56 cfs	111 acres	Reetz Lake	iq
8666-3	SFP LLC	Ipswich	ED	0.156 cfs	commercial	Dakota Aquifer	wi, wcr, 5 special
8667-3	Jim Kulish	Lesterville	YA	1.33 cfs	110 acres	1 well-Lower James Miss:Scotland	wi, iq
8668-3	Marquardt Family Limited Partnership	Yankton	YA	1.78 cfs	115 acres	1 well- Lower James Missouri:Scotland	wi, wcr, iq, 1 special
8669-3	Ronald Jongeling	Castlewood	HM	no add'l	66 acres	2 wells-Big Sioux Brookings	wi, iq
8670-3	Spring Valley Httm Brth	Wessington Sprs	JE	0.42 cfs	commercial	Dakota & Crow Creek Aquifers	wi, 5 special
8671-3	Jim & Darlene Nagel Trust	Avon	BH	1.56 cfs	113 acres	1 well-Choteau West	wi, iq
8672-3	Rus Farms Real Estate LLC	Rock Valley IA	CL	2.0 cfs	160 acres	Lower Vermillion Missouri	wi, wcr, iq
8673-3	Gary Glover	Burbank	CL	1.89 cfs	132 acres	1 well-Missouri:Elk Point	wi, wcr, iq
8674-3	Cloverleaf Farms Inc	Elk Point	UN	2.0 cfs	58.14 acres	1 well-Missouri:Elk Point	wi, wcr, iq, 2 special
8675-3	Jared McCloud	Highmore	HY	2.0 cfs	140 acres	1 well-Tulare:Hyde	wi, iq
8676-3	Kingston LLC	De Smet	KG	0.29 cfs	commercial	2 wells-Dakota	wi, wcr, 5 special
8677-3	Eldon Smit	Centerville	TU	no add'l	no add'l	1 well-Parker Centerville	wi, iq
8778-3	Huron HBI	Huron	BD	4.46 cfs	300 acres	1 well-Niobrara	wi, wcr, iq, 2 special
8679-3	Wayne Sandbakken	Wilmot	RB	2.33 cfs	165 acres	1 well-Revillo	wi, iq
8680-3	Dean & John Lindstrom	Beresford	CL	1.78 cfs	70 acres	1 well-Lower Vermillion Missouri	wi, wcr, iq, 2 special
8681-3	Leber Bros LLC	Parker	TU	1.78 cfs	125.26 acres	1 well-Parker Centerville	wi, wcr, iq
8682-3	Thomas Dreesen	Meckling	CL	no add'l	21 acres	2 wells-Missouri Elk Point	wi, iq
8683-3	Tyler Ammann	Wilmot	RB	no add'l	24 acres	1 well-Revillo	wi, iq
8685-3	Joe Schumacher	Centerville	TU	1.56 cfs	120 acres	1 well-Upper Vermillion Missouri:S	wi, wcr, iq
8686-3	Smit Family Trust	Hurley	CL	1.78 cfs	160 acres	1 well-Upper Vermillion Missouri:S	wi, wcr, iq
8691-3	Wade Larson	Meckling	CL	1.78 cfs	98 acres	1 well-Missouri Elk Point	wi, wcr, iq, 1 special
8692-3	Reid Bird	Elk Point	UN	1.78 cfs	120 acres	1 well-Lower Vermillion Missouri	wi, wcr, iq, 1 special

8695-3	William H Hansen	Centerville	TU	1.78 cfs	72.03 acres	1 well-Upper Vermillion Missouri:S	wi, iq, 1 special
8700-3	Todd Heine	Vermillion	CL	no add'l	67 acres	1 well-Missouri Elk Point	wi, iq
8701-3	Todd Heine	Vermillion	CL	no add'l	48 acres	1 well-Missouri Elk Point	wi, iq
8702-3	Todd Heine	Vermillion	CL	no add'l	30 acres	1 well-Missouri Elk Point	wi, iq
8703-3	Todd Heine	Vermillion	CL	no add'l	53 acres	1 well-Missouri Elk Point	wi, iq
8704-3	Todd Heine	Vermillion	CL	no add'l	33.5 acres	1 well-Missouri Elk Point	wi, iq
8705-3	Todd Heine	Vermillion	CL	no add'l	17 acres	1 well-Missouri Elk Point	wi, iq
8706-3	Todd Heine	Vermillion	CL	no add'l	48.5 acres	1 well-Missouri Elk Point	wi, iq
8707-3	Todd Heine	Vermillion	CL	no add'l	58 acres	2 wells-Missouri Elk Point	wi, iq
8708-3	Todd Heine	Vermillion	CL	no add'l	15 acres	1 well-Missouri Elk Point	wi, iq
8714-3	Todd Heine	Vermillion	CL	0.67 cfs	34 acres	1 well-Missouri Elk Point	wi, wcr, iq, 1 special
8715-3	Todd Heine	Vermillion	CL	0.67 cfs	29 acres	1 well-Missouri Elk Point	wi, wcr, iq, 1 special