

**LEWIS AND CLARK NATURAL RESOURCES DISTRICT  
CONDUCT OF EVIDENTIARY HEARINGS**

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**1. EVIDENTIARY HEARINGS**

- 1.1 The District may be required by law to hold a hearing with respect to an alleged violation of certain rules and regulations, which the District is required to enforce (“evidentiary hearing”). Hearings which will be considered “evidentiary hearings” will include:
  - 1.1.1 Hearings concerning alleged violations of ground water runoff regulations.
  - 1.1.2 Hearings concerning alleged violations of Erosion and Sediment Control Act and regulations.
  - 1.1.3 Hearings concerning District adopted regulations under the Groundwater Management and Protection Act.
  - 1.1.4 Hearings concerning use of “illegal wells”.
  - 1.1.5 Hearings concerning alleged violations of the Chemigation Act and regulations.

## **2. HEARING EXAMINER, HOW CHOSEN**

- 2.1 Evidentiary hearings shall be conducted by a hearing examiner.
- 2.2 The hearing examiner may be a board member, a member of the district staff or any other person deemed to be knowledgeable in the procedures set out in the rules and the subject matter being considered at the hearing.
- 2.3 The district board shall expressly designate the person to serve this function.

## **3. NOTICE**

- 3.1 The district shall prepare an official notice setting the time and place of the evidentiary hearing.
- 3.2 The notice shall contain a general description of the purpose(s) of the hearing.
- 3.3 This Notice shall be sent by certified mail to all parties known to be involved in the subject matter of the hearing and to any parties officially notifying the district of their interests in the hearing not less than ten (10) calendar days prior to said hearing such that they may appear if they deem it necessary or appropriate.

## **4. RELATED PROCEEDINGS**

- 4.1 Where two or more proceedings are legally or factually related they may be heard and considered together on a consolidated record.

## **5. CONTINUANCE**

- 5.1 Any party who desires a continuance shall notify the district in writing of such desire immediately upon receipt of notice of hearing, or as soon thereafter as facts requiring such continuance come to his or her knowledge, stating in detail the reasons why such continuance is necessary.
- 5.2 Affidvits may be required in support of such requests.
- 5.3 For good cause shown, the board may grant such a continuance.
- 5.4 The board may at any time order a continuance of its own motion.
- 5.5 All requests for continuance shall be filed prior to the hearing involved.
- 5.6 Requests for continuance filed subsequent to the opening of any hearing will be considered only if it involves matters unknown to the person requesting a continuance

prior to the date of the hearing and which could not have been ascertained prior to said date or other facts, the existence of which would prejudice the hearing and the rights of moving party.

## **6. HEARING EXAMINER'S POWERS**

- 6.1 The hearing examiner will, among other things:
  - 6.1.1 open the proceedings;
  - 6.1.2 enter into the record the notice of hearing;
  - 6.1.3 take appearances;
  - 6.1.4 hear the evidence as provided for in the next chapter;
  - 6.1.5 rule on motions and objections;
  - 6.1.6 interrogate any witnesses;
  - 6.1.7 close the proceedings.
- 6.2 Examiners have no power to take any action involving a final determination of the proceedings.
- 6.3 The record in any case shall not be affected by any change of examiners during the conduct of the hearing.

## **7. OFFICIAL RECORD OF HEARING**

- 7.1 An official record of any evidentiary hearing conducted pursuant to statute or the rules and regulations of the board shall be preserved in the form taken at the hearing.
- 7.2 The record shall include all testimony and exhibits presented at the hearing.
- 7.3 The record or a copy thereof shall be kept on file in the office of the district.

## **8. HEARINGS, WHEN HELD, DECISIONS MADE**

- 8.1 Hearings may be held by the board during a regularly scheduled meeting.
- 8.2 Whenever practicable, a decision shall be reached and an order issued if necessary on the same date as the hearing.
- 8.3 The board may, at its discretion, defer decision on any preceding until a later date.
  - 8.3.1 In that event, the district staff shall, at the request of the board, prepare copies of the official record of the hearing and transmit one copy, including copies of exhibits supplied in accordance with Chapter 10 of this rule, to each of the board members by certified mail not less than ten (10) days prior to the date set for the decision.

## **9. ORDERS**

- 9.1 All orders and decisions of the board, along with an explanation of the time and requirements for appeal from any such orders or decisions, following the close of any hearings, shall be transmitted to the parties directly involved in the hearing by certified mail.

## **10. MOTION FOR REHEARING**

10.1 Motions for rehearing shall be received within ten (10) days after the receipt of the board's order or decision at the office of the district.

## **11. BOARD'S POWER TO MAKE INVESTIGATIONS AND CALL HEARINGS**

11.1 The board may at any time order the district staff to make an investigation into any matter within the jurisdiction of the board.

11.2 Order any hearing which the board is authorized either by law or inherent power to conduct.

11.2.1

11.3 In all investigation proceedings, neither the board nor the district staff shall be bound by any strict rules of procedure except that any party called to appear shall have the right to be heard on any point raised in the investigation.

## **12. QUALIFIED PRESENTATION**

12.1 Any person may appear in his or her behalf before the board, and may call upon witnesses in his or her own behalf.

12.2 An individual may appear on behalf of another only if:

12.2.1 that person is admitted to practice law before the Nebraska Supreme Court, or

12.2.2 that person is admitted to practice law before the supreme court of any state and is accompanied by a person admitted to practice law before the Nebraska Supreme Court.

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