

FILED
Court Administrator

STATE OF MINNESOTA
COUNTY OF RAMSEY

JUL 18 2011

By  Deputy

DISTRICT COURT
SECOND JUDICIAL DISTRICT

Case Type: Civil
Court File No. 62-CV-11-5203

In re Government Shutdown Litigation,

In Re Temporary Funding of Core Functions of
the Executive Branch of the State of Minnesota

**ORDER REGARDING PETITIONS OF
COMMUNITY ACTION PARTNERSHIP
AND MIDWEST WEED HARVESTING,
INC., AND PETITIONS FOR GRANTEEES
OF THE DEPARTMENT OF HUMAN
SERVICES: ALCOHOL AND DRUG
ABUSE DIVISION**

On June 23, 2011, the undersigned heard oral argument pursuant to the Motion of
Petitioner Lori Swanson, Attorney General for the State of Minnesota, for temporary funding of
the executive branch. On June 29, 2011, the Court issued its Findings of Fact, Conclusions of
Law and Order Granting Motion for Temporary Funding.

In its Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary
Funding dated June 29, 2011, the Court appointed retired Minnesota Supreme Court Chief
Justice Kathleen Blatz as Special Master to hear and make recommendations to the Court with
respect to issues regarding compliance with the terms of its Order. On July 1, 2011, July 12,
2011, and July 13, 2011, Special Master Blatz conducted evidentiary hearings regarding
Petitioners seeking state funding as providers of critical core functions of government.

The Court accepts and adopts the attached findings of the Special Master subject to
modification pursuant to Minn. R. Civ. P. 53.07(b) with respect to the requests of government
offices and petitions brought by programs (hereinafter listed).

Based on the file, proceedings, and recommendations, the Court makes the following
ORDER:

1. The petition filed by Minnesota Community Action Partnership for continued funding of the Minnesota Community Action Grant is denied.
2. The petition of Midwest Weed Harvesting, Inc. is granted.
3. The Court takes no action on the petition seeking disbursement of federal block grants for treatment support and recovery maintenance services as this petition was made moot by the Court's July 13, 2011 Order.

Dated: 7-18-11

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Kathleen Gearin', written over a horizontal line.

The Honorable Kathleen Gearin
Chief Judge
Ramsey County District Court

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Court File No. 62-CV-11-5203

In Re: Temporary Funding of Core Functions
of Executive Branch of the State of Minnesota

**SPECIAL MASTER
RECOMMENDATIONS FOR
MINNESOTA COMMUNITY ACTION
PARTNERSHIP'S PETITION FOR
CONTINUED FUNDING OF THE
MINNESOTA COMMUNITY ACTION
GRANT**

This matter came before the Special Master, the Honorable Kathleen A. Blatz, in Room 230 of the Minnesota Judicial Center on July 1, 2011. Present before the Special Master were Lori Swanson, Attorney General; Al Gilbert, Solicitor General and Deputy Attorney General; David Lillehaug, Special Counsel to the Office of the Governor; Joseph Cassioppi, Special Counsel to the Office of the Governor; David J. Zoll, counsel for Petitioner; and Arnie Anderson, Executive Director of Minnesota Community Action Partnership.

Based upon the arguments of counsel and the testimony at the hearing, the Special Master makes the following:

Recommendation

1. Petitioner's request for continued funding of the Minnesota Community Action Grant should be **DENIED**.¹

Concerns of Petitioner

1. Petitioner argues that the services provided by its member organizations through the Minnesota Community Action Grant be considered critical core functions of Government

¹ Petitioner's other requests for relief were addressed in the Court's Order Regarding Continuing Funding of Grants and Programs by Department of Human Services of July 13, 2011.

under the Court's Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding of June 29, 2011 (the "Order").

Analysis

1. Petitioner requests the continued funding of the Minnesota Community Action Grant during the ongoing government shutdown. While funding of this grant would help Petitioner's members provide important services to low-income families, it was not identified by the Department of Human Services as a grant program necessary to fund critical core functions of government during the shutdown.

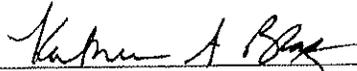
2. It is apparent that the services provided by Petitioner's member organizations under the Minnesota Community Action Grant are important to the vulnerable Minnesotans they serve. However, in the Order, the Court specifically found:

Numerous Minnesota non-profit organizations have filed to either intervene in the proceedings or to participate as amicus curiae. They provide services to vulnerable clients. These clients may suffer hardships and fail to make the progress of which they are capable without the assistance of these non-profits. Some non-profit entities will not survive without state appropriations. Neither the good services they provide nor the fact that they may cease to exist without state funding is sufficient cause to deem their funding to be a critical core function of government and to overcome the constitutional mandate in Article XI.

(Order p. 10 ¶ 31.)

3. Because the Community Action Grant program is funded solely by state funds in accordance with Minnesota Statute § 256E.30, continued payment of these funds is not mandated by Supremacy Clause principles.

Dated: July 13, 2011



The Honorable Kathleen A. Blatz
Special Master

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Court File No. 62-CV-11-5203

In Re: Temporary Funding of Core Functions
of Executive Branch of the State of Minnesota

**SPECIAL MASTER
RECOMMENDATIONS REGARDING
PETITION MIDWEST WEED
HARVESTING, INC.**

This matter came before the Special Master, the Honorable Kathleen A. Blatz, in Room 230 of the Minnesota Judicial Center on July 13, 2011. Present before the Special Master were Alan Gilbert, Solicitor General and Deputy Attorney General; Jacob Kraus, Assistant Attorney General for the State of Minnesota; David Lillehaug, Special Counsel to the Office of the Governor; and Joseph Cassioppi, Special Counsel to the Office of the Governor. Richard Thompson, Owner of Midwest Weed Harvesting, Inc., appeared on behalf of Petitioner.

Based upon the arguments of counsel at the hearing, the Special Master makes the following:

Recommendation

1. The Special Master recommends that Petitioner's request that it be allowed to continue to perform services to manage and control aquatic vegetation through the use of mechanical lake weed harvesting for the purpose of maintaining and preserving public property be **GRANTED**.

Concerns of Petitioner

1. Petitioner requests that the Court permit it to proceed with lake cleaning pursuant to permits previously issued by the Minnesota Department of Natural Resources ("DNR"). The DNR already approved Petitioner's permits to manage invasive species through the use of

mechanical harvesting on Minnesota lakes. Petitioner argues the permits require minimal, if any, supervision by the DNR and the work to be performed thereunder is necessary for the maintenance and preservation of public property.

Analysis

1. The Petitioner's work is related to that of Petitioners Lake Management, Inc., Lake Restoration, Inc., Minnesota Aqua Care, Inc., and Central Minnesota Aquatics, Inc. The Special Master's Recommendation and analysis regarding that petition largely inform the Special Master's analysis and recommendation here.

2. Petitioner is a commercial mechanical weed harvester who removes noxious weeds only from water bodies that have been designated by the DNR as "infested waters."¹ Removal of noxious species, such as milfoil, is critical because if left unmitigated, the oxygen levels in the lake plummet, fish die, and lakes are not safe to swim in by humans or animals, and the water cannot be used.

3. Evidence was presented that Petitioner's request is time-sensitive. Plants have a short life cycle and noxious weeds will go to seed on or before August 1, 2011. The seed spreads the harmful plant species to other water bodies and further damages the source lake.

4. The DNR reserves the right to inspect the harvesting control machines because of the risk of spreading the invasive species once the machine is moved from one lake to another body of water. Petitioner claims that in five years, he has personally called the DNR notification line over 300 times as required by the permits he held. Not once did the DNR inspect his equipment. The Special Master underscores this fact for two reasons: first, it provides understanding of the appropriate oversight deemed necessary by the DNR; and second, the DNR's concern regarding

¹ Petitioner testified that the invasiveness of milfoil is well-known, providing as an example of this that last year he removed 700 tons of milfoil from one Twin Cities lake alone.

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of Executive Branch of the State of Minnesota

**SPECIAL MASTER
RECOMMENDATIONS FOR GRANTEEES
OF DEPARTMENT OF HUMAN
SERVICES: ALCOHOL AND DRUG
ABUSE DIVISION**

This matter came before the Special Master, the Honorable Kathleen A. Blatz, in Room 230 of the Minnesota Judicial Center on July 12, 2011. Present before the Special Master were Alan Gilbert, Solicitor General and Deputy Attorney General; Jacob Kraus, Assistant Attorney General; David Lillehaug, Special Counsel to the Office of the Governor; Joseph Cassioppi, Special Counsel to the Office of the Governor; Heidi Kammer, Division Director of Recovery Resource Center; Natonya Mccloud, alumna of Mothers Achieving Recovery for Family Unity; and Jonathan Lofgren, President of Minnesota Association for Resources for Recovery and Chemical Health.

Based upon the Court's Order Regarding Continuing Funding of Grants and Programs by Department of Human Services of July 13, 2011 (the "July 13th Order"), the Special Master now makes the following:

Recommendation

1. The Court should **TAKE NO ACTION** on the Petition seeking disbursement of federal block grant funds for treatment support and recovery maintenance services because the Petition has been mooted by July 13th Order.

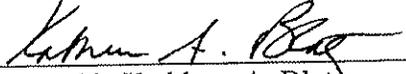
Concerns of Petitioner

1. Petitioner sought continued funding under a federal block grant to provide treatment support and recovery maintenance services to pregnant and parenting women with chemical dependency.

Analysis

1. The block grant funds requested by Petitioner come from the CDBG Specialized Services SAPT Block Grant, which have been specifically funded by the Court. (July 13th Order p. 4 ¶ 16; Special Master Exhibit 1 at #61).

Dated: July 13, 2011



The Honorable Kathleen A. Blatz
Special Master