



December 18, 2013

Mike Opat, Chair  
Hennepin County Board of Commissioners  
A-2400 Government Center  
300 South Sixth Street  
Minneapolis, MN 55487-0240

Erik Cedarleaf Dahl, Chair  
Hennepin Conservation District  
P.O. Box 3682  
Minneapolis, MN 55403-3682

**RE: Order, Discontinuance of Hennepin Conservation District and Transfer of Duties and Authorities of the District to Hennepin County Board of Commissioners**

Dear Chair Opat and Chair Cedarleaf Dahl:

Please find enclosed an Order of the Board of Water and Soil Resources that discontinues the Hennepin Conservation District and transfers the duties and authorities of the Hennepin Conservation District to the Hennepin County Board of Commissioners.

Please note the discontinuance of the Hennepin Conservation District and the transfer of the duties and authorities of the Hennepin Conservation District to the Hennepin County Board of Commissioners is effective the day all assets of the Hennepin Conservation District are transferred to the Hennepin County Board of Commissioners and no later than 60 days from the date of the Order.

Should any questions or issues arise regarding the discontinuance or transfer, please contact Jim Haertel at 651-297-2906 or jim.haertel@state.mn.us.

Sincerely,

Brian Napstad  
Chair

cc's on next page

Bemidji	Brainerd	Duluth	Fergus Falls	Mankato	Marshall	New Ulm	Rochester
403 Fourth Street NW Suite 200 Bemidji, MN 56601 (218) 755-2600	1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383	394 S. Lake Avenue Suite 403 Duluth, MN 55802 (218) 723-4752	1004 Frontier Drive Fergus Falls, MN 56537 (218) 736-5445	12 Civic Center Plaza Suite 3000B Mankato, MN 56001 (507) 344-2821	1400 East Lyon Street Marshall, MN 56258 (507) 537-6060	261 Highway 15 South New Ulm, MN 56073 (507) 359-6074	3555 9 <sup>th</sup> Street NW Suite 350 Rochester, MN 55901 (507) 206-2889

Central Office / Metro Office 520 Lafayette Road North Saint Paul, MN 55155 Phone: (651) 296-3767 Fax: (651) 297-5615

www.bwsr.state.mn.us TTY: (800) 627-3529 An equal opportunity employer



Double click here in footer to insert name of addressee

December 9, 2013

Page 2 of 2

Chair Opat and Chair Cedarleaf Dahl

December 18, 2013

Page 2

cc: Marjorie Holsten, HCD Supervisor  
Danny Nadeau, HCD Supervisor  
Richard Strong, HCD Supervisor  
Eleonore Wesserle, HCD Supervisor  
Charlie Borrell, Wright County Commissioner  
Marvin Johnson, City of Independence Mayor  
Elizabeth Weir, City of Medina Mayor  
Carl Michaud, Hennepin County Environmental Services  
Rosemary Lavin, Hennepin County Environmental Services  
Joel Settles, Hennepin County Environmental Services  
Randy Anhorn, Hennepin County Environmental Services  
Stacey Lijewski, Hennepin County Environmental Services  
Tom Petersen, HCD Consulting Administrator  
LeAnn Buck, MN Association of Soil and Water Conservation Districts  
Mary Wetter, MN Association of Soil and Water Conservation Districts  
Chris Lord, Anoka Conservation District  
BWSR: John Jaschke, Sarah Strommen, Jim Haertel



Minnesota Board of Water and Soil Resources  
520 Lafayette Road North  
Saint Paul, Minnesota 55155

---

**In the Matter** of the Discontinuance of the Hennepin Conservation District and the Transfer of Duties and Authorities to Hennepin County pursuant to Minnesota Statutes § 383B.761

---

**ORDER  
HENNEPIN SOIL AND WATER  
CONSERVATION DISTRICT  
DISCONTINUANCE**

**Whereas**, a petition (Petition) to discontinue the Hennepin Soil and Water Conservation District and transfer the duties and authorities to the Hennepin County Board of Commissioners was filed with the Board of Water and Soil Resources (Board) on September 17, 2013, pursuant to Minnesota Statutes § 383B.761, and;

**Whereas**, the Board has completed its review of the Petition;

**Now Therefore**, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

**FINDINGS OF FACT**

1. **Petition.** The Petition to discontinue the Hennepin Soil and Water Conservation District, d/b/a Hennepin Conservation District, (District) and transfer the duties and authorities of the District to the Hennepin County Board of Commissioners (Hennepin County) was filed by Hennepin County with the Board on September 17, 2013.
  
2. **Reasons for Discontinuance and Transfer of Duties and Authorities.** The Petition lists, among other items, the following reasons for discontinuing the District and transferring the duties and authorities of the District to Hennepin County:
  - A. The responsibilities and authorities of the District are consistent with Hennepin County's mission, vision and overarching goals.

- B. The conservation programs identified in Minnesota Statutes Chapter 103C are important for maintaining a healthy and clean environment for the more than one million residents of Hennepin County.
  - C. Hennepin County has delivered the conservation services identified in Minnesota Statutes Chapter 103C under county auspices since 2003.
  - D. Hennepin County has provided technical services regarding the state cost-share program, the Reinvest in Minnesota program, and the Wetland Conservation Act program pursuant to a cooperative agreement since 2006.
  - E. There are 45 municipalities involved in regulating development that affects natural resources in Hennepin County.
  - F. There are 12 watershed management organizations in Hennepin County charged with protecting water and land resources.
  - G. There has been substantial changes in environmental management and conservation funding in the past ten years.
  - H. The District lacks the financial and technical resources to address these complex issues and opportunities.
  - I. The District, for the past ten years, has not secured financial resources from other sources to fulfill its programmatic responsibilities.
  - J. Hennepin County strives to provide services in an efficient and fiscally responsible way.
  - K. It is more efficient and fiscally responsible to provide all conservation services through Hennepin County, which eliminates the costs associated with negotiating and executing cooperative agreements with the District's Board of Supervisors as well as the administrative costs associated with maintaining the District's Board of Supervisors.
3. **Recent History of the District.** The District has received little funding for more than a decade from Hennepin County or from other sources of revenue typical for soil and water conservation districts. During that time period, the Hennepin County Department of Environmental Services, through about a dozen staff members, has provided many of the services and duties commonly undertaken by soil and water conservation districts in the metropolitan area. See Exhibit 15. The District's Board of Supervisors has had frequent turnover during the past decade. The District has had a disproportionate amount of administrative costs compared to project and program funding during the past decade.

4. **Notice of Public Hearing.** A Legal Notice of Filing and Public Hearing was published in the Finance and Commerce (MN) newspaper on September 24, 2013, and October 1, 2013. Further, a copy of the Legal Notice of Filing and Public Hearing together with a copy of the Petition was mailed to several addressees including Hennepin County, the District, all of the municipalities in Hennepin County, all of the towns in Hennepin County, all of the watershed management organizations in Hennepin County, and the Minnesota Association of Soil and Water Conservation Districts.
  
5. **Public Hearing.** A public hearing was held on the Petition on Monday, October 21, 2013 at 7:00 PM in the lunch room at the Plymouth City Hall, 3400 Plymouth Boulevard, Plymouth, Minnesota. The hearing proceedings were tape recorded. The hearing panel was the Board's Metro Region Committee which consisted of Jack Ditmore, Christy Jo Fogarty, Rebecca Flood, Faye Sleeper, and Joe Collins as chair.

Jim Haertel, Board staff, entered Exhibits 1 through 11 into the hearing record by reading a brief description of each exhibit. Exhibits 12 through 17 were entered into the hearing record by individuals present during the hearing.

**Exhibit 1.** Petition to Discontinue the Hennepin Soil and Water Conservation District and transfer the duties and authorities to the Hennepin County Board of Commissioners dated August 29, 2013, received September 17, 2013 consisting of Exhibits 1A-1B.

**Exhibit 1A.** Hennepin County Resolution No. 13-0301 approving petitioning for the discontinuance of the Hennepin Soil and Water Conservation District and the transfer of duties and authorities, adopted August 27, 2013.

**Exhibit 1B.** Letter dated September 10, 2013 from Carl Michaud, Hennepin County Department of Environmental Services Director, to John Jaschke, Board of Water and Soil Resources Executive Director, transmitted with Exhibits 1 and 1A.

**Exhibit 2.** Letter dated September 19, 2013 from Travis Germundson, Board of Water and Soil Resources, to several addressees notifying them of the public hearing, including legal notice of the hearing, copy of the petition and list of addressees.

**Exhibit 3.** Affidavit of Publication dated October 1, 2013 of Legal Notice of Filing and Public Hearing in the Finance and Commerce (MN) newspaper on September 24 and October 1, 2013.

**Exhibit 4.** Letter dated September 18, 2013 from Doug Baines, Elm Creek Watershed Management Commission Chair, to Jim Haertel, Board of Water and Soil Resources, in support of the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

**Exhibit 5.** Letter dated September 19, 2013 from Lisa Whalen, Pioneer-Sarah Creek Watershed Management Commission Chair, to Jim Haertel, Board of Water and Soil Resources, in support of the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

**Exhibit 6.** Letter dated October 2, 2013 from Elizabeth Weir, City of Medina Mayor, to Jim Haertel, Board of Water and Soil Resources, in support of the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

**Exhibit 7.** Letter dated October 17, 2013 from Mike Opat, Hennepin County Board of Commissioners Chair, to Travis Germundson, Board of Water and Soil Resources, in support of the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

**Exhibit 8.** Board of Water and Soil Resources staff report titled "Delivery of Conservation Services by the Hennepin Conservation District and the Hennepin County Environmental Services Department", dated November 13, 2012 summarizing the status and relevant history of the Hennepin Conservation District operations.

**Exhibit 9.** Board of Water and Soil Resources Resolution No. 12-112, dated December 12, 2012, directing staff to work with Hennepin County officials to pursue legislative language that would allow the Hennepin County Board of Commissioners to directly petition the Board of Water and Soil Resources to transfer the duties and authorities of the Hennepin Conservation District without a referendum.

**Exhibit 10.** Copy of Minnesota Statutes § 383B.761; Discontinuance of Hennepin County Soil and Water Conservation District; Transfer of Duties.

**Exhibit 11.** Letter dated October 18, 2013 from Mark Zabel, MN Association of Soil and Water Conservation Districts President, to the Board of Water and Soil Resources, in opposition to the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

**Exhibit 12.** Letter dated October 16, 2013 from Jerry Posey to Erik Cedarleaf-Dahl, Hennepin Conservation District supervisor, in opposition to the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

**Exhibit 13.** Letter dated October 16, 2013 from Brad Spencer, City of Independence council member, to Erik Cedarleaf-Dahl, Hennepin Conservation District supervisor, in opposition to the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.



**Exhibit 14.** Testimony given at the public hearing on October 21, 2013 of Richard Strong, Hennepin Conservation District supervisor, in opposition to the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

**Exhibit 15.** Fact sheet titled "Hennepin County Conservation Services" dated October 2013, prepared by the Hennepin County Department of Environmental Services, including a listing of conservation services provided directly by Hennepin County and a listing of conservation services provided by Hennepin County on behalf of the Hennepin Conservation District.

**Exhibit 16.** Testimony given at the public hearing on October 21, 2013 of Mary Wetter, MN Association of Soil and Water Conservation Districts, in opposition to the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

**Exhibit 17.** Letter dated October 21, 2013 from the Anoka Conservation District Board of Supervisors to the Board of Water and Soil Resources in opposition to the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

After all people present at the public hearing were given an opportunity to speak and to submit pertinent information the hearing record was closed and the hearing was adjourned.

6. **Statutory Authorization.** Laws 2013, chapter 114, article 4, section 96, codified as Minnesota Statutes § 383B.761, authorizes Hennepin County to petition the Board to discontinue the District and transfer the duties and authorities of the District to Hennepin County and authorizes the Board to discontinue the District and transfer the duties and authorities of the District to Hennepin County without conducting a referendum.

7. **Standard of Review.** The standard of review for this matter is set forth in Minnesota Statutes § 383B.761, subdivision 2, which states in pertinent part:

The Minnesota Board of Water and Soil Resources shall review the petition submitted under subdivision 1 to determine whether progress toward the goals identified in section 103C.005 can be achieved by discontinuing the Hennepin Soil and Water Conservation District and transferring the duties and authorities of the district to the Hennepin County Board of Commissioners. If the Board of Water and Soil Resources determines that progress toward the goals identified in section

103C.005 can be achieved by the discontinuance of the district and the transfer of district duties and authorities to the Hennepin County Board of Commissioners, the Board of Water and Soil Resources shall order the discontinuance of the Hennepin Soil and Water Conservation District.

Minnesota Statutes § 103C.005, Soil and Water Conservation Policy, states:

Maintaining and enhancing the quality of soil and water for the environmental and economic benefits they produce, preventing degradation, and restoring degraded soil and water resources of this state contribute greatly to the health, safety, economic well-being, and general welfare of this state and its citizens. Land occupiers have the responsibility to implement practices that conserve the soil and water resources of the state. Soil and water conservation measures implemented on private lands in this state provide benefits to the general public by reducing erosion, sedimentation, siltation, water pollution, and damages caused by floods. The soil and water conservation policy of the state is to encourage land occupiers to conserve soil, water, and the natural resources they support through the implementation of practices that:

- (1) control or prevent erosion, sedimentation, siltation, and related pollution in order to preserve natural resources;
- (2) ensure continued soil productivity;
- (3) protect water quality;
- (4) prevent impairment of dams and reservoirs;
- (5) reduce damages caused by floods;
- (6) preserve wildlife;
- (7) protect the tax base; and
- (8) protect public lands and waters.

8. **Metro Region Committee Meeting.** On December 3, 2013, the Board's Metro Region Committee and staff met to review and discuss the Petition. Those in attendance from the Board's Committee were Jack Ditmore, Rebecca Flood, Faye Sleeper and Joe Collins as chair. Board staff in attendance were Clean Water Specialist Brad Wozney and Metro Region Manager Jim Haertel.

Board staff noted the standard of review in making a decision is to determine whether Hennepin County can make progress toward achieving the goals identified in Minnesota Statutes § 103C.005, which is essentially if Hennepin County can deliver conservation services and carry out the duties of the Hennepin Soil and Water Conservation District, by discontinuing the District and transferring the duties and authorities of the District to Hennepin County. Because county staff during the past decade have been delivering conservation services and carrying out many of the duties commonly undertaken by soil

and water conservation districts in the metropolitan area, Board staff were confident Hennepin County will continue to substantially achieve the requirements set forth in the standard of review. See Exhibit 15. Board staff noted nothing in the hearing record indicates Hennepin County cannot deliver conservation services or that Hennepin County cannot carry out the duties of the Hennepin Soil and Water Conservation District. Board staff noted Minnesota Statutes § 383B.761, subdivision 6 allows for reestablishment of the District without a referendum if the District is discontinued. Board staff recommended discontinuance of the Hennepin Soil and Water Conservation District and the transfer of duties and authorities to Hennepin County per the Petition.

After discussion, the Committee found that progress toward the goals identified in Minnesota Statutes § 103C.005 can be achieved by discontinuing the District and transferring the duties and authorities of the District to Hennepin County because Hennepin County staff during the past decade have been delivering conservation services and carrying out many of the duties commonly undertaken by soil and water conservation districts in the metropolitan area. Therefore, the Committee found that discontinuance of the Hennepin Soil and Water Conservation District and the transfer of duties and authorities from the District to Hennepin County would be substantially consistent with the purposes and requirements of Minnesota Statutes § 383B.761. The Committee decided with a unanimous vote to recommend to the full Board that the discontinuance of the Hennepin Soil and Water Conservation District and the transfer of all duties and authorities of the District to Hennepin County be approved as proposed in the Petition, that the District's Board of Supervisors must transfer all assets of the District to Hennepin County within 60 days of the date of this Order, and that the discontinuance of the District and the transfer of duties and authorities to Hennepin County is effective the day the transfer of all assets of the District to Hennepin County is completed and no later than 60 days from the date of this Order.

## CONCLUSIONS

1. The Petition for the discontinuance of the Hennepin Soil and Water Conservation District, d/b/a Hennepin Conservation District, (District) and the transfer of duties and authorities of the District to the Hennepin County Board of Commissioners (Hennepin County) is valid in accordance with Minnesota Statutes § 383B.761, subdivision 1.
2. All relevant substantive and procedural requirements of law have been fulfilled.
3. The Board has proper jurisdiction in the matter of ordering the discontinuance of the District, and the transfer of all duties, authorities and assets of the District to Hennepin County, pursuant to Minnesota Statutes § 383B.761, subdivisions 2, 3 and 4.
4. With discontinuance of the District and the transfer of duties and authorities from the District to Hennepin County, Hennepin County can make progress toward achieving the goals identified in Minnesota Statutes § 103C.005 because Hennepin County staff during the past decade have been providing many services and duties commonly undertaken by soil and water conservation districts in the metropolitan area.
5. Discontinuance of the District and the transfer of duties and authorities from the District to Hennepin County is substantially consistent with the purposes and requirements of Minnesota Statutes § 383B.761.
6. The District's Board of Supervisors must transfer all assets of the District to Hennepin County no later than 60 days from the date of this Order pursuant to Minnesota Statutes § 383B.761, subdivision 4.
7. The District will be discontinued and all duties and authorities of the District will be transferred in their entirety to Hennepin County effective the day the District's Board of Supervisors completes the transfer of all assets of the District to Hennepin County and no later than 60 days from the date of this Order pursuant to Minnesota Statutes § 383B.761, subdivisions 2, 3 and 4.

**ORDER**

The Board hereby orders that the Hennepin Soil and Water Conservation District, d/b/a Hennepin Conservation District, (District) is discontinued and all the duties and authorities of the District are transferred in their entirety to the Hennepin County Board of Commissioners effective the day the District's Board of Supervisors completes the transfer of all assets of the District to the Hennepin County Board of Commissioners and no later than 60 days from the date of this Order.

The discontinuance of the Hennepin Soil and Water Conservation District and the transfer of duties and authorities of the District to the Hennepin County Board of Commissioners is in place until such time as the District may be reestablished under Minnesota Statutes § 383B.761, subdivision 6.

Dated at Saint Paul, Minnesota this 18<sup>th</sup> day of December, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By:   
Brian Napstad, Chair

