

JUL 18 2011

STATE OF MINNESOTA

By  Deputy

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

In re Government Shutdown Litigation,

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

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

**ORDER REGARDING THE
PETITION OF HALFWAY JAM**

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 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).

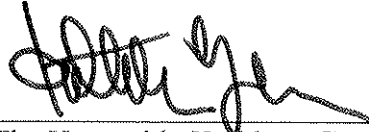
Based on the file, proceedings, and recommendations, the Court makes the following
ORDER:

1. The petition of Halfway Jam is denied.
2. The attached memorandum is incorporated into this Order.

Dated:

7-18-11

BY THE COURT:



The Honorable Kathleen Gearin
Chief Judge
Ramsey County District Court

Memorandum

Minnesota's towns and cities have scores of festivals, community events and other celebrations requiring licensing approval from state agencies. Unfortunately, some have already suffered as a result of the shutdown. Often licensing these events requires minimum procedural steps. That is the case here. The problem is that the state has a less than minimum level of employees left to do these tasks. If the court orders the state departments to hire back enough staff to license all of these events it violates separation of powers principles. It appears that the campground can be opened even if the required renewal permit is not processed until after the event has taken place. The campground operator risks having a late fee imposed. It is hoped that the Department of Health will forgo requiring a late fee in light of the good faith efforts of the operator to obtain a timely permit and the fact that not getting one is not his fault.

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
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 ON PETITION
OF HALFWAY JAM**

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; Joseph Cassioppi, Special Counsel to the Office of the Governor; and Lisa Talberg on behalf of Petitioner Halfway Jam.

Based upon the testimony received at the hearing, the Special Master makes the following:

Recommendation

1. The Special Master should deny Petitioner's request because the permitting services requested are not critical core functions of government that remain funded under the Court's Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding of June 29, 2011 ("Order"). However, given the unique factual background surrounding Petitioner's licensing request, the Special Master recommends that the Court request that the Minnesota Department of Health ("MDH") not take any enforcement action against Petitioner if it operates its campground without first receiving its license renewal.

Concerns of Petitioner

1. Petitioner has applied for a Recreational Camping Area License ("License") from the MDH. The License is necessary to operate its special event camping area, which is scheduled to open on July 20, 2011, for a three-day event.

Analysis

1. Petitioner hosts an annual music festival in Royalton, Minnesota, which is scheduled to begin on July 21, 2011. Petitioner has been holding the three-day festival for the past seven years. Roughly 7,000 people attend the festival each day.

2. In order to provide a place for attendees of the festival to stay, Petitioner also operates a campground ("Campground") near the concert site on private property owned by Petitioner. The Campground consists of 500 campsites, and is only open during the musical festival.

3. The MDH conducted a plan review of the Campground when it first opened eight years ago in order to ensure that it complied with the applicable health and safety requirements. The MDH conducted subsequent plan reviews each time additional campsites were added to the Campground. No additional campsites have been added to the Campground in the past year, so no new MDH plan review is required at this time. *See* Minn. Stat. § 327.15.

4. Petitioner has always received a License from the MDH for each year that it has operated the Campground. In 2008, Petitioner failed to timely renew its License, but it nonetheless operated the Campground during that year's music festival. In 2009, the MDH permitted Petitioner to get a retroactive License for its 2008 operation of the Campground. Accordingly, Petitioner believed that it was possible to operate the Campground before receiving the License from MDH. This belief was further supported by the license-renewal application

form provided to Petitioner by MDH, which specifically set forth a fee schedule that allowed for the payment of a late fee if payment was made by an applicant *after* it has already opened its recreational camping area. (See attached Special Master Exhibit 2.) The face of the License application form sets forth the various fee categories and the responding fees. It expressly states that “Total fee and \$360 late fee due *if submitted more than 30 days after opening in 2011*”.

(*Id.*)

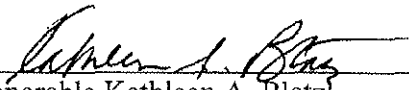
5. Petitioner, in fact, did timely file for a License but because of the shutdown cannot receive it. Petitioner was not overly concerned because it reasonably believed that it could secure a License from MDH after it opened the Campground. When inspected by MDH for its separate food and beverage permits (which have already been issued to Petitioner), Petitioner learned that the campground could not be used without a License. Petitioner told the MDH Inspector that the application allowed for late payment but the Inspector disagreed and that is why Petitioner appeared to request relief from the Special Master.

6. The Special Master heard evidence that MDH inspectors will be onsite at Petitioner’s festival to conduct food and beverage inspections. However, the MDH staff responsible for issuing the Recreational Camping License have been furloughed during the shutdown, so Petitioner is unable to obtain its renewal License in advance of July 20, 2011.

7. Petitioner seeks an order directing MDH to approve Petitioner’s pending license-renewal application. Because the renewal of the License is not a critical core function of government, the Special Master does not recommend that the Court order MDH to issue the license requested by Petitioner. However, given the unique circumstances presented, including the fact that the MDH application form represented to Petitioner—on more than one occasion—that the License could be obtained after the festival and the fact that MDH inspectors will already

be onsite at the festival and available to inspect the Campground, the Special Master recommends that the Court urge MDH not to initiate enforcement proceedings against Petitioner in the event that it opens the Campground without first receiving its renewed License. (*Cf.* Order Regarding the Petition of Prior Lake Rotary Club Foundation at 3.)

Dated: July 15, 2011



The Honorable Kathleen A. Blatz
Special Master

From the Hearing 7/13/11



MINNESOTA DEPARTMENT of HEALTH
Environmental Health Division
625 Robert St. North, P.O. Box 64495
St. Paul, Minnesota 55164-0495
(651) 201-4497



2011 License Renewal Application
Manufactured Home Park/Recreational Camping Area

LICENSE NO. MHP-18718-22074

NOTE:

This renewal application cannot be used if there is an ownership change for this MHP/Recreational Camping Area, or for a new MHP/Recreational Camping Area. Please notify the Department of Health at (651) 201-4497 to receive the application form for a new owner.

ISSUED TO:

Bill Henry
18004 Highway 10 NW
Royalton, Minnesota 56373

(Please write in any address change)

ESTABLISHMENT NAME:

Half Way Jam Campground
18004 Highway 10 NW
Royalton, Minnesota 56373

(Please write in name or address change)

(05)
SECA
Special Event
Camping Area

WORKERS' COMPENSATION INSURANCE INFORMATION - REQUIRED FOR LICENSE ISSUANCE

Company Name: _____
Address: _____ Policy Number: _____
City: _____ Coverage from: ____/____/____ Thru ____/____/____
State/Zip: _____

OR

I certify that I am not required to carry workers' compensation liability coverage because:

- I am a sole proprietor or partner and I have no employees.
- I have no employees who are covered by the workers' compensation law. (Note: Only employees exempt by statutes are not covered by the workers' compensation law. These include: Spouse, parent and children regardless of age.)
- I represent a nonprofit association which does not pay more than \$1000.00 in salary or wages in a year.

MHP/RCA Business Phone #: (320) 584-5548
 Emergency Contact Name: _____
 Emergency Contact Business #: (320) 249-0497
 MN Business Tax ID Number: 1702241
 Federal Tax ID Number: _____
 Mobile Unit License Plate #: _____
 Decal Number: _____

(Please write in any changes)

If Seasonal, enter opening date: 7, 30, 2011

Fee Categories	2011 License Fee
1-Base Fee	\$160.00
500-Dependent SECA Site	\$500.00
0-Private Sewer	\$0.00
1-Private Water	\$60.00

OET Licensing Surcharge \$71.00
 Total Due if paid before opening in 2011: \$781.00
 or
 Total fee and \$120 late fee due if submitted within 30 days after opening in 2011 \$901.00
 Total fee and \$360 late fee due if submitted more than 30 days after opening in 2011 \$1,141.00

Make checks payable to: "Minnesota Department of Health"

I certify that the information provided on this application is accurate and complete:

Signature: Bill Henry

Date: 7, 11, 11



By the signature above, I certify that all licensed public pools operated by this establishment are compliant with MN Statutes chapter 144.1222 subd. 1c and 1d.

Special Master Exhibit 2