

**STATE OF MINNESOTA
BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD NORTH
SAINT PAUL, MINNESOTA 55155
(651) 296-3767**

PROCEDURE FOR TERMINATING A WATERSHED DISTRICT

The procedures for termination of a watershed district are in Minnesota Statutes §103D.271, and also in Minnesota Statutes §103B.221 and 103B.225 for watershed districts entirely within the Twin Cities metropolitan area. Proceedings for the termination of a watershed district may only be initiated by filing a termination petition with the Board of Water and Soil Resources (BWSR).

When concerns or questions about a watershed district's purpose, function, or future existence are raised, the next step is to determine if the problem or issue relates strictly to a singular issue, e.g. disagreement over a specific project or permit, or if it is broader, e.g. a district has deviated from its plan or thought to be not performing or non-implementing. These questions or concerns may be raised by the watershed board, local government partners, citizens, or other stakeholders. The concern or issue is generally presented to one or more of the following: directly to the watershed board or staff, to the counties in which the district is in, or to BWSR.

For singular issues, the next step is generally informal conflict resolution which may lead to more formal conflict resolution or mediation specific to the project or permit. For more systemic issues, the district board should take steps to review and discuss the issue(s) in relation to the mission, goals, and accomplishments of the district. For either type of issue, BWSR should be notified and can provide assistance with further investigation and resolution.

BWSR assistance will include further discussion of the concern or issue with the person(s) who raised the issue and/or the board and staff of the district. BWSR may review past performance of the district against BWSR's Performance Review and Assistance Program (PRAP) standards. Workshops and trainings may be suggested or provided to board and staff, more in depth assessments may be performed with specific action items for improvement suggested, or BWSR may provide a small matching grant through the PRAP to the district for professional services such as strategic planning and assistance with governance. The PRAP methodically assesses the performance of the units of government that constitute Minnesota's local delivery system for conservation of water and related land resources with a goal to help these local government partners to be the best they can be in their management of these critical resources.

In relation to the statutory provisions for termination of a watershed district, found in Minnesota Statutes Chapter 103D, the above steps would be offered but not required. If none of the steps listed above resolve the issues, citizens can initiate the termination process, outlined below.

I. Petitioning for Termination

A petition for the termination of a watershed district must be signed by at least 25% of resident owners residing in the watershed district. The termination petition must state that the existence of the watershed district does not benefit the public welfare and public interest and the watershed district is not needed to accomplish the purposes of Minnesota Statutes chapter 103D*. For a watershed district wholly within the metropolitan area, the petition may be filed jointly by the governing bodies of all statutory and home rule charter cities and towns having jurisdiction over territory within the watershed instead of the resident owners.

The petitioners must file a copy of the termination petition with the auditors of the counties affected by the watershed district. The original termination petition with a statement signed for delivery or receipt of each of the termination petitions submitted to the auditors of counties affected by the watershed district must be filed with BWSR.

An auditor who receives a termination petition must determine from the tax records whether the petitioners are resident owners within the watershed district. The auditor must certify the number of petitioners that are resident owners and file the certification with the board.

Also note: BWSR may not accept a termination petition within five years from the date of a watershed district's establishment and may not make determinations or accept termination petitions for watershed districts more than once in five years.

***Minnesota Statutes Chapter 103D Watershed District Purposes**

General purposes. To conserve the natural resources of the state by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources, the establishment of watershed districts is authorized under this chapter.

Specific purposes. A watershed district may be established for any of the following purposes:

1. to control or alleviate damage from flood waters;
2. to improve stream channels for drainage, navigation, and any other public purpose;
3. to reclaim or fill wet and overflowed land;
4. to provide a water supply for irrigation;
5. to regulate the flow of streams and conserve the streams' water;
6. to divert or change all or part of watercourses;
7. to provide or conserve water supply for domestic, industrial, recreational, agricultural, or other public use;
8. to provide for sanitation and public health, and regulate the use of streams, ditches, or watercourses to dispose of waste;
9. to repair, improve, relocate, modify, consolidate, and abandon all or part of drainage systems within a watershed district;
10. to control or alleviate soil erosion and siltation of watercourses or water basins;
11. to regulate improvements by riparian property owners of the beds, banks, and shores of lakes, streams, and wetlands for preservation and beneficial public use;

12. to provide for hydroelectric power generation;
13. to protect or enhance the water quality in watercourses or water basins; and
14. to provide for the protection of groundwater and regulate its use to preserve it for beneficial purposes.

II. Holding the Public Hearing

Once a termination petition is received and is determined sufficient by the BWSR Board, the BWSR Board must order a termination hearing within 35 days. BWSR must give notice of the termination hearing at least ten days before the hearing by publication in a legal newspaper that is published in counties affected by the watershed district and by mail to the auditors of counties and to the chief executive officials of municipalities affected by the watershed district. The notice must include:

- A statement that a termination petition has been filed with the board and auditors of the counties affected by the watershed district;
- A general description of why the watershed district is to be terminated;
- A general description of the property within the watershed district;
- The date, time, and location of the hearing; and
- A statement that all persons affected by or interested in the watershed district may attend and give statements at the termination hearing.

At the hearing, BWSR must allow all persons affected by or interested in the watershed district to make oral and written statements. The board may continue the termination hearing.

III. Board of Water and Soil Resources Decision

For watershed districts outside of the Twin Cities metropolitan area, if, after the termination hearing, the BWSR Board determines the existence of the watershed district does not benefit the public welfare and the public interest, and the watershed district is not needed to accomplish the purpose of Minnesota Statutes, chapter 103D, the BWSR Board must issue a termination order. BWSR must consider the entire hearing record before making a determination. The termination order must include findings that support termination of the watershed district and a statement that the watershed district is terminated. Upon filing a termination order with the Secretary of State, the watershed district ceases to be a political subdivision and ceases to exist. BWSR staff will work with the home county to liquidate any remaining assets of the district and provide archival of official records.

For watershed districts entirely within the Twin Cities metropolitan area, if, after the termination hearing, the BWSR Board determines that all the local government units with area in the watershed district have formed a joint powers watershed management organization and are able to carry out the district's duties, the BWSR Board must issue a termination order. In the termination additional requirements are specified in Minnesota Statutes §103B.225 including that BWSR may prescribe conditions on the termination or may prescribe a later effective date for the termination of specified

powers of a watershed district. The termination order must include findings that support termination of the watershed district and a statement that the watershed district is terminated. The termination order must transfer the assets of the district to the joint powers organization or its members.

Upon filing a termination order with the Secretary of State, the watershed district ceases to be a political subdivision and ceases to exist.

More information:

For more information, contact the Minnesota Board of Water and Soil Resources at 520 Lafayette Road North St. Paul, MN 55155, (651) 296-3767, www.bwsr.state.mn.us