

# Attachment 1

## MN\_Review, Environmental (DNR)

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**From:** Christopher Smith <christopher.smith@fieldecology.com>  
**Sent:** Monday, March 19, 2018 3:42 PM  
**To:** MN\_Review, Environmental (DNR)  
**Subject:** Kingsbury–Grassy Point EAW - Smith Comments

To Whom It May Concern,

The proposed project should incorporate specific plans to create habitat for the state endangered [hairy-necked tiger beetle \(\*Cicindela hirticollis rhodensis\*\)](#). This species has an extremely limited distribution in Minnesota, and very few opportunities for population recovery remain in Minnesota. Because this species is known from nearby suitable habitat, and because the proposed project area is within the dispersal ability for this species, it is important to take advantage of the opportunity to enhance habitat for this rare species. This species is also state-listed endangered in neighboring Wisconsin (see: <https://dnr.wi.gov/topic/EndangeredResources/Animals.asp?mode=detail&SpecCode=IICOL02105>).

This species is dependent on moist sandy beach habitat. Created habitat should incorporate sandy soils at a variety of elevations from below the Ordinary High Water Level (OHWL) to 1-3 meters above the OHWL (dependent on surrounding landscape context). Habitat should be protected from ATVs, trampling, etc.

Thank you,  
Chris

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Christopher E. Smith, M.Sc., CWB@  
[FieldEcology.com](http://FieldEcology.com)  
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## **MN\_Review, Environmental (DNR)**

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**From:** Mark Herwig <mefsherwig@yahoo.com>  
**Sent:** Tuesday, March 20, 2018 8:44 AM  
**To:** MN\_Review, Environmental (DNR)  
**Subject:** "Kingsbury–Grassy Point EAW"

I attended UMD and have rec land up that way. I boated the St. Louis River last summer and have fished the river too. I am glad the MDNR is restoring this area. I didn't read the plan, but hope the restoration includes restoring wild rice beds. Thank you and good luck.

Mark Herwig  
1958 Florence St.  
White Bear Lake, MN 55110

## MN\_Review, Environmental (DNR)

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**From:** GraggJohnson, Kelly (ADM)  
**Sent:** Monday, April 16, 2018 12:37 PM  
**To:** MN\_Review, Environmental (DNR); Sjolund, Melissa (DNR)  
**Cc:** Sjolund, Melissa (DNR); Beimers, Sarah (ADM)  
**Subject:** EAW -Kingsbury Bay-Grassy Point Habitat Restoration Project, SHPO No. 2018-1422

Ms. Fairman –

We have received the EAW for the Kingsbury Bay-Grassy Point Habitat Restoration Project. Unfortunately our office has not received the necessary information (i.e. cultural resource survey reports) in order to review this project in regards to effects to historic properties and so we are unable to comment on the EAW at this time. We understand that this project is receiving funding from the Environmental Protection Agency (EPA) and that they will be initiating consultation with our office under Section 106 of the National Historic Preservation Act. Once the EPA has provided our office with the necessary documentation needed for the federal review, we will provide our comments to the EPA regarding any effects to historic properties.

Please let me know if you have further questions.

Best Regards,

Kelly



Kelly Gragg-Johnson | Environmental Review Specialist  
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## **MN\_Review, Environmental (DNR)**

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**From:** Dwight Morrison <dmorrison2@yahoo.com>  
**Sent:** Wednesday, April 18, 2018 3:19 PM  
**To:** MN\_Review, Environmental (DNR)  
**Cc:** Sjolund, Melissa (DNR)  
**Subject:** EAW REVIEW - Kingsbury /Grassy Point

DNR Environment Reviewer:

I have read the EAW and have the following comments:

### **KINGSBURY BAY:**

There is an acceptable level of contamination in the soil that will be moved from Kingsbury to Grassy Point. That will be the cover of the material that is used to develop the two islands at Grassy Point. The transportation of that material will be by truck, and seems to pose an environmental issue. The leaving of the choice of transportation route and technique up to the contractor, seem to be questionable. The DNR is ultimately responsible for any transportation related problems, and needs to be responsible for the transportation route and technique - but they are leaving this up to an unknown contractors choice - which seem to be unwise.

### **GRASSY POINT:**

The wood waste that is to be dealt with is 170,000 CY Yd., yet there is no determination of how much of this contaminated material is to be removed from the Grassy Point site. My discussions with individuals indicates that only a small portion of this contaminated material will be removed from the site to a disposal location. Most of the 170,000 Cu. Yd. of contaminated waste will remain at Grassy Point, which may continue to be a problem. The real issue is to determine what is the nature of contamination that still exists at Grassy Point and on the two new islands after construction. The EAW does not show any intent to provide testing of the Grassy Point final construction. I have been told that will be under a future grant, which does not guarantee the actual quality of the final Grassy Point construction. There is a need for the soil testing of the final Grassy Point construction to determine if the final product meets the design. Contamination may continue!

### **SWIMMING BEACH:**

The swimming beach location shows an acceptable level of water contamination based on two tests. Other testing in the past by the Corps show a high levels of E coli at a number of points in the ST. Louis river. To me, this indicates that there will be beach closures at the new site similar to the closings at other beaches along the river.

Dwight Morrison, Cochair  
Wheels On Trails Organization / FWDPT member/ HIA Participant

April 18, 2018

Ms. Kate Fairman  
Planning Director  
Minnesota Department of Natural Resources  
500 Lafayette Road  
St. Paul, MN 55155

Re: Kingsbury Bay – Grassy Point Habitat Restoration Project  
Environmental Assessment Worksheet

Dear Ms. Fairman:

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for the Kingsbury Bay – Grassy Point Habitat Restoration Project (Project) located along the St. Louis River in St. Louis County. The Minnesota Department of Natural Resources (DNR) proposes to mitigate latent contaminated sediments, legacy wood waste, and excessive sedimentation, thereby restoring 240 acres of fish and wildlife habitat within a part of the St. Louis River Area of Concern. The Project consists of the following: removing detrimental materials, containing the materials on-site, and capping some materials in-place. The DNR will deepen areas with excess sedimentation, and transport and reuse the clean materials for capping, shallowing or softening shorelines. The DNR will also restore shallow sheltered bay habitats that support productive estuarine marshes of Lake Superior.

Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility or other interests, the MPCA staff has the following comments for your consideration.

**Item 6. Project Description, page 9.** The EAW describes the Lower Keen Creek Channel and Wetland Sector Restoration Site Unit (RSU) 11 activities as part of the restoration project, but then indicates that the DNR will not complete the work in RSU 11 “due to additional planning needs and funding constraints.” It also states that “RSU 11 has been included in the EAW as a recognized component of the overall restoration work for Grassy Point.” Including RSU 11 in the EAW, rather than omitting it, seems to imply the DNR needs to perform these activities at a future date to complete the Project. However, the EAW does not explain (in Item 6 or Item 19) when the DNR will complete the RSU 11 activities. Does the DNR need to perform the RSU 11 work activities prior to considering the Project complete? If so, what is the estimated schedule for completing the RSU 11 work activities, and how might these activities interact with other work in the same geographic area?

**Item 6.b.E, page 11.** The MPCA’s comments on the pre-publication draft of the EAW, submitted in early March 2018, identified that the EAW does not list the full title of the acronym “QAPP.” The MPCA noticed the EAW did not resolve this oversight, so the MPCA urges DNR to clarify the full title for QAPP (Quality Assurance Program Plan) in the response to comments and Findings of Fact for this EAW.

**Item 7. Cover Types, page 14; Item 11.b.iv. Surface Waters, page 32; and Figure 13B.** The MPCA’s comments on the pre-publication draft EAW identified important discrepancies between the information presented in the table on page 14 relative to the information in the table on page 32. The

MPCA requested that the DNR carefully review and revise these tables for readability, comprehension, and consistency. However, these tables were not revised prior to placing the final version of the EAW on public notice.

To reiterate, it is difficult to square the figures in the before/after acreage totals in the table on page 14 with those in the table on page 32. Both tables depict a 160-acre Project site; however, the cover types do not correlate. To illustrate, the table on page 14 leads the reader to conclude the total wetland acreage at the Project after construction will be 81 acres (a net increase of 12 acres), and the total acreage of deep water/streams will be 47 acres (a net decrease of 30 acres). Together, that adds up to a total of 128 acres of water bodies after construction (a net loss of 18 acres of surface water in the Project area). The remaining 32 acres of the 160 acre site (after construction) are identified to be wooded/forest (21 acres), brush/grassland (3 acres), and impervious (8 acres). However, the figures in the table on page 32 do not show the same information, and there are new terms added to describe the cover types. For example, it does not appear that the 21 acres of post-construction wooded/forest on page 14 are accounted for in the table on page 32. Further, it is unclear what is meant by using the terms "open water" in the table on page 32, as well as "scrub/impervious" and how that differs from the term "upland" in the same table. Lastly, the table on page 32 leads the reader to conclude there will be no loss of surface water, which is not what the table on page 14 concludes.

Specifically, the MPCA requests that the DNR correct the tables in the response to comments and Findings of Fact for this EAW to accurately depict the before and after cover type totals. These presently do not correlate. Further, if the project results in a total net loss of 18 acres of surface water in the Project area, as shown in the table on page 14, this does not line up with Figure 13B, which shows the project will result in a net gain of approximately 6 acres of water. The MPCA looks forward to seeing these discrepancies resolved in the DNR's response to comments and Findings of Fact for this EAW.

**Item 11.a.i., page 24.** As identified in the MPCA's comments on the pre-publication EAW, the DNR correctly identifies Lake Superior as an outstanding resource value water (ORVW); however, the DNR incorrectly identifies the St. Louis River Bay as an ORVW. The DNR did not correct this error prior to finalizing the EAW. It is important to correct this factual oversight in the response to comments and Findings of Fact for this EAW.

**Item 11.a.i., page 25.** The MPCA provided text to use in the EAW's Water Use Classifications section, to ensure the DNR properly listed the multiple water use classifications; however, the DNR did not use the text. As a result, there is a minor technical error in the EAW's listing of these classifications. Each occurrence of the "2B" classification in this section should have stated "2Bg" instead. The 2Bg classification is a new classification in the MPCA's water quality standards that became effective in October 2017, after the MPCA adopted the Tiered Aquatic Life Uses rule amendments.

**Item 11.b.iv.b. (Other surface waters), page 35.** Dating back to last summer (2017), the MPCA has requested that the EAW include a clear explanation of the proposed mitigation to compensate for the Project's total surface water impacts. The MPCA also requested that the EAW explain why the mitigation is considered adequate in light of applicable federal and state requirements, including Minn. R. 7050.0285 (e.g., a description of how compensatory mitigation will establish sufficient quality and quantity of uses to preserve existing uses and the level of water quality necessary to protect existing uses). Including this information in an EAW demonstrates the degree to which the Project considered

and incorporated the required compensatory mitigation requirements into the Project's design. This, in turn, can help facilitate a more timely regulatory authorization process (e.g., acquiring the MPCA Section 401 Water Quality Certification) after environmental review is concluded.

The MPCA could not locate text in the EAW that succinctly explains the DNR proposed mitigation to compensate for the Project's total surface water impacts. As noted above, and unless the MPCA has misinterpreted the aforementioned tables, it appears, based on the table on page 14 of the EAW, there may be a net decrease of 18 acres in overall surface water in the Project site. If correct, this is an 18-acre loss of the existing designated uses. The MPCA asks the DNR to clarify whether any of the proposed features discussed in the EAW are designed to provide the required compensatory mitigation, and if so, why these should be considered adequate in light of the applicable requirements.

The MPCA appreciates the opportunity to review this Project. Please provide your specific responses to our comments and notice of decision on the need for an Environmental Impact Statement. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this EAW, please contact me by email at [Patrice.jensen@state.mn.us](mailto:Patrice.jensen@state.mn.us) or by telephone at 651-757-2465.

Sincerely,



Patrice Jensen  
Planner Principal  
Environmental Review Unit  
Resource Management and Assistance Division

PJ:bt

cc: Shannon Lotthammer, MPCA St. Paul  
Dave Benke, MPCA St. Paul  
Bill Sierks, MPCA St. Paul  
Melissa Kuskie, MPCA St. Paul  
Dan Card, MPCA, St. Paul  
Kevin Molloy, MPCA, St. Paul  
Dan Breneman, MPCA, Duluth