



# Minnesota Environmental Quality Board

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Submittal Deadline: September 8, 2015

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## Environmental Assessment Worksheets

Comment Deadline: September 30, 2015

## Project Title: Hartley Park Phase 1 Implementation of Master Plan

Project Description: Implementation of the 2014 Hartley Park Master Plan Phase 1 improvement projects include: forest management of red pine and aspen stands, invasive vegetation management, new trail construction to repair and realign existing trails, and parking improvements at three park entrance locations and the main Hartley Nature Center entrance. The proposed project would be initiated when all permits and approvals are received.

**RGU:** City of Duluth

**Contact Person:** Keith Hamre, Director of Planning and Construction Service  
City of Duluth  
411 W First St  
Room 208  
Duluth, MN 55802  
218-730-5580  
[khamre@duluthmn.gov](mailto:khamre@duluthmn.gov)

## **Project Title: Reichmann Land & Cattle, LLP - Blair West Site Expansion**

**Project Description:** Reichmann Land & Cattle, LLP (“Proposer”) proposes to expand an existing 1,125.6 animal unit (“AU”) feedlot currently housing 1,608 feeder cattle to house a total of 1,900 head of slaughter steers (1,900 AU) in Section 22 of Reno Township in Pope County and will store feed on a new 250’x300’ covered feed storage pad with runoff controls (“Project”). The existing animal housing consists of partial confinement barns with open lots (“Facility”). The solid manure is stored as a bedded pack that is removed and immediately land applied or stored in temporary stockpiles. Stormwater runoff from the open lots is treated by a vegetated treatment area. Drainage from the vegetated treatment area is either: 1) collected and stored in an existing earthen storage basin, prior to land application in the fall following crop harvest, or 2) directed to a growing crop via spray irrigation.

A copy of the Environmental Assessment Worksheet (EAW) will be posted on the Minnesota Pollution Control Agency website, at the following:

<http://www.pca.state.mn.us/news/eaw/index.html>. Written comments on the EAW should be submitted to Charles Peterson. A copy of the EAW may also be obtained by contacting Beth Tegdesch at 651-757-2100.

In addition to the EAW, the Minnesota Pollution Control Agency’s draft NPDES/SDS Permit coverage will also be available for public comment beginning August 31, 2015. The contact person for the NPDES/SDS Permit is Scott Schroeder at 218-846-8134.

**RGU:** Minnesota Pollution Control Agency

**Contact Person:** Charles Peterson, Planner Principal  
Environmental Review Unit – 4th Floor  
Resource Management and Assistance Division  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, MN 55155-4194  
651-757-2856  
[charles.peterson@state.mn.us](mailto:charles.peterson@state.mn.us)

## **Project Title: 844 Fairmount Avenue - Single Family Home Roof Renovation**

**Project Description:** Partial demolition of a contributing structure in the Historic Hill National Register District to accommodate the replacement of two 4-foot dormers by two 12-foot dormers, extension of bay to third floor, and construction of rooftop deck.

**RGU:** City of St. Paul

**Contact Person:** Josh Williams, Senior Planner, PED  
25 W 4th Street  
St. Paul, MN 55102  
[josh.williams@ci.stpaul.mn.us](mailto:josh.williams@ci.stpaul.mn.us)

## Environmental Impact Statement Need Decisions

The noted responsible governmental unit has determined the following project does not require preparation of an Environmental Impact Statement (EIS). The dates given are, respectively, the date of the determination and the date the Environmental Assessment Worksheet (EAW) notice was published in the EQB Monitor.

- Minnesota Pollution Control Agency, The Pullet Connection, Inc., 8-17-15 (6-22-15)
- Minnesota Pollution Control Agency, Owatonna Energy Station, 8-20-15 (7-6-15)
- South St. Louis Soil and Water Conservation District, Miller Creek Habitat Enhancement, 7-30-15 (6-22-15)
- Scott County, CSAH 16 Roadway Reconstruction, 8-18-15 (6-22-15)

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## Petition

The following petition has been filed with the EQB requesting preparation of an Environmental Assessment Worksheet (EAW). The EQB has assigned the indicated unit of government to review the petition and decide on the need for an EAW.

- Otter Tail County, Leek-Trowbridge Lake Development

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## Final Alternative Urban Areawide Review Adopted

### Project Title: Final AUAR - Elko New Market

**Project Description:** As the Responsible Governmental Unit (RGU), the City of Elko New Market has prepared a Final Alternative Urban Areawide Review (AUAR) for proposed development east of the City and Interstate 35 (I-35). The 265-acre environmental study area includes a proposed light industrial project, the Ryan Companies Development, which is planned for subarea parcels subject to an orderly annexation agreement and totaling 125 acres.

**Development Boundaries and Scenarios:** Because the AUAR addresses a large project (the Ryan Companies Development), which on its own would trigger an Environmental Impact Statement, a Scoping AUAR was required. The purpose of the Scoping AUAR was to solicit comment on the development boundary and scenarios to be evaluated in the AUAR, prior to issuance of a final AUAR order. A notice of the Scoping AUAR was published in the EQB Monitor on February 2, 2015, and copies of the document were placed in the Technology and Science Library, the Elko New Market City Hall and Public Library, and the New Market Township Hall. The deadline for comments was March 4. Based upon the written comments received, the City of Elko New Market prepared a Draft AUAR. A notice of the Draft AUAR was published in the EQB Monitor on April 27, 2015, and copies of the document were placed in the Technology and Science Library, the Elko New Market City Hall and Public Library, and the New Market Township Hall. Comments were accepted through May 27, 2015. Comments received on the Draft AUAR were incorporated into the Final AUAR. The development boundaries of the 265-acre AUAR study area include the proposed 125-acre Ryan Companies Development and 140 acres in surrounding parcels with potential for more commercial/light industrial development. The scale of the anticipated light industrial and commercial development ranges from maximums of 1.50M square feet in 2016 (at opening) up to 2.84M

square feet by 2036. The Final AUAR was approved by the City Council for distribution on July 9, 2015. No agency objected, and therefore the City Council adopted the Final AUAR at their meeting on August 13, 2015. Final AUAR documentation is posted at the City's Web Site: [www.bolton-menk.com/auar/](http://www.bolton-menk.com/auar/), or copies can be found at the Elko New Market Public Library, 110 J. Roberts Way, Elko New Market, MN 55054, at New Market Township Hall; 8950 230th Street East; Lakeville, MN 55044, or at City Hall; 601 Main Street, Elko New Market, MN 55054.

**RGU:** City of Elko New Market

**Contact Person:** Tom Terry, City Administrator  
City of Elko New Market  
PO Box 99  
Elko New Market, MN 55020  
[tterry@ci.enm.mn.us](mailto:tterry@ci.enm.mn.us)  
952-461-2777

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## Notices

# Rotenone Application Project Planned

The Minnesota Department of Natural Resources Section of Wildlife Management is planning a rotenone treatment on the Lake below:

<u>Lake</u>	<u>DOW#</u>	<u>Township</u>	<u>Range</u>	<u>Sections(s)</u>
Simon	61003400	122,123N	37W	27,28,32-34

The project involves the application of liquid rotenone, a federally and state registered pesticide, to eliminate the existing undesirable fish community in Simon Lake. The treatment will be conducted sometime between late fall of 2015 or late fall of 2016, dependent on weather conditions and lake levels. Endangered or threatened species are not present in the lake. The basin will be lowered by 2.0 feet below the run out elevation prior to the application to prevent downstream movement of rotenone. Lower water levels will also reduce the amount of chemical needed by approximately one-third. Project goals are to improve waterfowl habitat and water quality.

Rotenone application will be done aerially by licensed pesticide applicators and by backpack sprayers if necessary to reach small isolated areas. Drip stations may also be used to treat groundwater seeps within the basin. Target treatment concentration is 4.0 ppm. Black bullhead, fathead minnow, and yellow perch are the target fish species. Benefits of the project will be an increase in the abundance of submerged aquatic vegetation, increase in the abundance of aquatic invertebrates, and an improvement in water quality.

For general information about this project contact Kevin Kotts – Area Wildlife Manager 320-634-7339 or Todd Call - Wildlife Lake Specialist – Glenwood - 320-634-7341

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# Hearing Notice

Docket No. 19-2000-32681

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Alteration of the  
Course, Current and Cross Section of  
Altered Natural Watercourse Unnamed  
Tributary No. 35024a by Perry and Bonnie  
Kostrzewski without a Public Waters Work  
Permit

## NOTICE OF HEARING

The Minnesota Department of Natural Resources (“DNR”) has initiated this action to determine whether cause exists for DNR to direct that restoration of the unnamed tributary to the Red River of the North, No. 35024a, be undertaken pursuant to Minn. Stat. § 103G.251 as set forth in the Restoration Order dated November 6, 2013, as modified by the DNR letter dated August 21, 2014.

A telephonic prehearing conference will be held on September 14, 2015, at 9:30 a.m., at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota. The parties should call: 1-888-742-5095, and enter conference code: 447 260 8685# to join the call.

## ALLEGATIONS

1. This matter involves excavation work performed in an unnamed tributary to the Red River of the North located in Kittson County, Minnesota, that has been identified in the Public Water Inventory pursuant to Minn. Stat. § 103G.201, subd. 1, as unnamed tributary to the Red River of the North, No. 35024a (hereinafter referred to as “Unnamed Tributary”). The Unnamed Tributary is an altered natural watercourse as defined in Minn. Stat. § 103G.005, subd. 3, and therefore is a public water as set forth in Minn. Stat. § 103G.15(a)(9). The Unnamed Tributary is identified as a public water on the Kittson County Protected Waters and Wetlands Inventory map dated 1984 located and made publically available at the Kittson County Courthouse.

2. DNR’s jurisdictional boundary for public watercourses is defined in Minn. Stat. § 103G.005, subd. 14 as all public waters found below the ordinary high water level (“OHWL”). The OHWL for the Unnamed Tributary is the top of the bank of the watercourse.

3. A public waters work permit is needed to “change or diminish the course, current, or cross section of public waters, entirely or partially within the state, by any means, including filling, excavating, or placing of materials in or on the beds of public waters.” Minn. Stat. § 103G.245, subd. 1(2).

4. On August 21, 2013, Brian Krippner of the Kittson County Soil and Water Conservation District (“Kittson County SWCD”) alerted DNR Hydrologist Stephanie Klamm (“Klamm”) that he had received an anonymous complaint of an unpermitted cleanout of a public altered natural watercourse located in Tegner Township, Kittson, County, Minnesota, in the Southwest Quarter (SW1/4), Township 160 North, Range 48 West, Section 26.

5. DNR’s investigation determined that the owner of the subject real property is Bonnie Kostrzewski, 1218 340<sup>th</sup> Ave., Karlstad, MN 56732 (“Kostrzewski Property”).

6. On August 27, 2013, Klamm inspected the Kostrzewski Property. Klamm observed that excavation had taken place below the OHWL of the Unnamed Tributary and excavation materials (“spoil”) had been placed in the adjacent riparian type 1 wetland areas. No public waters work permit had been issued by DNR for this work. A total of 3.32 acres were disturbed, including 1.57 acres in an adjacent type 1 wetland where spoil was deposited.

7. Type 1 wetlands and the filling of such wetlands are regulated by the Wetland Conservation Act (“WCA”), Minn. Stat. §§ 103G.221-.2372. In this instance, the Kittson County SWCD is responsible for enforcing the WCA. The wetlands are also governed by Section 404 of the Clean Water Act, which is enforced by the U.S. Army Corps of Engineers.

8. On September 16, 2013, Klamm called Perry Kostrzewski, husband of Bonnie Kostrzewski, (jointly referred to as “the Kostrzewskis”) about the activity that had taken place on the Kostrzewski Property. During the course of the conversation, Perry Kostrzewski acknowledged to Klamm that excavation activity had occurred in the Unnamed Tributary without the necessary public waters work permit. He also stated that excavation within the same watercourse had been done in the past without a permit. Perry Kostrzewski stated that his son had done the excavation.

9. On September 18, 2013, Klamm and other DNR staff met with Perry Kostrzewski at the Kostrzewski Property. During the visit, DNR staff observed that the bottom of the Unnamed Tributary had been excavated for approximately 4,983 feet. The work resulted in a watercourse bottom that varied between six to ten feet wide with approximately 3:1 side slopes. In addition, three meanders in the channel had been cut and straightened.

10. The excavation of the Unnamed Tributary without a public waters work permit violated the following Minnesota Statutes and Rules:

- Minnesota Statutes § 103G.245, subd. 1(2);
- Minnesota Statutes, § 103G.245, subd. 7(a)
- Minn. Stat. § 103G.245, subd. 7

Minnesota Rules 6115.0200, subp. 3(F)  
Minnesota Rules 6115.0200, subp. 3(G)  
Minn. R. 6115.0200, subp. 3(G), 5(G).  
Minnesota Rules 6115.0200, subp. 5(C)  
Minnesota Rules 6115.0201, subp. 7(D)  
Minnesota Rules 6115.0201, subp. 7(N)  
Minnesota Rules 6115.0201, subp. 7(O)

#### ISSUES

Whether DNR appropriately found that the excavation of the Unnamed Tributary is in violation of applicable public waters work permit statutes and rules, supporting its Restoration Order, as modified.

For a complete copy of the Notice and Order for Prehearing Conference and Hearing, contact Max Kieley, Minnesota Attorney General's Office, 445 Minnesota Street, Ste. 900, St. Paul, Minnesota 55101, phone (651) 757-1244.

Dated this 31st day of July, 2015.

MINNESOTA DEPARTMENT OF NATURAL  
RESOURCES

/s/Barb Naramore

Barb Naramore  
Assistant Commissioner