

**ST. LOUIS COUNTY DRAINAGE AUTHORITY**

**AGENDA**

**August 4, 2020**

**Immediately following the County Board meeting.**

1. Call to order/roll call.
2. Minutes for July 28, 2020.
3. Drainage Authority Letter No. 20-04, Public Hearing on the County Ditch #4 Repair Petition
4. PUBLIC HEARING, pursuant to Drainage Authority Resolution No. 20-02, dated June 23, 2020, on the County Ditch #4 Repair Petition
5. Other business.
6. Adjourn.

**ST. LOUIS COUNTY DRAINAGE AUTHORITY  
PROCEEDINGS**

Tuesday, July 28, 2020

The St. Louis County Drainage Authority meeting was called to order at 11:11 a.m., by Chair Keith Nelson in the Liz Prebich Room, Virginia, Minnesota, with the following members present: Commissioners Frank Jewell, Patrick Boyle, Beth Olson, Paul McDonald, Keith Musolf, Mike Jugovich and Chair Keith Nelson - 7. Absent: None - 0.

Commissioner Olson attended by WebEx.

Commissioner McDonald, supported by Commissioner Jugovich, moved to approve the minutes of the June 23, 2020, St. Louis County Drainage Authority meeting. The motion passed; seven yeas, zero nays.

At 11:13 a.m., a public hearing was conducted pursuant to Resolution No. 20-01, adopted July 23, 2020, on the partial ditch abandonment petitions submitted by EIP Minnesota, LLC. Deric Deuschle, of Short Elliott Hendrickson Inc. (SEH), provided the Board an overview of the project. Public Works Director Jim Foldesi indicated that no written comments were submitted regarding the abandonments. Chair Nelson asked if there were any other governmental entities, supporters or opponents, or citizens who wished to speak regarding the proposed action, and no one asked for the opportunity to speak. At 11:53 a.m., Commissioner Jewell, supported by Commissioner Jugovich, moved to close the public hearing. The motion passed; seven yeas, zero nays.

Commissioner McDonald, supported by Commissioner Musolf, moved that the St. Louis County Drainage Authority conditionally approves EIP's petitions for partial abandonment as set forth in County Drainage Resolution No. 20-03. The motion passed; seven yeas, zero nays. Resolution No. 20-03

**COUNTY DRAINAGE AUTHORITY RESOLUTION NO. 20-03**

**BY COMMISSIONER MCDONALD:**

WHEREAS, Pursuant to Minn. Stat. Chapter 103E, the St. Louis County Board is required to convene as the County Drainage Authority (the "Drainage Authority") to discuss and approve pending matters related to county ditches; and

WHEREAS, The Drainage Authority received two petitions, one for the partial abandonment of County Ditch1 and one for the partial abandonment of the Unidentified Ditch System from EIP Minnesota, LLC ("EIP"); and

WHEREAS, The Drainage Authority, by Resolution No. 20-01, set a hearing on EIP's petitions to occur on July 28, 2020, at 9:40 a.m., at the Virginia Government Services Center; and

WHEREAS, The county gave due notice of the hearing by publication in the Duluth News Tribune and on the county's website to all persons interested in the partial abandonments and by mail to EIP, affected landowners of property benefitted by the ditch systems, and affected political subdivisions; and

WHEREAS, On July 28, 2020, the Drainage Authority, pursuant to proper notice, held and closed the public hearing on the partial abandonment petitions.

THEREFORE, BE IT RESOLVED, That upon consideration of the engineering information submitted by Petitioner, review by the Drainage Authority's engineering consultant and written and oral evidence presented at the public hearing, the St. Louis County Board of Commissioners, acting as the Drainage Authority for County Ditch #1 and the Unidentified Ditch System, makes the following Findings of Fact and order as to the partial abandonment petitions:

### FINDINGS OF FACT

That the ditch segments set forth below and in Board File No. 61307 do not serve a substantial useful purpose as part of the drainage system to any properties remaining in the system and are not of substantial public benefit and utility.

### ORDER

IT IS THEREFORE ORDERED by the St. Louis County Board of Commissioners, acting as Drainage Authority for County Ditch #1 and the Unidentified Ditch System, that the ditch segments set forth below and in Board File No. 61307 are hereby abandoned:

Ditch System No.	Local ID	Miles	St. Louis County Transverse Mercator (ft)			
			Xstart	Ystart	Xend	Yend
UDS	M06	0.48	4742524.4	3503329.9	4745222.5	3503379.6

Ditch System No.	Local ID	Miles	St. Louis County Transverse Mercator (ft)			
			Xstart	Ystart	Xend	Yend
CD #1	L06	0.30	4720833.2	3520373.9	4719258.6	3520350.3
CD #1	M04	0.42	4721504.7	3519053.7	4719274.6	3519039.3
CD #1	L07	0.50	4722830.5	3517719.0	4720186.6	3517712.4
CD #1	L07.1	1.00	4725462.2	3516387.9	4720196.4	3516388.8
CD #1	L07.2	1.00	4725404.5	3515157.2	4720134.3	3515064.2
CD #1	M12	1.18	4725489.0	3513769.5	4719275.9	3513727.7
CD #1	M07	0.14	4719223.5	3497805.3	4719983.5	3497805.1
CD #1	L15	0.14	4719211.7	3496462.5	4719963.5	3496459.5

RESOLVED FURTHER, That the partial abandonment order issued herein shall be conditioned upon and shall not become effective until (1) Petitioner EIP's payment of any remainder of the Drainage Authority's engineering services costs; (2) Petitioner EIP agrees to remove any beaver dams or obstructions on Ditch M06 between the first designed ditch check and the TH #53 right of way in conjunction with EIP's work on Ditch M06; (3) Petitioner EIP agrees that the sod farm berm divide on the old Polymet property shall be built at a minimum elevation of 1329.6 ft., extended to the north to match grade, and shall be terminated to the south once the flow paths carry the runoff away from the affected properties along Highway 7 as described and indicated in the Engineer's Report; (4) Petitioner EIP agrees that the sod farm berm divide shall be designed to minimize visual intrusion more consistent with a wetland mitigation landform without compromising the integrity of the design, performance and longevity of the berm; (5) Petitioner EIP agrees that as part of the final design of the sod farm berm divide, special attention shall be given to potential berm failure and flow conveyance shall be provided to guide those overflows past the private properties along Highway 7 and to the south; and (6) Petitioner EIP agrees to develop and implement a monitoring plan in the M10 abandoned corridor and area between M10 and Highway 7 to ensure that the hydrological and hydraulic system is behaving within the expected parameters provided in the abandonment analysis as the wetland continues to recover and to validate the model estimates of flows as time passes;

RESOLVED FURTHER, That the Financial Assurances Agreement put in place during the first EIP abandonment petition process in 2015 is applicable to these additional segments being abandoned. A new indemnification agreement shall be executed by the parties related to the current partial abandonment within the UDS.

Unanimously adopted July 28, 2020.

At 11:56 a.m., July 28, 2020, Commissioner Boyle, supported by Commissioner Jugovich, moved to adjourn the meeting. The motion passed; seven yeas, zero nays.

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Keith Nelson, Chair of the Drainage Authority

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Phil Chapman, Deputy Auditor/Clerk of the County Board

## COUNTY DRAINAGE AUTHORITY NO. 20 – 04

**DATE:** August 4, 2020

**RE:** Repair Petition Regarding  
County Ditch #4

**FROM:** Kevin Gray  
County Administrator

James T. Foldesi  
County Engineer/Public Works Director

**RELATED DEPARTMENT GOAL:**

To administer county ditch systems.

**ACTION REQUESTED:**

The St. Louis County Board, acting as the County Drainage Authority (the "Drainage Authority"), is asked to receive and consider input from petitioners, affected landowners, and affected political subdivisions regarding the proposed repair of County Ditch #4.

Further, the Drainage Authority is asked to make a finding the original benefits and land values within County Ditch #4 no longer reflect reasonable present-day values and order redetermination of benefits and damages pursuant to Minnesota Statute 103E.351, with the assistance of an engineer pursuant to Minnesota Statute 103E.311.

**BACKGROUND INFORMATION:**

Petition. On January 7, 2020, Petitioners Ed Nelson and Tom Horvath submitted a petition for repair of County Ditch #4. Said petition included signatures from 7 other property owners. There are approximately 132 benefitted parcels in the Ditch #4 system.

Hearing and Notice. By resolution number 20-02, the Drainage Authority set a hearing on the repair petition to occur on August 4, 2020, at 9:40 a.m., at the St. Louis County Courthouse in Duluth, MN. Minnesota Statutes Chapter 103E requires that notice be mailed to the petitioner, affected landowners of property benefitted by the ditch systems, and affected political subdivisions at least ten days before the hearing. This mailing occurred on June 26, 2020. The statute also requires that notice of the hearing be published either in a newspaper of general circulation within the affected drainage area or by publication on the county's website. Here, the notice was published both on the county's website and in the Duluth News Tribune on July 1, 2020. Proof of Notice is contained within Board File No. 61308.

Analysis of Repair Petition. Petitioners request repair of County Ditch #4 as provided in Minnesota Statutes Section 103E.715. That statute allows for an individual property owner to petition the Drainage Authority to restore a ditch system, or any part thereof, as nearly as practicable to the same condition as when originally constructed.

Ditch #4 was constructed in 1916-1917 and benefits some 24,620 acres of land in Elmer, Van Buren, Ness, and Toivola Townships. When originally constructed Ditch #4 yielded benefits of \$214,264.74 at a cost of \$130,000.00.

For the Drainage Authority to order a repair, it must make a finding that repairs are in the best interests of the affected property owners OR the repair petition must be signed by the owners of at least 26 percent of the property area affected by the drainage system AND the Drainage Authority determines the drainage system is in need of repair so that it no longer serves its original purpose AND the cost of the repair will not exceed the total benefits determined in the original drainage system proceeding.

As stated above, the original benefits for County Ditch #4 were determined on or around 1916-1917 to be \$214,264.74. St. Louis County Public Works compiled estimates for repair of the petitioned area and the entire ditch system at costs of \$2,300,000 and \$5,100,000 respectively. Thus, the estimated cost to repair greatly exceeds the recorded benefits of the system.

Minnesota Statute 103E.351 provides a process for redetermination of benefits and damages for ditch systems. That process involves appointment of 3 ditch viewers, and an engineer if the Drainage Authority deems prudent, to determine the benefits and damages to all property affected by the proposed drainage project and make a viewers' report. Upon receipt of the viewers report, individual property reports will be created and mailed to all affected owners, entities, and political subdivisions and a final hearing on the reports will be held.

State land, government property, public roads, railway and other utilities within the Ditch #4 area will be reported in the same manner as taxable lands and may be assessed.

Pursuant to Minnesota Statutes Section 103E.715, in order to grant the repair petition, the Drainage Authority must determine that the proposed repair is in the best interests of the affected property owners. In order to make an informed best interests determination regarding the petitioned repairs, it is the staff's recommendation the Drainage Authority order a redetermination of benefits pursuant to Minnesota Statutes 103E.351 and receive input from owners of property within the ditch system prior to incurring significant costs associated with the petition.

All costs associated with the ditch repair petition, including redetermination, must be assessed proportionally to the benefitted properties as established through the redetermination process.

**RECOMMENDATION:**

It is recommended that the County Drainage Authority receive input from affected landowners and entities and make a decision on ordering a redetermination of benefits for County Ditch #4. A resolution is attached for the Drainage Authority's use, should they decide to move forward with an order for the redetermination of benefits.

## **Repair Petition for County Ditch #4**

BY COMMISSIONER \_\_\_\_\_

WHEREAS, Pursuant to Minn. Stat. Chapter 103E, the St. Louis County Board is required to convene as the County Drainage Authority (the "Drainage Authority") to discuss and decide pending matters related to county ditches; and

WHEREAS, The Drainage Authority received a petition for the repair of a portion of County Ditch #4; and

WHEREAS, The Drainage Authority established a public hearing on the petition for August 4, 2020, and gave due notice by publication to all persons interested in the repair and by mail to petitioners, affected landowners, affected political subdivisions, and affected entities; and

WHEREAS, On August 4, 2020, the Drainage authority, pursuant to proper notice, held a public hearing on the repair petition and received input from affected and interested parties, as well as county staff regarding their work on this matter; and

WHEREAS, The values representing benefits, damages, etc., for the County Ditch #4 system are over one-hundred years old; and

WHEREAS, The Drainage Authority believes the recorded benefits and damages for County Ditch #4 do not reflect reasonable present day values; and

WHEREAS, The Drainage Authority desires to make an informed decision regarding the best interests of the affected parties.

THEREFORE, BE IT RESOLVED, That based on input and evidence provided at the hearing, the Drainage Authority makes the following Findings of Fact and Order as to the repair petition:

### **FINDINGS OF FACT**

1. The Drainage Authority finds the 1916-1917 benefits and damages of record for County Ditch #4 do not reflect reasonable present-day land values.

### **ORDER**

IT IS THEREFORE ORDERED by the St. Louis County Board of Commissioners, acting as Drainage Authority for County Ditch #4, that the St. Louis Public Works Department



shall perform a redetermination of benefits for County Ditch #4 and shall pursue the hiring of Ditch Viewers and an Engineer with the appropriate qualifications to perform the work in a timely manner.

**STATE OF MINNESOTA**

**SAINT LOUIS COUNTY BOARD OF COMMISSIONERS, DRAINAGE AUTHORITY FOR SAINT LOUIS  
COUNTY DITCH 4**

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**In the matter of the Repair of Saint Louis  
County Ditch 4**

**Petition for Repair (Minn. Stat. §103E.715)**

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For their petition for the repair of St. Louis County Ditch 4 (hereinafter "CD 4"), the undersigned Petitioners state and allege the following:

1. Petitioners file this petition for the repair of portions of CD 4 pursuant to statutes section 103E.715.
2. CD 4 provides beneficial drainage to agricultural properties and Township and County roads in Sections 25, 26, 35 and 36 of W. Toivola Township (Township 54 N, Range 20 W); Sections 31 and 32 of E. Toivola Township (Township 54 N, Range 19 W); Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36 of Elmer Township (Township 53 N, Range 20 W); Sections 5, 6, 7, 8, 17, 18, 19, 20, 21, 30 and 31 of Meadowlands Township (Township 53 N, Range 19 W); Sections 6 and 7 of Ness Township (Township 52 N, Range 19 W); and Sections 1, 2, 3, 10, 11, 12, 13, 14 15, 22, 23, 24, 26 and 27 of Van Buren Township (Township 52 N, Range 20 W) of St. Louis County, Minnesota.
3. Portions of CD 4 are in need of repair.
4. CD 4 has remained in service since its original construction in 1915-1916.
5. CD 4 consists of a main open ditch with numerous branch and lateral ditches running through and adjacent to the sections of land described in paragraph 2, above.

6. A diagram of the ditch alignment and approximate benefitted area is attached as **Exhibit A**.
7. Following the establishment of CD 4, benefitted lands were assessed for the costs of construction of the ditch. The assessments and liens therefore are reflected in the property abstracts of the affected properties.
8. Additional expenditures on CD 4 were paid from subsequent assessments to benefitted properties. These subsequent assessments are reflected in liens recorded against the benefitted properties.
9. In about 2003, St. Louis County commissioned an inspection of CD 4. The inspection report, styled as a ditch study dated May 28, 2003, noted extensive deterioration of CD 4 along with specific locations of ditch obstruction and bank and slope deterioration.
10. The petitioners herein confirm the extensive deterioration of the ditch and add their observations that (1) the majority of the channel alignment in Sections 6, 18 and 19 of Meadowlands Township (Township 53 N, Range 19 W), and Sections 1, 2, 11, 12, 13, 14, 23 and 24 of Elmer Township (Township 53 N, Range 20 W), is obstructed with vegetation; and (2) numerous private public crossings on CD 4 have been installed either with insufficient hydraulic capacity or at elevations above the originally constructed ditch grade.
11. Notwithstanding the 2003 inspection and numerous landowner requests that CD 4 be repaired, the County, in its role as drainage authority, has not taken action to restore CD 4, as nearly as practicable, to the same hydraulic capacity as originally constructed.

12. Minnesota Statutes, section 103E.705 places an affirmative obligation on St. Louis County to inspect and maintain CD 4, stating:

After the construction of a drainage system has been completed, the drainage authority shall maintain the drainage system that is located in its jurisdiction . . . and provide the repairs necessary to make the drainage system efficient. The drainage authority shall have the drainage system inspected on a regular basis by an inspection committee of the drainage authority or a drainage inspector appointed by the drainage authority. Open drainage ditches shall be inspected at a minimum of every five years . . .

13. Upon information and belief, the petitioners allege that St. Louis County has not fulfilled its statutory obligations, to wit: The County has not regularly inspected CD 4 as required, nor has the County maintained CD 4 and provided the repairs necessary to make the drainage system efficient.

14. Minnesota Courts have recognized that the establishment of a drainage system, and the assessment of the costs therefore, establish in the affected lands, a property interest in the drainage system:

A landowner assessed for benefits in a public drainage system has a vested property right in the maintenance of the ditch in the same condition as it was then originally established. The landowner is entitled to have all of the conditions upon which a drainage system is based, as well as the ditch itself, maintained so that the system will function substantially as established. Fischer v. Town of Albin, 104 N.W.2d 32, 33-35 (Minn. 1960).

15. Minnesota Courts have recognized that a failure of a drainage authority to fulfill its statutory obligations might result in liability to the drainage authority for damages resulting from such failure. Blaine v. City of Sartell, 865 N.W.2d 723 (Minn. Ct. App. 2015).

16. Any individual or an entity interested in or affected by a drainage system may file a petition to repair the drainage system. The petition must state that the drainage system needs repair.
17. The petitioners herein are all owners of property interested in or affected by CD 4 in the vicinity of the proposed repairs.
18. The petitioners request that the St. Louis County Board of Commissioners, drainage authority for CD 4, follow the procedures outlined in statutes section 103E.715 for the repair of the deteriorated and obstructed portions of CD 4 in Sections 6, 7, 18 and 19 of Meadowlands Township (Township 53 N, Range 19 W), and Sections 1, 2, 11, 12, 13, 14, 23 and 24 of Elmer Township (Township 53 N, Range 20 W).
19. Petitioners have hired Rinke Noonan to represent them in the improvement proceedings and request the legal costs of Petitioners' attorney be paid as provided in statutes section 103E.645.
20. This Petition may be signed in counterparts.

Respectfully submitted by:

(Signature Pages to Follow)

Signature page(s) for the Petition to repair St. Louis County Ditch 4

Owner Signature	Property Owned	Sec	Twp	Rg	Mailing Address	Dated
<u>James Nemec</u> <u>Patricia Nemec</u>	NW1/4 OF SW1/4	10	53	19	8125 North Dart Rd. Meadowlands, MN 55765	 
<u>Thomas Lee Horvath</u> Thomas Lee Horvath  Cynthia Horvath	LOT 5	6	53	19	7984 Highway 5 Meadowlands, MN 55765	<u>12-17-19</u> 
<u>Frank Horvath</u> Frank Horvath  Darlene Horvath	W1/2 OF SE1/4	6	53	19	10522 Bailey Road Meadowlands, MN 55765	<u>12-17-19</u> 
<u>Richard Ringhofer</u>	SE1/4 OF SE1/4	6	53	19	c/o Peter & Betsy Ringhofer 7879 Elmer Road Meadowlands, MN 55765	
<u>Peter Ringhofer</u> <u>Betsy Ringhofer</u> Betsy Ringhofer	S1/2 OF N1/2 OF SW1/4	8	53	19	7879 Elmer Road Meadowlands, MN 55765	<u>12-17-19</u>
<u>Michael Walzak</u> Michael Walzak  Rebecca Walzak	SW1/4 OF SW1/4 EX2 ACAT SW CORNER	13	53	20	10853 Hwy. 133 Meadowlands, MN 55765	<u>12-21-19</u>

Owner Signature	Property Owned	Sec	Twp	Rg	Mailing Address	Dated
<u>Chadwick White</u> <u>Brenda White</u>	N1/2 OF S1/2 OF NW1/4 EX W1/2 OF W1/2	8	53	19	7990 Elmer Road Meadowlands, MN 55765	
<u>Darren Turnboom</u> <u>Melonie Turnboom</u>	SW1/4 OF NW1/4	13	53	20	7820 N. Kingfisher Rd Meadowlands, MN 55765	
<u>Steven Horvath</u> <u>Jane Horvath</u>	SE1/4 OF NE1/4	11	53	20	8001 Condor Rd. Meadowlands, MN 55765	Dec 17/19
<u>James Walzak</u> <u>Kathleen Walzak</u>	SE1/4 OF SE1/4	11	53	20	7925 N. Kingfisher Rd Meadowlands, MN 55765	
<u>Joseph Anthony Kopic</u> <u>Joseph A. Kopic, Jr.</u> <u>Joseph A. Kopic Jr.</u>	S1/2 OF LOT 2 & N1/2 OF SE1/4 OF SW1/4 SW1/4 OF SW1/4	18 17	53 53	19 19	10494 Highway 133 Meadowlands, MN 55765	12/17/19 12/17/19
<u>Anthony Kozumplik</u> <u>Lynette Kozumplik</u>	S1/2 OF NE1/4 S1/2 OF SW1/4 OF NE1/4 SE1/4 OF NE1/4	13 18 18	53 53 53	20 19 19	7791 Highway 5 Meadowlands, MN 55765	12-17-19

Owner Signature	Property Owned	Sec	Twp	Rg	Mailing Address	Dated
_____ Brian Alberg	S1/2 OF N1/2 OF SE1/4	11	53	19	P.O. Box 51 Meadowlands, MN 55765	_____
_____ Anthony J. Kozumplik	NE1/4 of NW1/4	18	53	19	7807 Hwy. 5 Meadowlands, MN 55765	_____
_____ Anthony Kozumplik Jr.	PART OF LOT 6 BEG AT NW CORNER OF S1/2 THENCE S 300 FT THENCE E 300 FT THENCE N 300 FT THENCE W 300 FT TO POINT OF BEG	17	53	19	7764 Elmer Road Meadowlands, MN 55765	_____
_____ Scott Horvath	SW1/4 OF SW1/4	5	53	19	10477 Bailey Road Meadowlands, MN 55765	_____
_____ Richard Makela  _____ Patricia Makela  _____ Wilfred Makela	NE/4 of NW/1/4	12	53	20	8051 Condor Rd. Meadowlands, MN 55765	_____  _____
_____ Dustin Peterson  _____ Rebecca Peterson	NW1/4 OF SE1/4 OF SE1/4	7	53	19	7938 Highway 5 Meadowlands, MN 55765	_____  _____



Owner Signature	Property Owned	Sec	Twp	Rg	Mailing Address	Dated
<div>_____</div> <div>Frank Kozumplik</div>	SE1/4 OF SW1/4	24	53	20	7603 Condor Road Meadowlands, MN 55765	<div>_____</div> <div>_____</div>
<div>_____</div> <div>Melissa Kozumplik</div>						

# EXHIBIT A

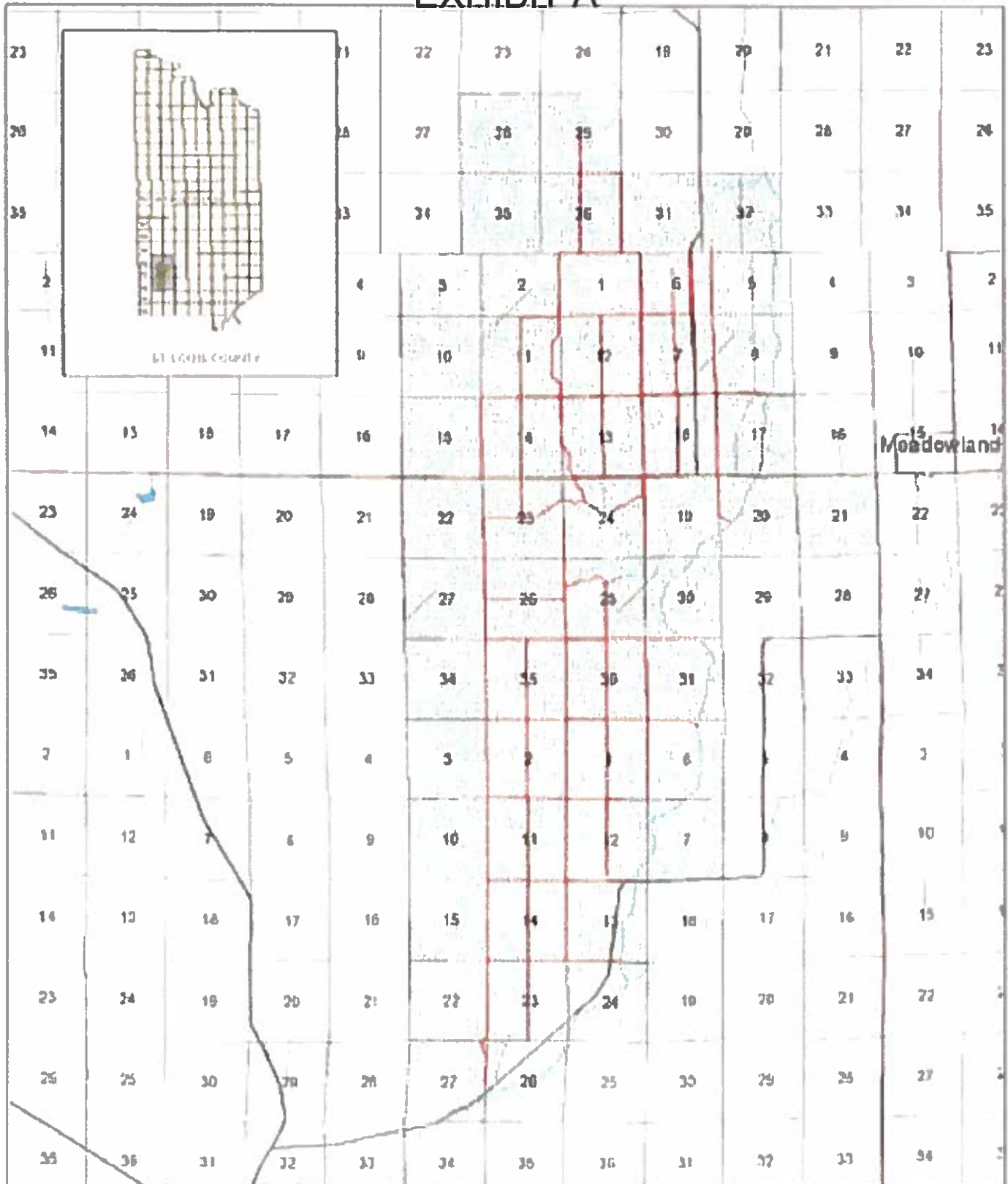
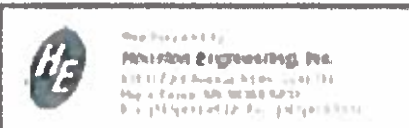


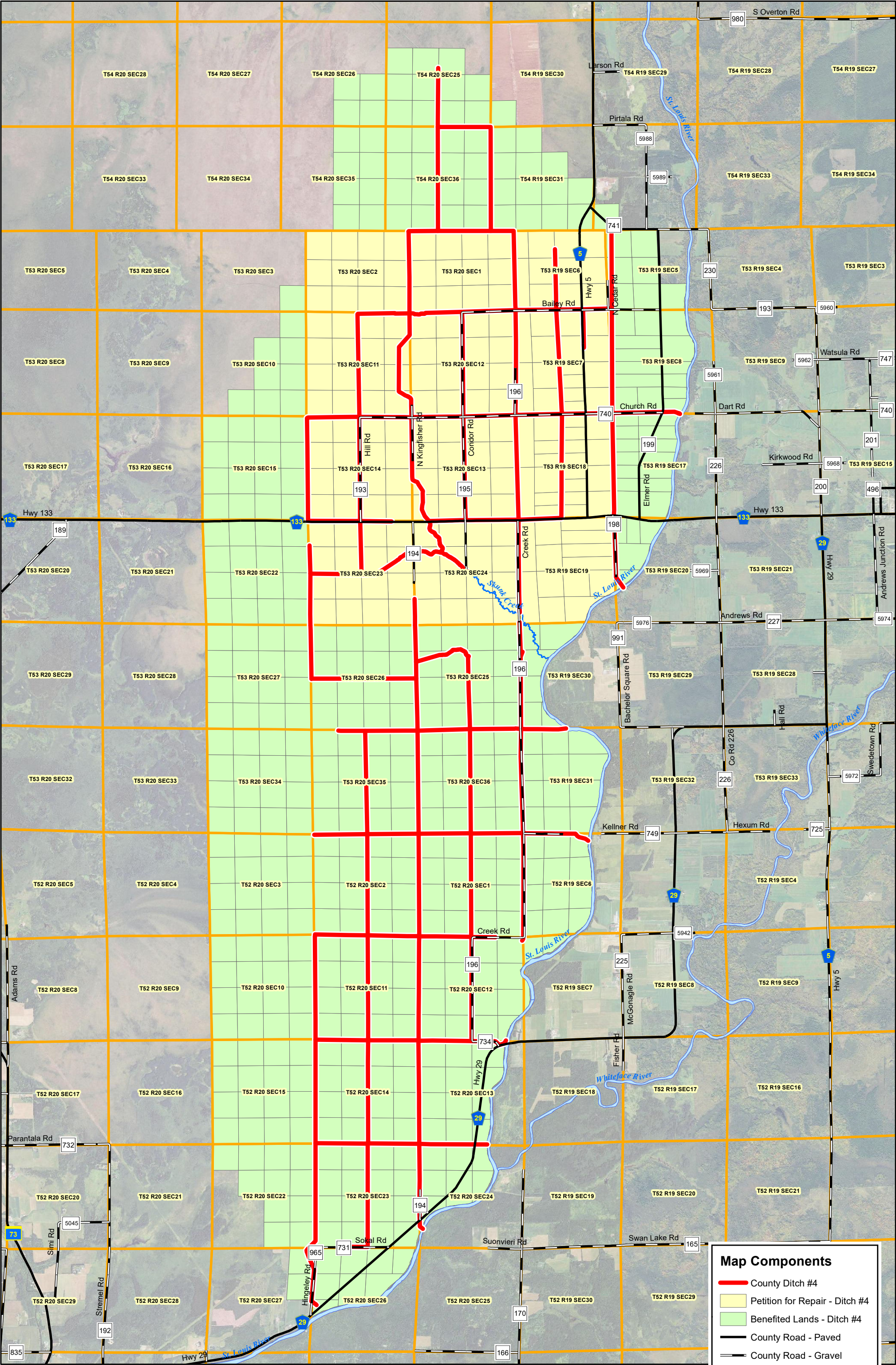
Figure 19: County Ditch No. 4



Map prepared by  
H.E. Engineering, Inc.  
1111 2nd Avenue, S.W.  
Map of the State of Washington  
for the purpose of showing the location of  
the County Ditch No. 4







Map Components

County Ditch #4

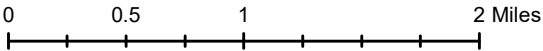
Petition for Repair - Ditch #4

Benefited Lands - Ditch #4

County Road - Paved

County Road - Gravel

Section Line





### County Ditch 4 Petitioned Area Cost Estimate

			Ditch Viewer Costs	Engineering Costs	Construction Costs	PW/Administration Costs
Drainage/Ditch Viewer Cost						
Total County Ditch 4 Estimated Area	24620	acres at \$6.00/acre	\$147,720.00			
Research/Survey/Plans/Permits/Specifications						
\$12,500 per mile	Petitioned Ditch Length	29.2 miles		\$365,000.00		
Construction						
\$60,000 per mile	Petitioned Ditch Length	29.2 miles			\$1,752,000.00	
Public Works & Administration (Assumed 1% of total costs)						\$21,170.00

<b>TOTAL COST OF COUNTY DITCH 4 PETITION</b>	<b>\$2,285,890.00</b>
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**Entire County Ditch 4 Area Cost Estimate**

			Ditch Viewer Costs	Engineering Costs	Construction Costs	PW/Administration Costs
Drainage/Ditch Viewer Cost						
Total County Ditch 4 Estimated Area	24620	acres at \$6.00/acre	\$147,720.00			
Research/Survey/Plans/Permits/Specifications						
\$12,500 per mile	Ditch Length	67.18 miles		\$839,750.00		
Construction						
\$60,000 per mile	Ditch Length	67.18 miles			\$4,030,800.00	
Public Works & Administration (Assumed 1% of total costs)						\$48,705.50

<b>TOTAL COST OF COUNTY DITCH 4 PETITION</b>	<b>\$5,066,975.50</b>
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# Procedure for Ditch #4 Repair Petition

Minnesota Statutes 103E.715, 103E.351, 103E.725

- 1) Repair Petition Received by St. Louis County
- 2) St. Louis County Auditor/Public Works compiled a list of properties benefitted by the ditch system.
- 3) Auditor presents the Petition to the Drainage Authority/County Board. 103E.725.1
  - a. Occurred June 23, 2020
- 4) If County Board/Drainage Authority determines the ditch needs repair they appoint an engineer to examine the system and make a repair report. **Or**, the Board can order a hearing on the petition before appointing an engineer. 103E.715.2
  - a. At the initial hearing on June 23, 2020, the County Board, acting as Drainage Authority for St. Louis County, set the public hearing for August 4, 2020 as set forth in the notice you received previously.
    - i. This hearing was set to gather input from owners of property within the ditch system, and other interested parties, as well as make a decision whether Redetermination of Benefits for Ditch #4 under Minnesota Statute 103E.351 is necessary. The redetermination process is meant to determine which and how properties benefit from the Ditch #4 when it is functioning at original construction capacity. The data for County Ditch #4 regarding benefits dates back to 1916-1917.
- 5) If the Drainage Authority determines to order a Redetermination of Benefits for Ditch #4 they would appoint three Ditch Viewers, and possibly an engineer to assist, and would produce a Viewers Report.
- 6) From the Viewers Report, individual Property Owner's Reports would be made and mailed out to owners regarding the benefits County Ditch #4 confers on each respective property as determined by the Viewers.
- 7) After the reports have been disseminated, a Final Hearing on the reports would be held where property owners could provide feedback or challenge the conclusions within the reports.

- 8) The cost of the redetermination process will be assessed across the entirety of County Ditch #4 benefitted properties, at the percentages/rates set forth in the final Viewers' Report and Property Owner's Reports, regardless of whether the petition to repair ultimately moves forward. The estimated cost for the redetermination process is approximately \$147,720 as set forth in the County Ditch 4 Total Cost Estimates sheet enclosed.
- 9) After receiving input from owners, information from the Viewer's Report regarding benefits and damages, and with cost estimates for repair covering both the petitioned area only and the entire Ditch #4 system, the Drainage Authority will make a determination whether to proceed with the petition to repair.
- 10) If the Drainage Authority decides to move forward with the repair petition, an Engineer's Repair Report would be ordered. The Engineer's Repair Report would show the necessary repairs, a more detailed estimated cost of the repairs, and all details, plans, and specifications necessary to prepare and award a contract for the repairs.
- 11) Upon receipt of the Engineer's Repair Report, the St. Louis County Auditor will notify the Drainage Authority and a hearing on the repair report would be set.
- 12) Hearing on repair report.
  - a. The Drainage Authority will order the repair to be made if:
    - i. the Drainage Authority determines from the repair report and the evidence presented that the repairs recommended are necessary for the best interests of the affected property owners; **or**
    - ii. the repair petition is signed by the owners of at least 26 percent of the property area affected by and assessed for the redetermined benefitted and damaged properties within the County Ditch #4 system, **and** the Drainage Authority determines that County Ditch #4 is in need of repair so that it no longer serves its original purpose **and** the cost of the repair will not exceed the total benefits established by the redetermination process.
- 13) **Costs of Repair – 103E.725, 103E.728**
  - a. **All fees and costs** incurred for proceedings relating to the repair of a drainage system, including inspections, engineering, viewing, publications, and actual repair costs, are costs of the repair and **must be assessed against the property and entities benefitted at the rates determined via the redetermination process.**
  - b. Preliminary estimates for repair of the petitioned area only, and the repair of the entire Ditch #4 system, are included in this mailing. **These numbers are only meant to give an idea of ballpark costs associated with such a project.** The actual costs incurred will be apportioned amongst all properties within the County Ditch #4 system at the rates established by the redetermination process. Certain properties will receive more

significant and valuable benefits than others, and will be responsible for a larger share of the overall costs than others, and vice versa.

- c. Costs will be assessed against each parcel and will be subject to either a 10 or 15 year payback requirement per Minnesota Statute 103E.731.