

ST. LOUIS COUNTY DRAINAGE AUTHORITY

AGENDA

February 7, 2023, 1:00 P.M.

1. Call to order/roll call
2. Minutes for January 24, 2023
3. Drainage Authority Letter No. 23-02 Public Hearing, Redetermination of Benefits and Damages for County Ditch #4
4. Other business
5. Adjourn

ST. LOUIS COUNTY DRAINAGE AUTHORITY PROCEEDINGS

Tuesday, January 24, 2023

The St. Louis County Drainage Authority meeting was called to order at 10:26 a.m., in the Canosia Town Hall, Canosia, Minnesota, with the following members present: Commissioners Annie Harala, Patrick Boyle, Ashley Grimm, Paul McDonald, Keith Musolf, Keith Nelson, and Mike Jugovich - 7. Absent: None - 0.

Deputy County Auditor Phil Chapman asked for nominations for Chair and Vice-Chair of the Drainage Authority for 2023. Commissioner Boyle nominated Commissioner Nelson to serve as Chair and Commissioner McDonald to serve as Vice-Chair. Commissioner Harala, supported by Commissioner Nelson, moved to close nominations, and elect the nominated officers. The motion passed; seven yeas, zero nays. Resolution No. 23-01.

Commissioner McDonald, supported by Commissioner Jugovich, moved to approve the minutes of the August 2, 2022, St. Louis County Drainage Authority meeting. The motion passed; seven yeas, zero nays.

Commissioner Harala, supported by Commissioner Jugovich, moved that the St. Louis County Board of Commissioners, acting in the capacity of the County Drainage Authority, hereby establishes a final hearing regarding the redetermination of benefits and damages for St. Louis County Ditch #4 to occur February 7, 2023, at 1:00 p.m. in the County Board Room at the St. Louis County Courthouse, Duluth, Minnesota; and further, that all costs associated with redetermination of benefits for County Ditch #4 shall be assessed against those lands benefitted as set forth in Minn. Stat. §103E. The motion passed; seven yeas, zero nays. Resolution No. 23-02

COUNTY DRAINAGE AUTHORITY RESOLUTION NO. 23-01

BY COMMISSIONER HARALA:

RESOLVED, That the St. Louis County Drainage Authority makes the following appointments:

Chair, Commissioner Nelson

Vice-Chair, Commissioner McDonald

Unanimously adopted January 24, 2023.

COUNTY DRAINAGE AUTHORITY RESOLUTION NO. 23-02

BY COMMISSIONER HARALA:

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

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

WHEREAS, The County Drainage Authority subsequently ordered the Redetermination of Benefits and Damages pursuant to Minn. Stat. §103E.351 for County Ditch #4; and

WHEREAS, The County Drainage Authority has received Viewer's Reports regarding pre- and post-partial abandonment benefits and damages numbers for County Ditch #4; and

WHEREAS, Minn. Stat. §103E requires that the County Drainage Authority hold a final hearing on these matters.

THEREFORE, BE IT RESOLVED, That the St. Louis County Board of Commissioners, acting in the capacity of the County Drainage Authority, hereby establishes a final hearing regarding the redetermination of benefits and damages for St. Louis County Ditch #4 to occur February 7, 2023, at 1:00 p.m. in the County Board Room at the St. Louis County Courthouse, Duluth, Minnesota.

RESOLVED FURTHER, That all costs associated with redetermination of benefits for County Ditch #4 shall be assessed against those lands benefitted as set forth in Minn. Stat. §103E.

Unanimously adopted January 24, 2023.

At 10:30 a.m., January 24, 2023, Commissioner Grimm, supported by Commissioner Jugovich, moved to adjourn the meeting. The motion passed; seven yeas, zero nays.

Keith Nelson, Chair of the Drainage Authority

Phil Chapman, Deputy Auditor/Clerk of the County Board

COUNTY DRAINAGE AUTHORITY NO. 23 – 02

DATE: February 7, 2023

RE: Public Hearing,
Redetermination of Benefits
and Damages for
County Ditch #4

FROM: Kevin Z. Gray
County Administrator

James T. Foldesi
Public Works Director/Highway Engineer

RELATED DEPARTMENT GOAL:

To provide a safe, well maintained ditch system as required by Minnesota Statute 103E.

ACTION REQUESTED:

It is requested that the County Drainage Authority review, receive testimony on, and approve the redetermined benefits and damages for County Ditch #4 as contained within the Viewer's Report received from H2Overviewers, LLC.

BACKGROUND:

On January 7, 2020, a petition to repair St. Louis County Ditch #4 was submitted pursuant to Minn. Stat. § 103E.715, a copy of which is attached to this letter.

St. Louis County Ditch #4 was constructed more than 100 years ago and likely needs repair. However, prior to any repair it was determined necessary to redetermine benefits and damages and reestablish the records and damages for County Ditch #4 as set forth by the Drainage Authority (DA) in DA Resolution 20-04 (adopted August 4, 2020) and Board Resolution 21-402 (adopted July 13, 2021), respectively.

Reestablishment of records was completed August 2, 2022, along with partial abandonment of County Ditch #4.

St. Louis County is in receipt of the Viewer's Reports setting forth redetermined benefits and damages for County Ditch #4, representing both pre- and post-partial abandonment numbers. The Viewer's Reports set forth what properties benefit from County Ditch #4 and their respective responsibility for costs as determined in the manner set forth in Minnesota Statutes. From the Viewer's Reports, individual Property Owner's Reports were sent to affected landowners in late December 2022.

On January 11, 2023, an informational meeting was held at the Meadowlands Town Hall. Representatives from H2Overviewers, LLC, St. Louis County Public Works, St. Louis County Attorney's Office, and Commissioners Keith Nelson and Mike Jugovich were present. Approximately fifty people attended from the community. All affected property owners were given an opportunity to ask questions and raise issues related to

their Property Owner's Report(s). H2Overviewers, LLC, then followed up with each property owner and addressed their concerns, resulting in some changes being made to the redetermined benefits and damages for St. Louis County Ditch #4. It is those versions of the Viewer's Reports that are in front of the Drainage Authority. Included in the redetermined benefits and damages is payment for buffer strips as required by Minn. Stat. § 103F.48, subdivision 3.

Per Minn. Stat. § 103E.351, a Final Hearing regarding redetermined benefits and damages is required. Required notices were posted, published, and mailed in accordance with statute and are contained within the Drainage Authority file.

RECOMMENDATION:

It is recommended that the St. Louis County Drainage Authority hold a Final Hearing and then adopt the redetermined benefits and damages records for County Ditch #4 as set forth in the Viewer's Report from H2Overviewers, LLC.

Public Hearing, Redetermination of Benefits and Damages for County Ditch #4

BY COMMISSIONER _____

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

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

WHEREAS, The County Drainage Authority subsequently ordered the redetermination of benefits and damages pursuant to Minn. Stat. § 103E.351 for County Ditch #4; and

WHEREAS, The County Drainage Authority has received Viewer's Reports regarding redetermination of benefits and damages for County Ditch #4, representing pre- and post-partial abandonment numbers; and

WHEREAS, Minn. Stat. § 103E.351 requires that the County Drainage Authority hold a Final Hearing on these matters; and

WHEREAS, The County Drainage Authority, on this day, held a public hearing and heard testimony from H2Overviewers, LLC, and all others wishing to speak regarding redetermination of benefits and damages for County Ditch #4.

THEREFORE, BE IT RESOLVED, That the St. Louis County Board of Commissioners, acting in the capacity of the County Drainage Authority, hereby accepts and approves as the redetermined benefits and damages for County Ditch #4 the records as set forth in the Viewer's Reports submitted by H2Overviewers, LLC, contained in St. Louis County Board/Drainage Authority File No. 61308

RESOLVED FURTHER, That staff is directed to prepare and submit findings and an order consistent with the Viewer's Reports approving the redetermination of benefits, payment for grass buffer, confirming damages, and directing payment.

RESOLVED FURTHER, That all costs associated with redetermination of benefits and damages for County Ditch #4 shall later be assessed against those lands benefitted as set forth in Minn. Stat. § 103E.

STATE OF MINNESOTA

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

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

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

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>	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

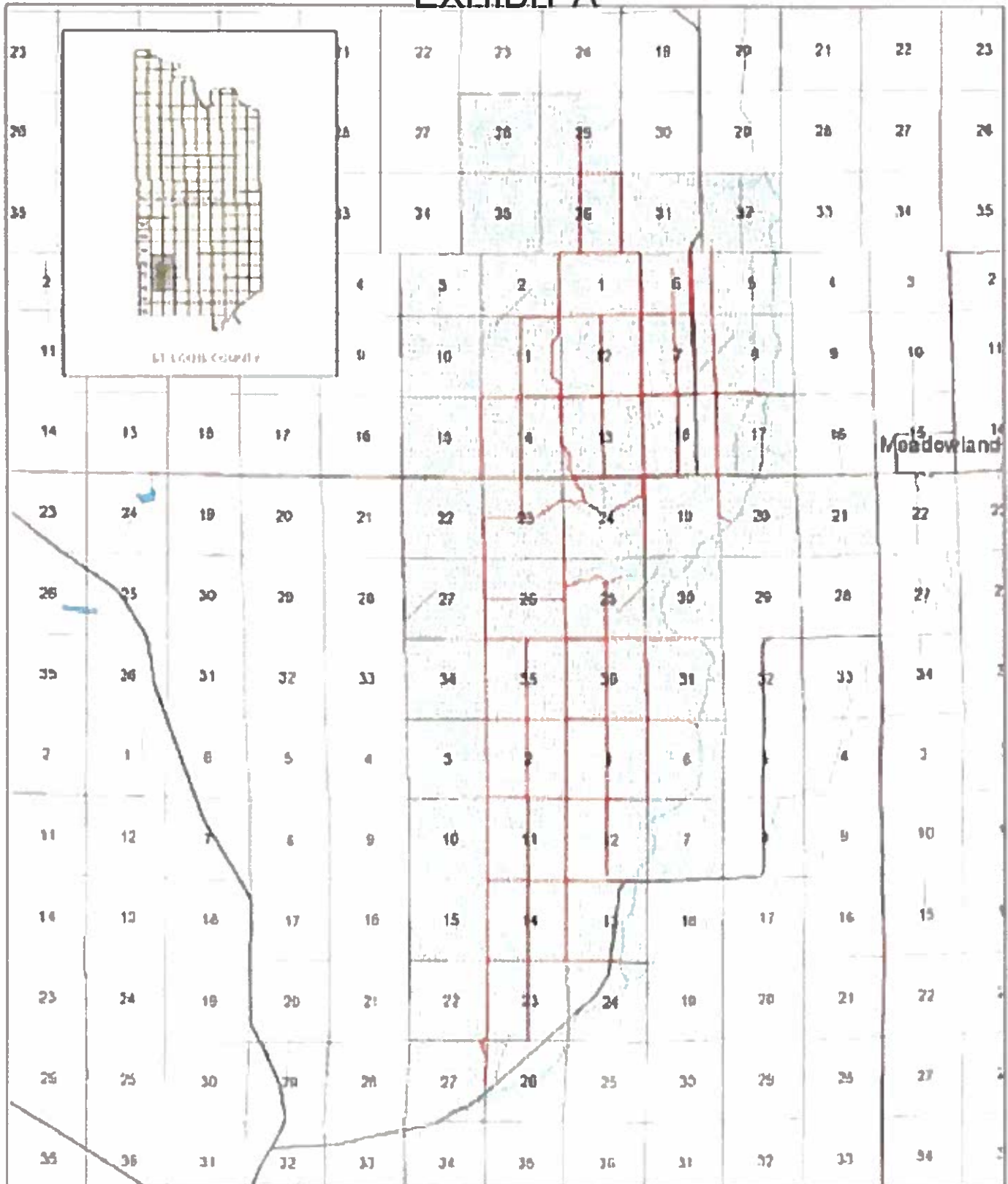


Figure 19: County Ditch No. 4



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 ditch.

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 ditch.