

ST. LOUIS COUNTY DRAINAGE AUTHORITY

AGENDA

**December 15, 2015
9:55 a.m.**

1. Call to order/roll call.
2. Minutes for November 24, 2015.
3. Public Hearing on Partial Ditch Abandonment Petition Submitted by EIP Minnesota, LLC **(15-06)**
4. Adjourn.

**ST. LOUIS COUNTY DRAINAGE AUTHORITY
PROCEEDINGS**

Tuesday, November 24, 2015

The St. Louis County Drainage Authority meeting was called to order at 10:45 a.m., by Chair Pete Stauber at the Hibbing City Council Chambers, Hibbing, Minnesota, with the following members present: Commissioners Frank Jewell, Chris Dahlberg, Tom Rukavina, Keith Nelson, Steve Raukar, and Chair Pete Stauber - 6. Absent: Commissioner Patrick Boyle – 1.

Commissioner Nelson, supported by Commissioner Jewell, moved that the St. Louis County Board of Commissioners, acting in the capacity of the County Drainage Authority, hereby establishes the hearing on EIP's petition for partial abandonment of a ditch segment located in this Unidentified Ditch System for December 15, 2015, at 9:55 a.m. at the St. Louis County Courthouse, Duluth, MN. The motion passed; six yeas, zero nays, one absent (Boyle). Resolution No. 15-05.

Commissioner Rukavina, supported by Commissioner Raukar, moved to approve the minutes of the August 4, 2015 St. Louis County Drainage Authority meeting. The motion passed; six yeas, zero nays, one absent (Boyle).

COUNTY DRAINAGE AUTHORITY RESOLUTION NO. 15-05

BY COMMISSIONER NELSON:

WHEREAS, Pursuant to Minn. Stat. Chapter 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 from EIP Minnesota, LLC for the partial abandonment of a segment of a ditch system located in Sections 8, 16, 17, 20, 21, 28, 29 and 32 of Township 55 North, Range 17 West (the Unidentified Ditch System); and

WHEREAS, Minn. Stats. Chapter 103E requires that the County Drainage Authority hold a hearing on this petition; and

WHEREAS, It is desired that the County Drainage Authority set the hearing to consider EIP's petition for partial abandonment of a ditch segment located in the Unidentified Ditch System for December 15, 2015, at the Duluth Courthouse;

THEREFORE, BE IT RESOLVED, That the St. Louis County Board of Commissioners, acting in the capacity of the County Drainage Authority, hereby establishes the hearing on EIP's petition for partial abandonment of a ditch segment located in this Unidentified Ditch System for December 15, 2015, at 9:55 a.m. at the St. Louis County Courthouse, Duluth, MN.

Yeas - Commissioners Jewell, Dahlberg, Rukavina, Nelson, Raukar, and Chair Stauber – 6

Nays – None

Absent – Commissioner Boyle – 1

Adopted November 24, 2015

At 10:46 a.m., November 24, 2015, Commissioner Nelson, supported by Commissioner Jewell, moved to adjourn the meeting. The motion passed; six yeas, zero nays, one absent (Boyle).

Pete Stauber, Chair of the Board of County Commissioners

Phil Chapman, Deputy Auditor/Clerk of the County Board

COUNTY DRAINAGE AUTHORITY NO. 15 – 06

DATE: December 15, 2015 **RE:** Partial Abandonment
Petition Submitted by
EIP Minnesota, LLC

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 make requisite findings and grant the partial abandonment petition submitted by EIP Minnesota, LLC.

BACKGROUND INFORMATION:

Petition. On October 15, 2015, EIP Minnesota, LLC (EIP) submitted a petition for partial abandonment of a segment of an unidentified ditch system located in sections 8, 16, 17, 20, 21, 28, 29 and 32 of Township 55 North, Range 17 West (the Unidentified Ditch System).

Hearing and Notice. By County Drainage Authority Resolution No. 15-05 adopted on November 24, 2015, the Drainage Authority set a hearing on EIP's partial abandonment petition for December 15, 2015 at 9:55 a.m. at the St. Louis County Courthouse in Duluth, MN. Minn. Stat. Section 103E.806, Subd. 3(a) requires that notice be mailed to the owners of all property benefited by the drainage system. This mailing occurred on December 2, 2015. 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. This publication occurred in the Duluth News Tribune on December 4, 2015.

Analysis of Partial Abandonment Petition. EIP has requested that a certain segment of the Unidentified Ditch System be abandoned. A request for this segment was contained in the original set of partial abandonment petitions submitted by EIP earlier this year, but was removed from consideration until such time that EIP obtained approval from the Minnesota Department of Transportation (MnDOT) because of the segment's proximity to Trunk Highway 53.

As with the partial abandonment petition considered earlier this year, EIP proposes that the Drainage Authority abandon its interest in and jurisdiction over the ditch segment set forth in its petition and included in the proposed resolution below. Earlier this year, this ditch segment was studied, debated and agreed upon by the county's retained expert, Emmons & Olivier Resources, Inc., and EIP's retained expert, Short Elliott Hendrickson, Inc., as a ditch segment that could likely be abandoned with no adverse impacts to neighboring properties. With a slight modification to provide even more protection for neighboring properties, including Trunk Highway 53, MnDOT is now supportive of the abandonment of the ditch segment set forth in EIP's current partial abandonment petition.

Minn. Stat. Section 103E.806 states that the Drainage Authority shall make findings and direct, by order, that part of the drainage system be abandoned, if the Drainage Authority determines that part of the drainage system does not serve a substantial useful purpose as part of the drainage system to any property remaining in the system and is not of a substantial public benefit and utility. Here, because of the substantial amount of engineering work and discussion relative to this ditch segment, it is recommended that the Drainage Authority make the requisite findings that the ditch segment to be abandoned does not serve a substantial useful purpose as part of the drainage system to any properties remaining in the system and is not of a substantial public benefit and utility.

RECOMMENDATION:

It is recommended that the County Drainage Authority approve EIP's petition for partial abandonment as set forth in the attached resolution and order that this ditch segment be abandoned.

Partial Abandonment Petition Submitted by EIP Minnesota, LLC

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 approve pending matters related to county ditches; and

WHEREAS, The Drainage Authority received a petition for the partial abandonment of a ditch located in sections 8, 16, 17, 20, 21, 28, 29 and 32 of Township 55 North, Range 17 West (the "Unidentified Ditch System") from EIP Minnesota, LLC ("EIP"); and

WHEREAS, The Drainage Authority, by resolution number 15-05 adopted on November 24, 2015, set a hearing on the partial abandonment petition to be held on December 15, 2015 at 9:55 a.m. at the St. Louis County Courthouse in Duluth, MN; and

WHEREAS, The Drainage Authority gave due notice of the hearing by publication to all persons interested in the partial abandonment and by mail to EIP and the Minnesota Department of Transportation ("MnDOT"); and

WHEREAS, On December 15, 2015, the Drainage Authority, pursuant to proper notice, held the public hearing on the partial abandonment petition;

THEREFORE, BE IT RESOLVED, That based on staff recommendation and evidence presented at the public hearing, the Drainage Authority, exercising any abandonment authority it has acquired by virtue of the impending proceedings over the Unidentified Ditch System, makes the following Findings of Fact and Order as to the partial abandonment petition:

FINDINGS OF FACT

1. That the ditch segment set forth in Board File No. _____ does not serve a substantial useful purpose as part of the drainage system to any properties remaining in the system and is not of substantial public benefit and utility.
2. That the legislative history of preceding statutes, specifically Minnesota Statutes Chapter 106, grant the St. Louis County Board of Commissioners, acting as Drainage Authority, jurisdiction over what are known as state ditches, and no legislative history identifies

any other Drainage Authority with responsibility over the Unidentified Ditch System.

ORDER

IT IS THEREFORE ORDERED by the St. Louis County Board of Commissioners, acting as the County Drainage Authority and exercising any abandonment authority it has acquired by virtue of the impending proceedings over the Unidentified Ditch System, that the ditch segment set forth in Board File No. _____ is hereby abandoned.



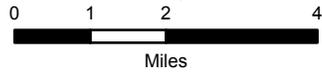
St. Louis County MN

EIP Project Area



Legend

- Proposed EIP Boundary
- Ditch Checks
(1-ft Elevation Intervals)
- Minimum Ditch Fill
*Minimum Ditch Fill
(100' below, 200' above)*
- Abandon Ditch
- Maintain as Public Ditch
- ➔ Flow_Arrows
- Ditch 1
- Ditch 6
- Ditch 53
- Unidentified Ditch System
- SLC Minor Civil Division
- M06 East Abandonment

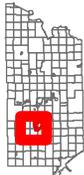


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Team Credits: Planning, Land, Public Works, 911
Source: St. Louis County, DNR
Map Created: 11/12/2015

Disclaimer

This is a compilation of records as they appear in the St. Louis County Offices affecting the area shown. This drawing is to be used only for reference purposes and the County is not responsible for any inaccuracies herein contained.



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