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## IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTHOMAH

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In the Matter of the Organization )

of

SAUVIE ISLAND DRAINAGE DISTRICT

No. 130-087

PETITION.

Come now Kenneth L. Cooper, S.B. Hall, and Frank G. Patterson and respectfully aver and show:

I.

Collectively they are and constitute the duly elected, qualified and acting Board of Supervisors of Sauvie Island Drainage District.

II.

Sauvie Island Drainage District is and a all times from and after August 1, 1938 has been a quasi-municipal or public co., ration organized and existing under and by virtue of Chapter 340, Oregon Laws 151, as amended and supplemented.

III.

On July 24, 1939 the Chief Engineer of Sauvie Island Jrainage District made to the Board of Supervisors a final report in writi concerning surveys made of the lands contained in the district and plans for reclaiming the same.

That report was in words and figures as follows:

"The drainage district laws of the State of Oregon contemplate that the Board of Supervisors shall secure a plan for draining and reclaiming the lands located within its boundaries or adjacent thereto from overflow or damage by water, which plan, when formally adopted by the supervisors, shall be known and thereafter designated as the 'Plan of Reclamation'.

"appreciating that the improvement project of your district under the Federal Flood Control Act is being performed under the supervision and control of the United States District Engineer for this district, and based upon all of the facts brought out by our surveys and studies of the lands within your district, we have concluded that the lands in your district will be protected from overflow of or damage by the waters of the Columbia and Willemette Rivers and Multinomah Channel by the following plan:

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"FIRST: The construction of a dike or levee around the district, connecting at each end with the high ground lying on the West side of Sauvie Island, the elevation of the top of the dike to be not less than three feet above the 1876 flood plane, or an elevation of 32 feet sea level datum, with proper correction for the fall of the river and allowance for the probable flood slope in the length of the district; the top width of the dike to be not less than 12 feet, and its slopes not less than 3 feet horizontal to 1 foot vertical; the dike or levee to be protected wherever necessary by riprap r other form of revetment.

"SECOND: The utilization of Gilbert River as the main drainage canal of said district, and the construction of a borrow pit which will serve as a drainage canal from Dry Take to connect with Gilbert Fiver, and the diversion of these waters through a landside borrow pit to a common pumping plant, with a minimum pumping capacity of 125,000 gallons per minute, to be located in the northerly area of said district, and the construction at said pumping plant of adequate tide boxes, so that drainage of waters from the district will be obtained without pumping when river conditions permit.

"Details of the above proposed plan more fully appear from a map attached hereto and made a part of this proposed 'Plan of Reclamation'."

On the same day the Board of Supervisors of Sauvie Island Drainage District by resolution only passed approved the plan embodied in such report and declared the same adopted as The Plan for Reclamation of Sauvie Island Drainage District.

IV.

On August 1, 1938 this court by its Decree in the above entitled proceeding declared Sauvie Island Drainage District duly organized.

"subject, however, to the provision that the reclamation of the land in said district will be accomplished as alleged in said petition by use of funds made available under the provisions of the Flood Control Act of June 22, 1936, 49 State 1570, Ch. 688; 33 U.S.C.A. 701(a), or acts amendatory thereof or supplemental thereto, or under the provisions of any subsequent Congressional act, and without cost to the District or to the landowners therein, except that the District shall at its own cost provide all lands, easements and rights of way necessary for the construction of said project, and pay the expenses incurred or to be incurred in organizing and operating said district, and necessary costs of maintenance and operation of the works after completion in accordance with the requirements prescribed by the Secretary of War".

Thereafter the United States of America, by use of funds made available under the provisions of the Federal Flood Control Act, caused to be constructed a dike or levee and a common pumping plant substantially as contemplated in the Plan for Reclamation. Sauvie Island Drainage District at a total cost to it to date

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sary for the construction of such dike or levee and of said pumping plant, and paid the expenses incurred in its organization and operation, and the necessary costs of maintenance and operation thereof after their completion, but otherwise the United States of America provided such dike or levee and such pumping plant (expending therefor approximately \$1,250,000.00) without cost to the District or to the landowners therein.

will be accomplished only in part through the construction, maintenance and operation of such dike or levee and of such pumping plant. The construction, maintenance and operation of such dike or levee and of such pumping plant. The construction, maintenance and operation of a system of interior drainage based on Gilbert River are required in order to accomplish the reclamation of a large area of land in the district that cannot be reclaimed otherwise. Your petitioners at the time the petition for organization of the District was filed and continuously thereafter up to the date of the "Plan for Reclamation" believed with reason and contemplated that the United States of America at its sole cost also would construct and provide such a system of interior drainage, and after that date they sought repeatedly but unsuccessfully to procure the United States of America to construct and to provide such a system of interior drainage without cost to the district or to the landowners therein.

V.

On April 3, 1942 the Commissioners appointed by this Court to assess benefits and damages to the lands in the District filed their report herein, which on hearing thereafter was duly confirmed in its entirety by this Court. In that report the Commissioners made in respect of "Zone I-Lands below Elevation 5 Mean Sea Level", the following findings:

"Seepage and economical operation of the pumping plant will make it impractical at the outset to give adequate drainage for lands lying under and below Elevation 5 feet above Mean Sea Level. While the water level may actually be held below this point, the margin during the growing season is not likely in the beginning to be sufficient for proper root development and the successful growth of crops. Therefore the lands in Zone I will not be changed at this time in condition and value by the construction of the project."

In that report in summarizing zone assessments the Commissioners found that the

iand in Zone I will be neither benefited nor damaged and that there are 2706.78 acres in Zone I. In that report the Commissioners also made the following findings:

"The present 'Plan for Reclamation' is one particularly for the purpose of flood control and the exclusion and removal of flood waters and contains no provision for interior drainage except the levee borrow pits and the Gilbert River and other natural and existing waterways. The present plan will result in very great benefits but it should not be considered as a total and final improvement of the District in order to fully reclaim all areas subject to reclamation. The present plan should be supplemented by a system of interior canals, ditches and drains serving all reasible areas within the District boundaries and draining off all surface water into the Gilbert River and the landside borrow pit which extends to the pumping plant."

The total benefits assessed by the Commissioners in that report amounted to \$642,580.80 and were assessed to 3623.27 acres of land in Zones II, III and TV.

VI.

The works set out in the present "Plan for Reclamation" of the District are insufficient to reclaim in whole all of the land in the District that is capable of reclamation. The reclamation of the land in Zone I is feasible, would subject it to assessment by the District, would inure to the advantage of the District and to the landowners therein, would serve one of the principal purposes for which the District was organized, could be accomplished at a cost less than the benefits to be derived therefron, and would be in the public interest. To that end it is reasonable and necessary that this Court amend and correct its former decree incorporating the District by striking therefrom the proviso quoted in paragraph IV hereof, and grant your petitioners permission to amend and to change the "Plan for Reclamation" by adding thereto a paragraph reading substantially as follows:

Third: Construction and maintenance of a system of interior drainage to consist of canals, ditches and drains serving all feasible areas within the District boundaries; adequate drainage thereby of all surplus water into the Gilbert River and the landside borrow-pit which extends to the pumping plant; and improving and maintaining Gilbert River and the landside borrow-pit to serve most efficiently as a main arterial canal for such system.

Fethtion - 4.

 WHEREFORE your patitioners pray that this Court amend its former decree incorporating the District by striking therefrom the provise quoted in paragraph IV of this petition and grant them permission to amend and to change the "Plan for Reclamation" of the District in the manner set out in paragraph VI hereof and such other relief as may be proper.

Dated this 1st day of June , 19/3.

January Linger.

Flaus Hatterson.

Petitioners

STATE OF CREGON ) ss County of Multnomah )

I, KENNETH L. COOPER, being first duly sworn on my oath depose and say:

I am Chairman of the Board of Supervisors of Sauvie Island
Drainage District, and as such Chairman am authorized to sign the within
Petition; I have read the said petition, know the contents thereof, and
the same are true as I verily believe.

Subscribed and sworn to before me this Lat day of June, 1943

William 6. M. Mullock

Notary Public for Oregon,
My Commission expires: October 6,1943