

OFFICE OF COUNTY CLERK
MULTNOMAH COUNTY, OREGON
FILED
MAY 17 1945
AL L. BROWN, Clerk
H. W. NEWTON, Deputy

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

In the matter of the Organization)
of)
SAUVIE ISLAND DRAINAGE DISTRICT)

130-087
No. 130-087

PETITION

Come now Kenneth L. Cooper, Frank G. Patterson and Porter W. Yett
as petitioners and respectfully show:

1. They are the duly elected, qualified and acting Supervisors of
the above named drainage district.
2. The report of the Commissioners was filed herein on April 3, 1942
and after due hearing was confirmed on June 4, 1942 by this Court.
3. By the Decree of Confirmation this Court expressly reserved and
retained for five (5) years from the date thereof jurisdiction over the
Commissioners and over the subject matter of their Report and kept them for
such period of five (5) years subject to its further orders herein to perform
supplemental administrative duties as commissioners.
4. Among the findings made by the Commissioners in their original
report were the following:

"The most equitable method of arriving at the benefits
accruing to lands within the District receiving the
protection of the levee and other works is by a division
into zones depending upon elevations and extent of over-
flow, considering the relative conditions and value before
and after the proposed improvement is made. Where the
elevations of any tract are modified during the improve-
ment, the final elevations shall determine the zone and
benefits. These zones are determined, designated and
described as follows:

"Zone 1. Lands below Elevation 5 Mean Sea Level. It is
the belief of your Commissioners that 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 success-
ful growth of crops. Therefore the lands in Zone 1 will not
be changed at this time in condition and value by the construc-
tion of the project."

1 Pursuant to these findings the commissioners assessed no benefits to an aggre-
2 gate area of lands in Zone 1 amounting to 2706.76 acres. The total area in the
3 District amounts to 12,053.91 acres. The Commissioners assessed benefits to an
4 aggregate area of lands in zones 2, 3, and 4 amounting to 8549.32 acres.

5 5. In their original report the Commissioners made a statement and
6 recommendation as follows:

7 "The present 'Plan for Reclamation' is one particularly
8 for the purpose of flood control and the exclusion and
9 removal of flood waters, and contains no provision for
10 interior drainage except the levee borrow pits and the
11 Gilbert River and other natural and existing waterways.
12 We are of the opinion that the present Plan will result
13 in very great benefits but that it should not be considered
14 as a total and final improvement of the district in order
15 to fully reclaim all areas subject to reclamation. The
16 present plan should be supplemented by a system of interior
17 canals, ditches and drains serving all feasible areas within
18 the District boundaries and draining off all surface waters
19 into the Gilbert River and the landside borrow pit which
20 extends to the pumping plant."

21 6. Such proceedings were had in the above entitled matter as resulted
22 in a decree of this Court (dated September 8, 1943) granting permission to the
23 Board of Supervisors of Sauvie Island Drainage District to amend and to change
24 the Plan for Reclamation of said District, by adding thereto a paragraph reading
25 as follows:

26 "Third: Construction and maintenance of a system of
27 interior drainage to consist of canals, ditches and
28 drains serving all feasible areas within the district
29 boundaries; adequate drainage thereby of all surplus
30 water into the Gilbert River and the landside borrow
31 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."

Thereafter at a meeting duly called and held on September 8, 1943 of the Board
of Supervisors of Sauvie Island Drainage District at which all the members of the
Board were present, the following resolution was adopted by unanimous vote of
the members of the Board:

"RESOLVED that the 'Plan for Reclamation' of Sauvie
Island Drainage District be and the same is amended
and changed hereby by adding thereto a paragraph
reading as follows:

1 "Third: Construction and maintenance of a system of interior
2 drainage to consist of canals, ditches and drains serving all
3 feasible areas within the district boundaries; adequate drain-
4 age thereby of all surplus water into the Gilbert River and the
5 landside borrow pit which extends to the pumping plant; and
6 improving and maintaining Gilbert River and the landside borrow
7 pit to serve most efficiently as a main arterial canal for
8 such system."

9 7. Thereafter the Board of Supervisors of Savvie Island Drainage
10 District undertook the construction of a series of integrated projects for canals
11 and ditches to consist, when completed, of a system of interior drainage. The
12 work of construction has progressed to such an extent as to give adequate drain-
13 age to a considerable area in the aggregate of lands in Zone 1 and to permit the
14 successful growth of crops thereon. The tracts of land so reclaimed are identi-
15 fied in a schedule attached hereto and marked Exhibit A. Such tracts are receiv-
16 ing and will continue to receive maximum benefits from the District's works of
17 reclamation and the original assessments of no benefits thereto are now inequit-
18 able and unjust by reason of the changed circumstances aforesaid. The reassess-
19 ment at this time by the commissioners of the benefits to such tracts would be
20 just and reasonable and in the public interest to the end that they may be sub-
21 jected to assessment by the District along with the lands in Zones 2, 3, and 4.
22 The completion of said system of interior drainage both already and yet to be
23 projected will reclaim the greater part of the area of lands in Zone 1 but
24 thereafter parts of said area will remain permanently incapable of reclamation
25 by the District. Therefore the reassessment of benefits to those parts of the
26 area of land in Zone 1 that have been reclaimed as aforesaid will require a sub-
27 division of Zone 1 into two zones, that may be named for convenience Zone 1-A
28 and Zone 1-B. Adopting such a classification the Commissioners on reassessment
29 can list in Zone 1-A lands not yet reclaimed (including those permanently in-
30 capable of reclamation) and in Zone 1-B lands which they find to have been
31 reclaimed already. The tracts already reclaimed are listed in Exhibit A accord-
ing to the suggested classification. The adoption of the suggested classifica-
tion would not affect the rate or amount of benefits already assessed to lands
in Zones 2, 3, and 4, but it would justify the reassessment of benefits to lands

1 in Zone 1-B at a rate and amount per acre higher than the rate and amount per
2 acre now applying to lands in Zone 2. For example, if the Commissioners should
3 reassess benefits to lands in Zone 1-B to the extent of \$125.00 per acre, then
4 such lands would be considered as receiving thereafter maximum benefits from the
5 District's works of reclamation (and not the lands in Zone 2 as stated on page
6 7 of the Commissioners' original report) and the percentages stated on page 8
7 thereof would become on land in Zone 2, 80% of the new maximum and
8 on land in Zone 3, 56% of the new maximum, and
on land in Zone 4, 28% of the new maximum

9 and the Summary of Zone Assessments would be subject to appropriate revision.

10 The suggestions heretofore made herein may be illustrated as follows
11 in respect of the reassessment sought in relation to a particular tract. The
12 Commissioners included in their original report on page 15 thereof in respect
13 of Tract No. 12 as there described the following findings:

14	"20.93 acres in Zone 1 at \$ 00.00	\$ 00.00
	7.18 acres in Zone 2 at \$100.00	718.00
15	<u>15.43 acres in Zone 3 at \$ 70.00</u>	<u>1,080.10</u>
16	43.54 acres at average benefit of \$41.29 plus per acre	\$1,798.10."

17 If the Commissioners find the facts to be as stated hereinbefore, said findings
18 should be superseded by the following:

19	20.93 acres in Zone 1-B at \$125.00	2,616.25
	7.18 acres in Zone 2 at \$100.00	718.00
20	<u>15.43 acres in Zone 3 at \$ 70.00</u>	<u>1,080.10</u>
21	43.54 acres at average benefit of \$101.38 plus per acre	\$4,414.35.

22 8. The Commissioners on the basis of faulty data and information then
23 before them included in their original report on pages 45 and 46 thereof in
24 respect of Tract No. 77 as there described the following finding:

25	".62 acres in Zone 4 at \$35.00	\$ 21.70."
----	---------------------------------	------------

26 The petitioners are informed, believe and aver that said land (.62 acres) lies
27 above elevation 29 mean sea level. If such be found by the Commissioners to be
28 the fact, said finding should be superseded by the following:

29	.62 acres in Zone 5 at \$00.00	\$ 00.00.
----	--------------------------------	-----------

30 9. The Commissioners on the basis of faulty data and information then
31 before them included in their original report on page 12 thereof in respect of