

1                   BEFORE THE BOARD OF COUNTY COMMISSIONERS

2                   FOR MULTNOMAH COUNTY, OREGON

#89-128

3 In the Matter of the Reassessment )     ORDER APPOINTING  
4 of Benefits in MULTNOMAH COUNTY )     COMMISSIONERS FOR  
5 DRAINAGE DISTRICT NO. 1           )     REASSESSMENT

6           This matter came on for hearing upon the petition of various  
7 owners of land within Multnomah County Drainage District No. 1  
8 who appeared by Carlton W. Hodges, counsel for the Drainage  
9 District. The Board finds that:

10           1. The petitioners constitute at least one-tenth (1/10) of  
11 the owners of the lands within Multnomah County Drainage District  
12 No. 1 or the owners of at least one-tenth (1/10) of the lands  
13 within the District.

14           2. The original report of the commissioners in this matter  
15 was filed on August 25, 1919, and after hearing was confirmed on  
16 October 1, 1919; a first amended and supplemental report of the  
17 commissioners in this matter was filed on April 16, 1957, and  
18 after hearing was confirmed on May 27, 1957; thereafter, a second  
19 amended and supplemental report was filed and after hearing was  
20 confirmed on May 12, 1964.

21           3. In 1971 another petition was filed, and a board of com-  
22 missioners consisting of Fred C. Cholick, H. Sprague Burdin, and  
23 Chester G. Hill was convened, but a report was neither filed nor  
24 confirmed. Although Mr. Cholick is presently willing to serve as  
25 a commissioner, Mr. Hill and Mr. Burdin no longer wish to serve  
26 and have tendered their resignations.

4. The petition sets forth that the original and present

1 assessments or benefits are inequitable and unjust, and it is  
2 therefore desirable and necessary in the interest of the District  
3 and of all the land owners therein that the previous reports of  
4 the commissioners be amended and supplemented to bring them up to  
5 date and to make them definite and certain in all respects and to  
6 accurately reflect in the manner provided by law the situations  
7 and conditions presently in the District. To that end, it is  
8 necessary that this Board appoint two commissioners to fill the  
9 vacancy existing in the membership of the board of commissioners.  
10 Donald W. Oakley is a civil engineer and is not a land owner  
11 within the District nor of kin within the fourth degree of con-  
12 sanguinity to any person owning land within the District and is  
13 otherwise qualified to perform the duties of a commissioner.  
14 Charles Edward Olson is a freeholder residing in the State of  
15 Oregon and is not a land owner within the District nor of kin  
16 within the fourth degree of consanguinity to any person owning  
17 land within the District and is otherwise qualified to perform  
18 the duties of a commissioner.

19 5. It is necessary that this Board appoint commissioners as  
20 provided by ORS 547.215 to reassess the benefits in the District  
21 pursuant to ORS 547.245.

22 NOW, THEREFORE, IT IS HEREBY ORDERED that:

23 1. Donald W. Oakley and Charles Edward Olson are hereby  
24 appointed and designated as commissioners of Multnomah County  
25 Drainage District No. 1 to serve in that capacity with Fred C.  
26 Cholick.

1        2.    The board of commissioners as so constituted is hereby  
2 convened and directed to examine the original report of the com-  
3 missioners in this matter as amended and supplemented in the  
4 light of the above-mentioned petition and of all relevant  
5 factors.

6        3.    The commissioners are directed to reassess the benefits  
7 in the District and to prepare and file with this Board the  
8 report of such reassessment in such particulars and respects as  
9 may be warranted by the law and by the facts and to do all things  
10 necessary or convenient to implement this order.

11       4.    Upon the filing of the report of the commissioners, the  
12 County Clerk shall give notice of hearing thereon by publication  
13 once a week for three consecutive weeks in some newspaper pub-  
14 lished in Multnomah County the last insertion to be made at least  
15 15 days prior to the hearing.

16            DATED this 22nd day of June \_\_\_\_\_, 1989.



17            BOARD OF COUNTY COMMISSIONERS  
18            FOR MULTNOMAH COUNTY

19            By Gladys McCloy  
20            Presiding Officer

21            Submitted by:  
22            Carlton W. Hodges, OSB #67049  
23            621 S.W. Morrison St., Suite 1410  
24            Portland, OR 97205  
25            Phone: (503) 223-3690

1                                   BEFORE THE BOARD OF COUNTY COMMISSIONERS

2                                   FOR MULTNOMAH COUNTY, OREGON

3 In the Matter of the Reassessment )     PETITION TO APPOINT  
4 of Benefits in MULTNOMAH COUNTY )     COMMISSIONERS FOR  
5 DRAINAGE DISTRICT NO. 1           )     REASSESSMENT

6                                   1.

7           Pursuant to ORS 547.245, the undersigned hereby petition the  
8 within entitled Board of County Commissioners to appoint three  
9 commissioners to reassess the benefits in Multnomah County  
10 Drainage District No. 1 and to report their reassessment to the  
11 Board. In support of this petition, the undersigned represent to  
12 the Board as follows:

13                                  2.

14           The undersigned constitute at least one-tenth of the owners  
15 of the lands within Multnomah County Drainage District No. 1 or  
16 the owners of at least one-tenth of the lands within the  
17 District.

18                                  3.

19           The original report of the commissioners in this matter was  
20 filed on August 25, 1919, and after hearing was confirmed on  
21 October 1, 1919. A first amended and supplemental report of the  
22 commissioners on this matter was filed on April 16, 1957, and  
23 after hearing was confirmed on May 27, 1957. Thereafter, a sec-  
24 ond amended and supplemental report was filed and after hearing  
25 was confirmed on May 12, 1964.

26                                  4.

          The original assessment of benefits divided the District into

1 four zones correspondent to various levels of elevation and  
2 assessed property in each zone at a uniform rate. The first  
3 amended and supplemental report of the commissioners continued  
4 assessment at a uniform rate according to elevation and, in  
5 addition, each parcel was assessed 120 percent of the then cur-  
6 rent land valuation as fixed and determined by the County  
7 Assessor of Multnomah County. The commissioners found that this  
8 method of assessment took into account the then existing utiliza-  
9 tion of the land and its need for prompt and adequate water  
10 drainage.

11 5.

12 The second amended and supplemental report accepted the orig-  
13 inal division of the District into four elevation zones as one  
14 factor affecting benefits. The report likewise accepted the  
15 finding in the 1957 report that the value of land had substan-  
16 tially changed as a result of reclamation. With the exception of  
17 three parcels which were dealt with separately, assessment  
18 according to the original zone benefits was continued, and to  
19 that was again added 10 percent of the current (1963-64) assessed  
20 valuation "of each and every tract taken from the records of the  
21 County Assessor of Multnomah County." Of the three parcels  
22 treated separately, Tract 4-1 was reduced to original zone bene-  
23 fits plus 5 percent of current assessed valuation of the tract by  
24 the County Assessor. A substantial portion of the tract had been  
25 filled "with the result that water which previously flowed into  
26 the district [from the tract] . . . is now diverted outside the

1 district." The benefit to Tract 113-3 was computed by applying  
2 the elevation zone benefits plus 13 percent of the current  
3 assessed valuation since the District furnished an additional  
4 pump which served this parcel only. Tract 130-2 was likewise  
5 served by a single pump which served no other area, and 30 per-  
6 cent of the current assessed valuation was added to the original  
7 zone benefits.

8 6.

9 In 1971 another petition was filed, and a board of commis-  
10 sioners consisting of Fred C. Cholick, H. Sprague Burdin, and  
11 Chester G. Hill was convened, but a report was neither filed nor  
12 confirmed. Although Mr. Cholick is presently willing to serve as  
13 a commissioner, Mr. Hill and Mr. Burdin no longer wish to serve  
14 and have tendered their resignations. It will therefore be nec-  
15 essary to replace both Mr. Hill and Mr. Burdin.

16 7.

17 Since the second amended and supplemental report was approved  
18 and confirmed in 1963, there have been substantial changes in the  
19 utilization of lands within the District. The principal change  
20 is that a much larger portion of the land is now devoted to non-  
21 agricultural uses. Additional industrial and commercial uses  
22 have occurred within the District, more lands have been subdivi-  
23 ded for residential use, additional streets and highways have  
24 been built, and the Portland International Airport, which com-  
25 prises a substantial portion of the land within the territorial  
26 area of the District, has been enlarged and expanded.

1 8.

2 The present assessment formula is unfair and inequitable in  
3 that it does not consider as a separate factor the amount of  
4 impervious surface of the various parcels of land. Roofs and  
5 paved surfaces have been added to parcels within the District,  
6 have increased the amount of runoff, and have increased the  
7 demands on pumps, drainage ditches, and canals within the  
8 District. Because the existing assessment formula is based pri-  
9 marily on elevation and assessed value, agricultural property and  
10 residential property is being assessed at a rate disproportion-  
11 ately high to its contribution to runoff. A more equitable fund-  
12 ing method should be based primarily on three factors: (a) each  
13 property's contribution to runoff, (b) the elevation of each  
14 property, and (c) specific or unusual service requirements.

15 9.

16 For the reasons stated above, it is necessary and desirable  
17 in the interest of the District and of the land owners therein  
18 that the report of the commissioners be amended and supplemented  
19 so as to bring it down to date and to make it definite and cer-  
20 tain in all respects and to reflect accurately in the manner pro-  
21 vided by law the situations and conditions presently existing.  
22 To that end, it is necessary that this Board appoint two commis-  
23 sioners to fill the vacancies existing in the membership of the  
24 Board by reason of the resignation of two of the previous  
25 commissioners. The petitioners represent that Donald W. Oakley,  
26 P.E., 1201 S.W. 12th Avenue, Suite 620, Portland, Oregon, 97205,

1 is a civil engineer and is not a land owner within the District  
2 nor of kin within the fourth degree of consanguinity to any per-  
3 son owning land within the District, and that Charles Edward  
4 Olson, 4023 N.E. Laddington Court, Portland, Oregon, 97232, is a  
5 freeholder residing in the State of Oregon and is not a land  
6 owner within the District nor of kin within the fourth degree of  
7 consanguinity to any person owning land within the District, and  
8 that the two land named persons are otherwise qualified to per-  
9 form the duties of a commissioner. To such end, it is also nec-  
10 essary for this Board to convene the newly appointed commission-  
11 ers and to direct them to make an amended and supplemental report  
12 in respect of the matters set forth in this petition.

13 WHEREFORE, pursuant to ORS 547.215, the petitioners pray for  
14 an order appointing Donald W. Oakley, P.E., and Charles Edward  
15 Olson, or such other qualified persons as this Board may desig-  
16 nate as commissioners of Multnomah County Drainage District No. 1  
17 to serve with Fred C. Cholick and convening the same and direct-  
18 ing them to examine the previous report of the commissioners in  
19 the light of this petition and of all relevant facts, and to pre-  
20 pare and to file with the Clerk of Multnomah County an amended  
21 and supplemental report in such particulars and respects as may  
22 be warranted by the law and the facts, and granting them the  
23 relief sought by this petition and any other relief which this  
24 court may deem appropriate.

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26 //

DATED this 9th day of June, 1989.

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Name

Property Address

James M. Fay

2511 80 TROUTDALE, OREGON 97060

Allen E. Petty

4600 NE 138th Portland, OR 97230

Thomas W. Hoppold

14418 NE Marine Dr., Portland, OR 97230

Joe Orenburg

19833 NE Sandy Blvd., Portland, OR 97230

Charles R. Kuegel

8105 N.E. 33<sup>rd</sup>, PORTLAND ORE 97211

Keith J. Hebra

3509 NE COL BLVD PORTLAND 97211

RJ Roberts

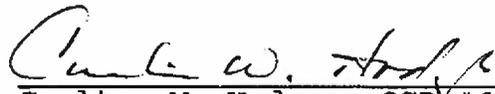
921 S.W. Washington #777 Portland OR 97205

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I, Carlton W. Hodges, certify that I am the attorney for  
Multnomah County Drainage District No. 1 and that the foregoing  
petition is true and correct.

DATED this 9th day of June, 1989.

  
\_\_\_\_\_  
Carlton W. Hodges, OSB #67049  
Attorney for Multnomah County  
Drainage District No. 1