WEST VIRGINIA CODE: §19-21-13

§19-21-13. Assessment of benefits and damages; extension of district to include other lands; report of appraisers; compensation.

Within thirty days after qualifying, as provided in the previous section, the appraisers shall begin their duties; and the chief engineer or one of his assistants shall accompany such appraisers at all times and shall render his opinion in writing when called for. The appraisers shall proceed to view the premises and determine the value of all land and other property, within or without the district, to be acquired and used for rights-of-way or other works set out in "the plan for reclamation" and shall assess the amount of benefits, and the amount of damages, if any, that will accrue to each parcel of land, public highway, railroad and other right-of-way, railroad, roadway and other property, from carrying out and putting into effect "the plan for reclamation" heretofore adopted. The appraisers, in assessing the benefits to rights-of-way, railroad, roadway and other rights-of-way, railroad, roadway and other property not traversed by such works and improvements as provided for in "the plan for reclamation," shall not consider what benefits will be derived by such property after other drains, ditches, improvements or other plans for reclamation shall have been constructed, but they shall assess only such benefits as will be derived from the construction of the works and improvements set out in "the plan for reclamation," or as the same may afford protection from overflow to such property. The appraisers shall give due consideration and credit to any other ditch or other systems of reclamation, which may have already been constructed and which afford partial or complete protection to any tract or parcel of land in the new district, and if the appraisers shall find that any drain or other works have been constructed under any general or special law of this state, which can be used in making the drains and improvements herein contemplated, they shall include the same in their report, and thereafter the board of supervisors may order such drains or such works to be used, so far as they extend, for the purpose of the drainage district in which they are situated, and that the district or other owners of such drains or other improvements or persons having an interest therein by virtue of having contributed money, material or labor in the construction of the same, shall be allowed, in proportion to the interest held or owned in said drains or improvements, a compensation which shall not exceed the amount of such drainage district's indebtedness as evidenced by outstanding script, bonds or other evidences of indebtedness. The railroad and other rights-of-way, railroad and other property shall be assessed according to the increased physical efficiency and decreased maintenance cost by reason of the protection to be derived from the proposed works and improvements. The appraisers shall also assess all damages that will accrue to any landowner by reason of the proposed improvement, including all injury to lands taken or damaged; and when they return no such assessment of damages as to any tract of land, it shall be deemed a finding by them that no damage will be sustained.

If the board of appraisers finds that other lands not embraced within the boundaries of the district will be affected by the proposed improvement, they shall assess the estimated

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benefits and damages to such land and shall specifically report to the court the assessments which they have made on the lands beyond the boundaries of the district as already established. It shall then be the duty of the clerk of the circuit court to give the following described notice by publication as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where such lands lie. The notice shall describe the lands which have been assessed, and the owners of real property so assessed shall be allowed twenty days after the publication of such notice to file with the clerk of the circuit court their protest against being included within the district. The circuit court shall at its next session investigate the question whether the lands beyond the boundaries of the district so assessed by the appraisers will in fact be benefited or damaged by the making of the improvement; and from its findings in that regard either the property owners affected by the assessment of the appraisers or the district may within twenty days file an appeal. If the finding is in favor of the district, the limits of the district shall be extended so as to embrace any lands that may be affected by the making of the improvements, and such lands shall be subject to the taxes provided for in section eleven of this article. The appraisers shall have no power to change "the plan for reclamation" heretofore provided for.

The board of appraisers shall prepare a report of their findings, which shall be arranged in tabular form, the columns of which shall be headed as follows: Column one, "owner of property assessed"; column two, "description of property assessed"; column three, "number of acres assessed"; column four, "amount of benefits assessed expressed in dollars and cents"; column five, "number of acres taken for right-of-way"; column six, "value of property taken"; column seven, "damages assessed." They shall also, by and with the advice of the engineer of the district, estimate the cost of works set out in "the plan for reclamation," which estimate shall include the cost of property required for rights-of-way and damages and the actual expenses of organization and administration, as estimated by the board of supervisors, and shall itemize and tabulate the same. Such reports shall be signed by at least a majority of the appraisers and filed in the office of the circuit clerk in which the petition was filed. The secretary of the board of supervisors, or his deputy, shall accompany such appraisers while engaged in their duties, and shall perform all the clerical work of such board; he shall also, under the advice, supervision and direction of the attorney for the district, prepare their report. The board of appraisers shall report to the board of supervisors the number of days each had been employed and the actual expenses incurred. Each appraiser shall be paid $5 per day for his services, and necessary expenses in addition thereto.

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