

103E.805 REMOVAL OF PROPERTY FROM AND PARTIAL ABANDONMENT OF A DRAINAGE SYSTEM.

Subdivision 1. **Petition.** After the construction of a drainage system, the owner of benefited property may petition the drainage authority to remove property from the drainage system or abandon any part of the drainage system that is not of public benefit and utility and does not serve a substantial useful purpose to property remaining in the system if:

(1) waters are diverted from property assessed for benefits so that the drainage from the property does not use or affect the drainage system; or

(2) a dam authorized by law is constructed in the drainage system so that the property above the dam cannot use or receive benefits from the drainage system.

Subd. 2. **Filing.** If the drainage system is under the jurisdiction of a drainage authority, the petition must be filed with the auditor. If the system is under the jurisdiction of a watershed district, the petition must be filed with the secretary of the district.

Subd. 3. **Hearing.** (a) When the petition is filed, the drainage authority in consultation with the auditor or the secretary shall set a time and location for a hearing on the partial abandonment petition and shall give notice by publication of the hearing to all persons interested in the drainage system.

(b) At the hearing, the drainage authority shall make findings and shall direct, by order, that the petitioners' property be removed from the drainage system if the drainage authority determines:

(1) that the waters from the petitioners' property have been diverted from the drainage system, or that a dam has been lawfully constructed and the property cannot use the drainage system;

(2) that the property is not benefited by the drainage system and does not use or affect the drainage system; and

(3) that removing the property from the drainage system will not prejudice the property owners and property remaining in the system.

(c) 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 to any property remaining in the system and is not of a substantial public benefit and utility.

Subd. 4. **Effect of removing property from drainage system.** The property that has been removed from the drainage system is not affected by the drainage system at any later proceeding for the repair or improvement of the drainage system and a drainage lien or assessment for repairs

or improvements may not be made against the property that has been removed on or after the date of the order.

Subd. 5. **Liens and assessments on property removed or abandoned.** An order under this section does not release the property from a drainage lien filed on account of the drainage system before the date of the order. An order under this section does not release the property from any assessment or a drainage lien filed on or after the date of the order for costs incurred on account of the drainage system before the date of the order.

History: *1990 c 391 art 5 s 102*