

OHIO DITCH LAW: COMPARISON OF THREE APPLICABLE AREAS OF LAW

	Petition Ditch Law § 6131, 6133, 6135, 6137	SWCD Authority/SB 160 §1515	Conservancy District Law §6101
How project initiated	Any landowner (6131.04)	SWCD Supervisors (1515.20) Can also be conducted by a joint board of supervisors in two or more adjoining counties with supervision of the Ohio soil and water conservation commission (1515.17)	Conservancy District
Conditions for approval	Benefits must be equal to or greater than the costs; project must be necessary and conducive to the public welfare (6131.21)	project must improve water mgmt and development in the county, the costs must be less than the benefits and the project must benefit the land by promoting the economical, industrial and social development of the area (1515.20)	Ditch projects do not appear to have a separate approval process. The master district plan has an approval process but individual projects do not (they must implement the plan). No cost/benefit analysis required.
Benefits & assessment calculation	Engineer calculates assessments based on potential increase in productivity and to the quantity of drainage contributed, the relative location of the property to the project, value of the project to the watershed, and to benefits as defined in 6131.01 (reduction or elimination of flood damage, providing outlet for accelerated drainage etc.) (6131.15)	County auditor can calculate uniform or varied rate assessments based upon the benefit to the area. Primary consideration is for the potential increase in productivity, amount of water disposed, location of the property relative the project, and any other benefits as defined in 6131.01(1515.24).	Board of appraisers must appraise the benefits “of every kind to all real property” including damages and offering credit to any other works or improvements already constructed or under construction (6101.28).
Public Notice	Public notice for preliminary (6131.07) and final hearings (6131.16) are sent by certified mail to all owners in the watershed. Legal notice published in at least one newspaper of general circulation	SWCD supervisors must provide public notice published twice, at least 13 days apart in a newspaper of general circulation in the county stating time and date (1515.01, 1515.20) to announce public hearing on project. (it is then certified and sent to the county commissioners who begin the assessment procedure). The County commissioners give public notice of the assessments by first class mail to all landowners which also includes info on ways to file an objection (if the address of any owner cannot be ascertained, then a public notice must run in a newspaper once/week for 3 weeks (1515.24)	Notice of completion of the district plan is published once in a newspaper of general circulation (used to be 3x) and includes the times and places for hearings of all objections to the plan (6101.01). Note: this applies only to the official plan for the district, not the plan for the individual ditch project.  All objections to the district plan must be <u>in writing</u> and filed with the Conservancy District Secretary within <u>20</u> days of the public notice. (6101.13)

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			Public notice is also given (through publication in a paper of general circulation and by first class mail) to notify landowners whose property is to be taken or damaged. It is unclear as to whether this occurs only when property is damaged or taken or whether it might also occur when assessments are also made.
Public Hearing	First hearing on the petition takes place after the county commissioners view the place of the proposed “improvement.” Petition can be dismissed at this hearing or can be approved to move forward with assessments (6131.10 – 6131.12).  Final hearing also held (6131.19 – 6133.22)	The statute makes reference to a public hearing with SWCD supervisors before project can be certified to the commissioners (1515.20) After assessments are mailed, only landowners that submit written objections will be notified by mail of a final hearing on the objections (unless any notices are returned undelivered, then a public notice must run in a newspaper) (1515.24)	Hearing of “all objections to the plan” held 20-30 days of notice in paper; meetings may be continued without public notice. Public meeting may be canceled if there is no public opposition. Board may assign a representative to conduct the hearings on the objections (6101.13). This appears to only apply to the district plan, not individual projects.
State (ODNR or OEPA authority to Review or comment on project	ODNR reviews the county engineer’s plans for the “improvement” and can approve or provide recommendations on the project (6131.14)	No reference found.  ODNR only involved if it owns or manages lands within the watershed and receive assessments to pay for project. ODNR can determine that land derives no benefit and ask to be exempted from assessments (1515.24).	Conservancy Districts are established for certain purposes (preventing floods, regulating stream channels, etc. outlined in 6101.04) and must develop a plan for “improvements” after its qualification. The plan must be filed with the EPA, which may approve or reject any provisions of the plan. (6101.13). (Note: the statute refers only to the district plan, not specific ditch project plans)
Appeal rights	Appealable to court of common pleas; also contains Provisions to vacate petition project	Appealable to court of common pleas	Objections to the final official district plan can file their objections in writing to the

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			clerk of the court, who then schedules a hearing before the court. The court can either approve, reject or refer it back to the board. Was unable to find specific language allowing landowners to appeal certain ditch projects--particularly if they are consistent with the district plan (6131.13).
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