

MALLON DITCH IMPROVEMENT

----- NOTICE TO COMMISSIONERS-----

Office of Auditor of Madison County, Ohio,
June 30, 1924.

To the Honorable Board of County Commissioners of said County:

GENTLEMEN: You are hereby notified that a petition and bond for a Single County Ditch improvement was filed in this office on the 30th day of June, 1924, a copy of which petition is attached below.

Lamar P. Wilson,
Auditor.

----- COPY OF PETITION -----

Petition for Repairing, Rebuilding, Cleaning out and Deepening and Widening of the Open Ditch.

To the Honorable Board of County Commissioners, Madison County, Ohio:

The undersigned hereby petition your honorable body for the repairing, rebuilding, cleaning out and deepening and widening of the open ditch on the course hereinafter set forth.

The construction of the improvement is necessary and will be conducive to the public welfare.

The following is the course and termini of said proposed improvement, to-wit:

Commencing at the terminus of the tile part of the Mallon County Ditch and on the west side of the Charleston and Chillicothe road; thence following the line of said Mallon ditch in an easterly direction, crossing the lands of Jessie P. Sharp, about 120 rods to Sugar Run and there to end.

We ask that the bulkhead at the outlet of said tile be rebuilt and that said open ditch be recleaned, deepened and widened to give the tile a good and sufficient outlet.

The following is the nature of the work petitioned for:

Rebuilding the bulkhead, repairing tile above, and cleaning out, deepening and widening the open ditch.

Names and addresses, where known, of all owners of the land which the petitioner claims will be benefited or damaged by the construction of the proposed improvement:

- | | | |
|------------------|---------------|---|
| Rowlen Addie P., | London, Ohio. | Sexton Henrietta P. So.Solon, #2 |
| Pancake J. W. | So.Charleston | (Z.E.Laybourne) Trustees, Fairbanks
Houston L. H.(Herbert Loveless)Bldg., Springfield, O. |
| Sharp Jessie P. | London | Mallon H. & P. So.Solon |
| Pancake Lulu B. | So.Charleston | Mallon Thomas " |
| Pancake Ralph | " " | Holton Wade A. & Max, (A. C. Holton, London, O.) |

Service of Notice of Filing the Petition shall be obtained by mailing by the County Auditor.

Hugh Mallon)
P. A. Mallon) Petitioners.

I hereby certify the foregoing to be a true copy of a Single County Ditch Petition filed in my office on the 30th day of June, 1924.

Lamar P. Wilson,
County Auditor.

MALLON DITCH IMPROVEMENT

----- COPY OF BOND -----

KNOW ALL MEN BY THESE PRESENTS: That we Hugh Mallon, P. A. Mallon and Dwyer Brothers are held and firmly bound unto the State of Ohio, in the sum of Two Hundred Fifty (\$250.00) Dollars, to the payment of which sum, well and truly to be made, we do hereby jointly and severally bind ourselves, our heirs, executors and administrators.

Signed by us and dated this 30th day of June, 1924.

The Condition of the above Obligation is such, that, Whereas, on the 30th day of June, 1924, the above bound Hugh Mallon, P. A. Mallon and others filed their petition with the County Auditor of Madison County, Ohio, making application to the County Commissioners, praying for the repairing, rebuilding, cleaning out and deepening and widening of the open ditch petitioned for by Hugh Mallon and others; the following is the course and termini of said improvement, to-wit:

Commencing at the terminus of the tile part of the Mallon County Ditch and on the west side of the Charleston and Chillicothe road; thence following the line of said Mallon ditch in an easterly direction, crossing the lands of Jessie P. Sharp, about 120 rods to Sugar Run and there to end.

We ask that the bulkhead at the outlet of said tile be rebuilt and that said open ditch be recleaned, deepened and widened to give the tile a good and sufficient outlet.

Now, if the said Hugh Mallon and P. A. Mallon will pay all costs, if the prayer of the petition is not granted or if said petition is for any cause dismissed, then this obligation to be void; otherwise to remain in full force and virtue in law.

Hugh Mallon

P. A. Mallon

Dwyer Bros.

M. E. Dwyer

T. J. Dwyer.

The above bond is approved this 30th day of June, 1924.

Lamar P. Wilson,

County Auditor.

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MALLON DITCH IMPROVEMENT

Office of the Board of County Commissioners,
Madison County, Ohio.

In the Matter of the)
Single County Ditch Petitioned for by) Order Fixing Time of View and First Hearing.
Hugh Mallon and Others)

Mr. Foster moved the adoption of the following

RESOLUTION

Whereas, This 30th day of June, 1924, the Board of County Commissioners of Madison County, being in regular session, members present Street, Foster and Robison, the County Auditor gave notice to us of the filing with him of a petition signed by Hugh Mallon and P. A. Mallon, petitioners for the repairing, rebuilding, cleaning out and deepening and widening of the open ditch; and

Whereas, It appears to us that the proper bond has been filed with the Auditor and by him approved, conditioned for the payment of all costs if the prayer of the petition is not granted, or if said petition is for any cause dismissed; therefore, be it

Resolved, By said Board of County Commissioners, that the 29th day of July, 1924, at ten o'clock A. M., at the upper terminus of the improvement, be and the same is hereby fixed as the time and place for the first hearing on the petition; and be it further

Resolved, That notice of said view and hearing be given as required by law.

Mr. Robison seconded the resolution and the roll being called upon its adoption, the vote resulted as follows:

Mr. Street, "Yes"; Mr. Foster, "Yes"; Mr. Robison, "Yes".

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County Auditor's Office, Madison County, Ohio,

June 30, 1924.

In the Matter of the)
Single County Ditch petitioned for by) Certificate of Mailing Notices of Time of View and First
Hugh Mallon and Others) Hearing.

I hereby certify that on the 30th day of June, 1924, I prepared and mailed, in a five-day return addressed envelope, to Addie P. Rowlen, J. W. Pancake, Jessie P. Sharp, Lulu B. Pancake, Ralph Pancake, WadesAa & Max Holton (A.C. Holton), Henrietta P. Sexton, L. H. Houston, (Z. E. Laybourne & Herbert Loveless, Trustees), H. & P. Mallon and Thomas Mallon, the following notice:

.....

To the owners of land affected by the proposed improvement:

You, and each of you, are hereby notified that on the 30th day of June, 1924, the above named petitioner Hugh Mallon and others, filed a petition for the repairing, rebuilding, cleaning out and deepening and widening of the open ditch with the County Auditor of said County, the substance and prayer of which said petition is, that the construction of the improvement is necessary and will be conducive to the public welfare, and prays for the making of such improvement on the following course and termini, to-wit:

Commencing at the terminus of the tile part of the Mallon County Ditch and on the

MALLON DITCH IMPROVEMENT

west side of the Charleston and Chillicothe road; thence following the line of said Mallon ditch in an easterly direction, crossing the lands of Jessie P. Sharp, about 120 rods to Sugar Run and there to end.

It is asked that the bulkhead at the outlet of said tile be rebuilt and that said open ditch be recleaned, deepened and widened to give the tile a good and sufficient outlet.

As it is claimed that the improvement will affect property owned by you, you are hereby notified that the Board of County Commissioners of said County have fixed the 29th day of July, 1924, at 10 o'clock A. M., at the upper terminus of the improvement, as the time for the view thereon and also the 8th day of August, 1924, at ten o'clock A. M., at the office of said Board, as the time and place for the first hearing on the petition.

Lamar P. Wilson,
Auditor of Madison County, Ohio.

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Office of the Board of County Commissioners,
Madison County, Ohio, August 8, 1924

In the Matter of the)
Single County Ditch Petitioned for by) Commissioners' Finding for the Improvement.
Hugh Mallon and Others)

Mr. Robison moved the adoption of the following

RESOLUTION

Whereas, This day the Board of County Commissioners being in special session, present Street, Foster and Robison and this being the day fixed by said Board in their order dated the 30th day of June, 1924, for the hearing on the petition in the above named improvement, the said Board met at their office, and conducted said hearing by causing the petition to be publicly read, together with all applications for and remonstrances against the improvement, and all applications for change or extension of the improvement, previously filed in writing; and

Whereas, After proper examination, said Board do find that due and legal notice has been given in the manner and for the length of time required by law, to all owners of land affected by said improvement; and

Whereas, Said Board has made an actual view of said proposed improvement and has heard either in person or by counsel all evidence offered by any owner of land for or against the granting of the proposed improvement, or for or against the granting of any laterals, branches, or spurs, or change of route, course, termini, or manner of construction described in the petition, or in any application therefor; therefore be it

Resolved, By the Board of County Commissioners that we do hereby find that the said proposed improvement petitioned for is necessary and will be conducive to the public welfare; and we are reasonably certain that the cost thereof will be less than the benefits, and the prayer of the petition is hereby granted; and we do further find that the following described route and termini of the proposed improvement and of the branches, spurs and laterals thereof, and the manner of constructing the same are the best and the same are hereby adopted and prescribed by us:

Commencing at the terminus of the tile part of the Mallon County Ditch and on the west side of the Charleston and Chillicothe road; thence following the line of said Mallon

MALLON DITCH IMPROVEMENT

ditch in an easterly direction, crossing the lands of Jessie P. Sharp, about 120 rods to Sugar Run and there to end. Said ditch to be a tile ditch, and Sugar Run to be cleaned so as to give said tile a good and sufficient outlet; and be it further

Resolved, That the County Surveyor be and he is hereby directed to make the necessary survey for the proposed improvement, upon the foregoing plan and line, and suitable maps showing the location of the land proposed to be assessed, and profiles showing the cuttings and gradient of the improvement, together with an estimate of the cost of the construction of said improvement; and perform such other duties as required by law (G.C.6454); and be it further

Resolved, That the 5th day of September, 1924, at 10 o'clock A. M., be and the same is hereby fixed as the time for filing with the County Auditor all of said maps, profiles, schedules and reports prepared by said Surveyor; and be it further

Resolved, That further hearing on said improvement be and the same is hereby adjourned to the date above fixed for the filing of the reports and schedules by the Surveyor.

Mr. Foster seconded the resolution and the roll being called on its adoption, the vote resulted as follows:

Mr. Street, "Yes"; Mr. Foster, "Yes"; Mr. Robison, "Yes".

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County Auditor's Office, August 8, 1924.

To the County Surveyor:

I hereby certify the foregoing to be a true and correct copy of the record of the proceedings of the Board of County Commissioners.

Lamar P. Wilson,

County Auditor.

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County Surveyor's Office, Madison County, Ohio.

In the Matter of the)
Single County Ditch Petitioned for by) Request for Extension of Time.
Hugh Mallon and others)

To the Board of County Commissioners of Madison County, Ohio:

By reason of the inclemency of the weather and the pressure of other work, I find it impossible to complete the survey, reports and schedules of the above named improvement within the time prescribed by your order of the 8th day of August, 1924, and I, therefore, respectfully request an extension of time within which to complete same.

Respectfully submitted,

Elmer E. Harvey,

County Surveyor.

By L.B.H.

MALLON DITCH IMPROVEMENT

Office of the Board of County Commissioners,
Madison County, Ohio, September 5, 1924.

In the Matter of the)
Single County Ditch Petitioned for by) Extension of Time Granted to County Surveyor.
Hugh Mallon and others)

Mr. Foster moved the adoption of the following

RESOLUTION

Whereas, This 5th day of September, 1924, the Board of County Commissioners, of Madison County, being in regular session, members present, Street, Foster and Robison, and the County Surveyor filed his request with us for an extension of time within which to complete his survey, reports and schedules in the above named improvement; therefore be it

Resolved, That said County Surveyor be and he is hereby granted such extension of time to the 7th day of October, 1924, at 10 o'clock A. M., within which to file with the County Auditor his survey, reports and schedules in the said matter; and be it further

Resolved, That the 7th day of October, 1924, at 10 o'clock A. M., at the office of the Board of County Commissioners of Madison County be and the same is hereby fixed as the time and place for the further consideration of said matter.

Mr. Robison seconded the resolution and the roll being called on its adoption the vote resulted as follows:

Mr. Street, "Yes"; Mr. Foster, "Yes"; Mr. Robison, "Yes".

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County Surveyor's Office, Madison County, Ohio.

In the Matter of the)
Single County Ditch Petitioned for by) Request of County Surveyor for Extension of Time.
Hugh Mallon and others)

To the Board of County Commissioners of Madison County, Ohio:

By reason of the inclemency of the weather and the pressure of other work, I find it impossible to complete the survey, reports and schedules of the above named improvement within the time prescribed by your order of the 5th day of September, 1924, and I, therefore, respectfully request an extension of time within which to complete same.

Respectfully submitted,

E. E. Harvey,

County Surveyor.

MALLON DITCH IMPROVEMENT

Office of the Board of County Commissioners,
Madison County, Ohio, October 7, 1924.

In the Matter of the)
Single County Ditch petitioned for by) Extension of Time Granted to County Surveyor.
Hugh Mallon and others)

Mr. Foster moved the adoption of the following

RESOLUTION

Whereas, This 7th day of October, 1924, the Board of County Commissioners of Madison County, being in Special session, members present, Street, Foster and Robison, and the County Surveyor filed his request with us for an extension of time within which to complete his survey, reports and schedules in the above named improvement; therefore be it

Resolved, That said County Surveyor be and he is hereby granted such extension of time to the 27th day of October, 1924, at 10 o'clock A. M., within which to file with the County Auditor his survey, reports and schedules in the said matter; and be it further

Resolved, That the 27th day of October, 1924, at 10 o'clock A. M., at the office of the Board of County Commissioners of Madison County be and the same is hereby fixed as the time and place for the further consideration of said matter.

Mr. Robison seconded the resolution and the roll being called on its adoption the vote resulted as follows:

Mr. Street, "Yes"; Mr. Foster, "Yes"; Mr. Robison, "Yes".

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County Surveyor's Office, Madison County, Ohio.

In the Matter of the)
Single County Ditch Petitioned for by) Request of County Surveyor for Extension of Time.
Hugh Mallon and others)

To the Board of County Commissioners of Madison County, Ohio:

By reason of the inclemency of the weather and the pressure of other work, I find it impossible to complete the survey, reports and schedules of the above named improvement within the time prescribed by your order of the 7th day of October, 1924, and I, therefore, respectfully request an extension of time within which to complete same.

Respectfully submitted,

E. E. Harvey,
County Surveyor.

MALLON DITCH IMPROVEMENT

Office of the Board of County Commissioners,
Madison County, Ohio, October 27, 1924.

In the Matter of the)
Single County Ditch Petitioned for by) Extension of Time Granted to County Surveyor.
Hugh Mallon and others)

Mr. Foster moved the adoption of the following

RESOLUTION

Whereas, This 27th day of October, 1924, the Board of County Commissioners, of Madison County, being in regular session, members present, Street, Foster and Robison, and the County Surveyor filed his request with us for an extension of time within which to complete his survey, reports and schedules in the above named improvement; therefore be it

Resolved, That said County Surveyor be and he is hereby granted such extension of time to the 24th day of November, 1924, at 10 o'clock A. M., within which to file with the County Auditor his survey, reports and schedules in the said matter; and be it further

Resolved, That the 24th day of November, 1924, at 10 o'clock A. M., at the office of the Board of County Commissioners of Madison County be and the same is hereby fixed as the time and place for the further consideration of said matter.

Mr. Robison seconded the resolution and the roll being called on its adoption the vote resulted as follows:

Mr. Street, "Yes"; Mr. Foster, "Yes"; Mr. Robison, "Yes".

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County Auditor's Office, Madison County,
Ohio, November 24, 1924.

In the Matter of the)
Single County Ditch petitioned for by) Notice to Commissioners.
Hugh Mallon and others)

To the Honorable Board of County Commissioners of Madison County, Ohio:

Gentlemen: You are hereby notified that the County Surveyor filed in this office on the 24th day of November, 1924, the maps, profiles, schedules and reports in the above named improvement, in accordance with your order of the 27th day of October, 1924.

Lamar P. Wilson,

County Auditor.

MALLON DITCH IMPROVEMENT

County Surveyor's Office, November 24, 1924.

In the Matter of the)
 Single County Ditch petitioned for by) Surveyor's Report.
 Hugh Mallon and others)

--- LOCATION ---

Commencing at Sta. 0.00 on the west side of the Charleston and Chillicothe road; thence following the line of the Mallon Open Ditch with bearings and distances as follows:

Sta. 0.00 No.47 deg.30' E. on said road to Sta. 0.60

Sta. 4.70 N. 83 " 00' E.

Sta. 9.40 S. 52 " 50' E.

On Jessie P. Sharp's 122.82 acre tract to Sta. 13.50 and on Jessie P. Sharpe's 76 acre tract to Sta. 19.48 on the north side of the Selsor-moon Road and there to end.

Sta.	Surface	Grade	Cut	Cubic Yd.
0	50.00	44.50	5.50	
1	47.51	44.40	3.51	80
2	49.45	44.30	5.15	60
3	49.44	44.20	5.24	50
4	50.50	44.10	6.40	50
5	49.87	44.00	5.87	40
6	47.93	43.90	4.03	40
7	47.51	43.80	3.71	40
8	49.02	43.70	5.32	40
9	49.24	43.60	5.64	40
10	48.59	43.50	5.09	40
11	47.70	43.40	3.30	30
12	47.35	43.30	4.05	30
13	45.50	43.20	2.30	30
14	45.24	43.10	2.14	30
15	47.50	43.00	4.50	30
16	47.03	42.90	4.13	20
17	46.80	42.80	4.00	20
18	46.71	42.70	4.00	20
19	46.29	42.60	3.69	20
19.48	49.45	42.50	6.95	20

Total ----- 730 cu.yds.

MALLON DITCH IMPROVEMENT

No. Sta.	Surface	Grade	Cut	Cubic Yd.	
0	50.00	45.00	5.00	30	For Tiling
1	47.51	44.90	2.61	20	
2	49.45	44.80	4.65	20	
3	49.44	44.70	4.74	20	
4	50.50	44.60	5.99	15	
5	49.87	44.50	5.37	15	
6	47.93	44.40	3.53	15	
7	47.51	44.30	3.21	15	
8	49.02	44.20	4.82	15	
9	49.24	44.10	5.14	15	
10	48.59	44.00	4.59	10	
11	47.70	43.90	3.80	10	
12	47.35	43.80	3.55	10	
13	45.50	43.70	1.80	10	
14	45.24	43.60	1.64	10	
15	47.50	43.50	4.00	10	
16	47.03	43.40	3.63	10	
17	46.80	43.30	3.50	10	
18	46.71	43.20	3.51	5	
19	46.29	43.10	3.19	5	
784	49.45	43.00	6.45		

260 cu.yds.

Plowing in and refilling the open ditch is estimated at 60 yds. per 100'.

--- ESTIMATE NO.1 ---

Based on cleaning out the present open ditch.

730 cu.yds. excavating @ 50¢	-----	\$ 365.00
Grubbing and concrete	-----	25.00
Engineering, advertising, etc.	-----	67.00
Total	-----	\$ 457.00

--- ESTIMATE NO.2 ---

Based on using 22" tile and a concrete inlet at the upper end and a concrete headwall at the outlet.

1990 lin. feet of 22" tile @ 80¢	-----	\$ 1592.00
50 lin. feet of 12" tile @ 30¢	-----	15.00
3 cu.yds. concrete at inlet @ 16.00	-----	48.00
6 cu.yds. concrete at outlet @ \$16.00	-----	96.00
260 cu.yds. excavating, and laying tile @ 60¢	---	156.00
1200 cu.yds. plowing in old ditch, etc. @ 20¢	---	240.00
Grubbing	-----	25.00
Engineering advertising, etc.	-----	73.00
Total	-----	\$ 2245.00

MALLON DITCH IMPROVEMENT

--- SPECIFICATIONS FOR CLEANING OUT OPEN DITCH ---

Said work shall follow the present open ditch and shall be well and neatly fitted therein and cut to the depths given by the County Surveyor and with such a slope that will fit into the present old open ditch.

The bottom shall be true and smooth to grade and one foot wide and the banks cut true and smooth without bulges or offsets.

The excavated earth shall be removed back three feet from the edge of the present ditch bank.

All fences and private property shall be preserved uninjured as far as possible.

--- SPECIFICATIONS FOR TILE DITCH ---

LOCATION: Said ditch shall be located in or near the bottom of the old open ditch and in a straight line except at the angles which shall be made in easy rounding curves.

TILE: The tile shall be of first class, 22", and of full capacity and laid to true grade in the bottom of the trench in a workmanlike manner. All joints of over one-half ($\frac{1}{2}$) inch must be carefully capped.

The tile must be examined by the County Surveyor before being laid, and after being laid shall be examined and the grade approved.

INLETS: At Sta. 0 a concrete inlet 3' x 3' on inside and 5'6" deep shall be erected of good concrete, and covered with an iron grate $\frac{1}{2}$ " round rods spaced 3" C to C and hinged at top of the inlet.

SIZES OF TILE: On the main ditch from Sta. 0.00 to Sta. 20.00, the tile shall be twenty (20) inches. The old open ditch shall be well plowed and rounded in covering the tile to a depth of 18" and leaving the open ditch so it can be farmed over.

The right of way for tile and open ditch work shall be fifty (50) feet on each side of the center line. Valuable timber, fences and growing crops shall be preserved uninjured as far as possible.

At the outlet of the tile a concrete headwall and apron, shall be constructed of the size and dimensions as shown on the plans, which are made part of these specifications.

The concrete used in said headwalls and inlet, shall consist of one (1) part Portland Cement to four (4) parts clean medium coarse gravel.

The forms must be true and smooth and solid on the inside; and then after forms are removed the walls are to be floated to a smooth surface.

No washing or plastering with concrete grout allowed.

The County Commissioners and County Surveyor reserve the right to make any changes they may desire in these plans and specifications and a corresponding change will be made in the amount paid for the same at the rate of the purchase price.

They further reserve the right to place laborers or material on the line of work at the expense of the contractor whenever the work is not properly progressing.

MALLON DITCH IMPROVEMENT

Owner's Name,	Stokes Twp.,	Survey,	A.in Tract,	A.Benefited,	-- 1 --		-- 2 --		
					Open Ditch,	Tile Ditch.			
Houston Leon H.	"	"	9216,9811,	10.23	\$ 9.00	\$ 37.00			
" " "	"	"	7069,5717,	28.00	25.00	100.00			
" " "	"	"	5717,5720	72.00	64.80	260.00			
" " "	"	"	5706	134.00	25.00	20.00	60.00		
Holton W.A. & Max	"	"	#	51.36	20.00	16.00	50.00		
Mallon Thomas	"	"	5719.5720	240.21	70.00	84.00	420.00		
" Hugh & Patrick	"	"	7069	8.00	8.00	10.00	48.00		
" " " "	"	"	9216,9811	28.87	28.87	34.00	174.00		
" " " "	"	"	5719,5720	40.00	40.00	40.00	240.00		
Pancake J. W.	"	"	9216,9811	62.65	35.00	31.50	140.00		
Rowlen Addie P.	"	"	" "	112.16	8.00	6.70	26.00		
Sexton Henrietta	"	"	" "	67.47	25.00	21.00	80.00		
Sharp Jessie P.	"	"	7069	80.98	15.00	10.00	250.00		
" " "	"	"	9216,9811	33.84	25.00	15.00	150.00		
" " "	"	"	5892,7069	76.00	10.00	30.00	150.00		
Madison County					40.00	60.00			
					Totals -----	\$ 457.00	\$ 2245.00		

The above apportionment on said ditch is based on cleaning out the open ditch (Column No.1), and on tiling with a 22" tile, concrete inlet and concrete healwalls (Column No.2). The

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MALLON DITCH IMPROVEMENT

Office of the Board of County Commissioners,
Madison County, Ohio, November 24, 1924.

In the Matter of the)
Single County Ditch Petitioned for by) Order Fixing Time of Final Hearing on Surveyor's Report.
Hugh Mallon and others)

Mr. Foster moved the adoption of the following
RESOLUTION

Whereas, This 24th day of November, 1924, the Board of County Commissioners of Madison County, being in regular session, members present, Street, Foster and Robison, the County Auditor has given notice to us of the filing with him by the County Surveyor of the maps, profiles, schedules, and reports in the above named improvement, in accordance with our order of the 27th day of October, 1924; therefore, be it

Resolved, That the 18th day of December, 1924, at 10 o'clock A. M., be and the same is hereby fixed as the time for the final hearing on said reports and schedules, on estimated assessments, on the proceedings for the improvement, and on claims for compensation or damages which claims must be filed with the County Auditor on or before said date; and be it further

Resolved, That notice of said hearing be given as required by law.

Mr. Robison seconded the resolution and the roll being called upon its adoption, the vote resulted as follows:

Mr. Street, "Yes"; Mr. Foster, "Yes"; Mr. Robison, "Yes".

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County Auditor's Office, Madison County, Ohio, Nov 24, 1924.

In the Matter of the)
Single County Ditch Petitioned for by) Certificate of Mailing Notices to Owners of Land.
Hugh Mallon and others)

I hereby certify that on the 24th day of November, 1924, I prepared and mailed, in a stamped five-day return envelope, to each address as given in the petition, or to such address as I learned to be the correct address, including land owners other than those mentioned in the petition whose names have been filed by the Surveyor in his Schedule of Assessments, a copy of the following notice properly filled in:

.....

You are hereby notified that the County Surveyor filed in this office on the 24th day of November, 1924, the maps, profiles, schedules and reports in the above named improvement, and that the assessment on each tract of land owned by you, as estimated and described in said schedule, is as follows:

(See preceding page)

and you are further notified that the Board of County Commissioners of said County have fixed the 18th day of December, 1924, at 10 o'clock A. M., at the office of said Board, as the time and place of the final hearing by the Commissioners on the report of the Surveyor, and on the proceedings for the improvement, and that all claims for compensation or damages must be filed with the Auditor before that date.

.....

The persons thus notified are as follows: Walter Beebe, Receiver, Lawrence E. Layborne & Herbert E. Loveless, Trustees, Leon H. Houston, A.C. Holton, Thomas Mallon, Hugh & Patrick Mallon, Lulu B. Pancake, Addie P. Rowlen, Henrietta Sexton and Jessie P. Sharp.

Lamar P. Wilson, County Auditor.

MALLON DITCH IMPROVEMENT

London, Ohio, December 8, 1924.

In the Matter of the)
 Single County Ditch Petitioned for by) Objection to Tile Ditch.
 Hugh Mallon and others)

To the County Commissioners of Madison County, Ohio.

Gentlemen: In the matter of the Mallon Ditch, we the undersigned have examined the apportionment for an open ditch and also for a tile ditch.

We feel that the assessment for a tile ditch is far more than the benefits to our lands that will be derived from said tiling, and therefore ask that this improvement be made an open ditch and repairing of the bulkhead at Stake O, as petitioned.

Respectfully submitted,

Hugh Mallon

P. A. Mallon,

Herbert E. Loveless, Trustee

Lawrence E. Layburne, "

Thomas Mallon Est. by P.A. Mallon

Ralph Pancake, Agent J.W. Pancake Estate

Addie P. Rowlen.

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Office of the Board of County Commissioners,
 Madison County, Ohio, December, 18, 1924.

In the Matter of the)
 Single County Ditch Petitioned for by) Adjournment of Hearing on Assessments.
 Hugh Mallon and others)

Mr. Foster moved the adoption of the following
 RESOLUTION

Whereas, This day the Board of County Commissioners being in special session, present Street, Foster and Robison, and this being the day fixed by said Board in their order dated the 24th day of November, 1924, for the hearing on the Assessments in the above named improvement;
 and

Whereas, It is found that the Board is not fully advised in the premises; therefore,
 be it

Resolved, That said hearing be and the same is hereby adjourned until the 29th day of December, 1924, at 10 o'clock A. M.

Mr. Robison seconded the resolution and the roll being called on its adoption, the vote resulted as follows:

Mr. Street, "Yes"; Mr. Foster, "Yes"; Mr. Robison, "Yes".

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MALLON DITCH IMPROVEMENT

Office of the Board of County Commissioners,
Madison County, Ohio, December 29, 1924.

In the Matter of the)
Single County Ditch petitioned for by) Commissioners' Finding Affirming Former Order, etc.
Hugh Mallon and others)

Mr. Foster moved the adoption of the following

RESOLUTION

WHEREAS, This day the Board of County Commissioners being in regular session, present Street, Foster and Robison, and this being the day fixed by said Board, in their order dated the 18th day of December, 1924, for the final hearing on the Reports and Schedules of the County Surveyor, on the estimated assessments, on claims for compensation or damages and on the proceedings for the improvement, and on application filed for change of route or change in the nature, kind and extent of the work proposed to be done; and

WHEREAS, We find that due and legal notice of this final hearing has been given as required by law; and

WHEREAS, Said Board has heard all the evidence offered in the proceedings and received and considered all the schedules and reports filed by the Surveyor; therefore be it

RESOLVED, That said Board review and reconsider the former order made by us dated the 8th day of August, 1924, in favor of said improvement; and be it further

RESOLVED, That we do hereby approve the maps, profiles, schedules and reports prepared by the County Surveyor; and

WHEREAS, This Board has considered the cost of location and construction, the compensation for land taken, the damages to land along or in the vicinity of the route of the improvement, the damages to land below the lower terminus of the improvement which may be caused by constructing the improvement, the sufficiency of the outlet, the benefits to the public welfare, and the special benefits to land needing the improvement, etc.; therefore be it

RESOLVED, That the former order finding in favor of said improvement made by us at the first hearing on the 8th day of August, 1924, be and the same is hereby affirmed; and

WHEREAS, Objections to the proposed assessment having been filed by Hugh Mallon, P. A. Mallon, Herbert Loveless, Trustee, Lawrence Layburne, Trustee, Thomas Mallon Estate, by P. A. Mallon, Ralph Pancake, Agent, J. W. Pancake Estate, and Addie P. Rowlen; and the Board having heard said objections and all evidence offered for or against the assessment proposed to be levied against any owner or on any land, as shown by the schedule of assessments filed by the Surveyor and any competent evidence on the question of benefits, and from an actual view of the premises; therefore be it

RESOLVED, That the assessments be and the same are hereby amended and corrected as follows; to-wit:

Houston Leon H.	increased	from	37.00	to	43.90
"	"	"	"	"	100.00 to 120.15
"	"	"	"	"	260.00 to 308.95
"	"	"	"	"	60.00 to 107.30
Holton W. A. & Max	"	"	50.00	to	70.00
Mallon Thomas,	Decreased	"	420.00	to	332.21
"	Hugh & Patrick	"	48.00	to	37.97
"	"	"	174.00	"	137.02
"	"	"	240.00	"	190.00
Pancake J. W.	Increased	"	140.00	"	157.50
Rowlen Addie P.	"	"	26.00	"	30.00
Sexton Henrietta	"	"	80.00	"	100.00

and be it further

RESOLVED, That said Surveyor's assessments as so amended and corrected be and the same are hereby approved and confirmed; and be it further

MALLON DITCH IMPROVEMENT

RESOLVED, That \$60.00 be and the same is hereby assessed by benefits to the general public by reason of the improvement being conducive to the public welfare, against the County, and \$60.00 found to benefit State or County Roads or Highways be and the same is hereby assessed against the County, and the following sums found to benefit the following political subdivisions of the State be and the same are hereby assessed against such political subdivisions, respectively: Madison County; and be it further

RESOLVED, That five years shall be the period of time, in semi-annual installments, as taxes are paid, given the owners of land benefited, to pay the assessments that may be made for the improvement; and that bonds of said County shall be issued and sold in anticipation of the collection of said assessments bearing the rate of 6 per centum per annum, payable semi-annually (G.C.6460) and be it further

RESOLVED, Interest shall be added to said installments of assessments at the same rate as is drawn by the bonds issued to pay for said improvement; provided any owner may pay the assessment on his land in cash within thirty days after the contracts are approved; and on such assessments are levied, without paying any interest thereon; and be it further

RESOLVED, That the 26th day of January, 1925, at 12 o'clock Noon, be and the same is hereby fixed as the time for letting the contract for the construction of the proposed improvement, and that the County Surveyor be and he is hereby directed to let the contracts for the construction of the proposed improvement; and be it further

RESOLVED, That the County Surveyor be and he is hereby directed to give at least two weeks' public notice as required by law of the time when and the place where bids will be received for furnishing any material for the improvement, or for the construction of the improvement, the Surveyor is hereby directed to send copies of the notice by mail to dealers and manufacturers, and all bids shall be received at the office of the County Auditor; and be it further

RESOLVED, That, whereas the estimated cost of the construction and material repaired in said improvement exceeds one thousand dollars, the notice of said letting be given by posting at the front door of the county court house; and be it further

RESOLVED, That said County Surveyor be and he is hereby directed to attend at said time and place so advertised by him and receive all bids submitted; and be it further

RESOLVED, That authority be and the same is hereby given to said County Surveyor to receive bids by public outcry, instead of sealed bids, such bids being taken separately for work and for material, and in accordance with the requirements of Sec. 6481 G. C.

Mr. Robison seconded the resolution and the roll being called on its adoption, the vote resulted as follows:

Mr. Street, "Yes"; Mr. Foster, "Yes"; Mr. Robison, "Yes".

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Resolution to issue bonds recorded in Commissioners' Journal, Volume 16, page 496, under date of December 29, 1924.

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MALLON DITCH IMPROVEMENT

In the Matter of the)
 Single County Ditch Petitioned for by) Request for Extension of Time in which to Advertise for
 Hugh Mallon and Others) Bids.

County Surveyor's Office, London, Ohio, Jan. 26, 1925.

To the Board of County Commissioners of Madison County, Ohio:

Regarding your orders of December 29th, 1924, directing me to advertise and sell the Mallon Ditch, I am obliged to inform you that owing to legal papers being filed in opposition to changing this improvement from an open ditch to a tile ditch; and owing to the press of other work; and by your verbal advice; I failed to secure the legal publication, and circulation of sale bills until the legal time had expired.

This being the date that you previously set for the sale, I now make returns that no sale has been had on this day.

The time for filing legal objections now having expired, I ask your Honorable Board to set another day for giving me the legal time for advertising the same.

Respectfully submitted,

E. E. Harvey,
 County Surveyor.

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Commissioners' Office, Madison County,
 London, Ohio, January 26, 1925.

Commissioners met in regular session.

Present: W. S. Robison, Charles Foster and L. W. Johnson.

In the Matter of the)
 Single County Ditch Petitioned for by) Surveyor Directed to Advertise to Receive Bids.
 Hugh Mallon and others)

It was moved by Mr. Robison and seconded by Mr. Johnson that for reasons stated in the foregoing statement, the Surveyor having failed to advertise to receive bids for the construction and materials of the Mallon Ditch located in Stokes Township as directed in our order of December 29, 1924; therefore, be it resolved that the Surveyor is hereby directed to advertise as provided by law to receive bids until 12 o'clock Noon, Monday, March 2, 1925.

The roll being called, the vote resulted as follows:

W. S. Robison, "Yes"; Charles Foster, "Yes"; L. W. Johnson, "Yes".

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MALLON DITCH IMPROVEMENT

In the Matter of the)
 Single County Ditch Petitioned for by) Request that Petition be Dismissed.
 Hugh Mallon and Others)

London, Ohio, January 29, 1925.

To the Honorable County Commissioners of Madison County, Ohio.

Gentlemen: The undersigned owners of lands affected by the proposed improvement of the Mallon Ditch, hereby request that the petition heretofore filed by Hugh and P. A. Mallon be withdrawn and dismissed and that the accrued costs of said proceedings be ordered paid by the undersigned.

Herbert E. Loveless, Trustee of Houston Est.

Lawrence E. Laybourne, " " " "

Hugh Mallon,

P. A. Mallon

Thomas Mallon Est. by P. A. Mallon.

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In the Matter of the)
 Single County Ditch Petitioned for by) Opinion of Prosecuting Attorney, H. H. Crabbe.
 Hugh Mallon and others)

London, Ohio, February 2, 1925.

To the Honorable Board of County Commissioners of Madison County, Ohio.

Gentlemen: Complying with your request for an opinion as to the legality of certain of the proceedings relative to the single county ditch petitioned for by Hugh Mallon and others, I beg leave to submit the following:

Briefly stated, the question for determination is whether or not the County Commissioners may legally change the nature of the work petitioned for without a written request having been filed therefor, or without the petition having been amended. The particular question being whether or not the Commissioners may legally grant the construction of a tile ditch when the petition for the improvement expressly asks for the cleaning out, deepening and widening of an open ditch.

It will be conceded that the County Commissioners have no authority in the matter of ditch construction, except such as is granted by statute. We must therefore look to the statutes to determine the powers and duties of the Commissioners in this connection.

Section 6444 of the General Code, which provides for the filing of the petition is in part as follows:

"The petition shall state that the construction of the improvement is necessary, and will be conducive to the public welfare; and shall state the nature of the work petitioned for; and may ask to locate, construct, re-construct, straighten, deepen, widen, box or tile. ***** The petition shall state the course and termini of the proposed improvement and of the branches, spurs or laterals if any are petitioned for."

Section 6445 provided,

"The petition may be amended upon the written application of any petitioner filed with the Auditor, and upon the allowance of such application by the Commissioners, by an order entered on their journal."

The petitioner must file with the petition a bond, conditioned for the payment of all costs if the prayer of the petition is not granted, or if the petition is for any cause dismissed.

MALLON DITCH IMPROVEMENT

By the provisions of Section 6447, upon the filing of the petition, the Commissioners shall fix a time for a view of the proposed improvement, and for the first hearing. As soon as the dates for the view and first hearing have been fixed, the Auditor shall cause notice to be given to owners of land affected by the improvement, "which notice shall set forth the pendency, substance and prayer of the petition."

Section 6449 provides as follows:

"Any owner of land may file in said proceedings a written application for branches, laterals or spurs, or for boxing or tiling any part of the improvement that may be joined with that petitioned for, at any time before the first hearing is completed, without obtaining leave so to do, and all of said applications shall be heard at the first hearing."

Section 6450 contains the following language:

"On the day so fixed for the first hearing on the petition, the Commissioners shall take up the further hearing on the petition, and on the applications, or remonstrances filed, and shall hear any evidence offered by any owner of land for or against the granting of the proposed improvement, or for or against the granting of any laterals, branches, or spurs, or change of route, course, termini, or manner of construction described in the petition, or in any application filed therefor."

From the language of the foregoing section, it would seem that the evidence offered at the first hearing is confined to the petition and to the applications and remonstrances which have been filed. If no applications or remonstrances have been filed, then, at the first hearing, the evidence, to use the language of the statute, should be either "for or against the granting of the proposed improvement." The proposed improvement in the instant case, being the re-cleaning, deepening and widening of an open ditch.

It might be urged that to confine the evidence to the petition would work a hardship upon those who might desire a change, and it will be conceded that in many instances a change from the proposals of the petition would be more beneficial. But on the other hand, ample provision is made for amending the petition, and for proper applications for a change in the proposed improvement. Those interested in the improvement, having been notified of the pan- dency, substance and prayer of the petition, need not complain, if the prayer be granted, if they have failed to avail themselves of the opportunity to apply for a change.

The petition itself may not be amended, except as above stated, (Section 6445) and certainly it cannot be argued that the Commissioners, or others interested, have more privileges than the petitioners, who are under bond, and who assume the risk of being compelled to pay the cost.

But Section 6452 seems to remove all doubt, if doubt there be, in the preceding sections.

The language of the Section is as follows:

"If the Board of County Commissioners find that the proposed improvement is necessary, and that it will be conducive to the public welfare, and are reasonably certain that the costs thereof will be less than the benefits, they may grant the prayer of the petition, and they shall determine the route and termini of the proposed improvement and of the branches, spurs, and laterals thereof; and the manner of construction the same.

What is meant by manner of construction? Does it mean the nature of the work? Or does it mean the method to be employed in the construction?

Standing alone, it could mean either. But in the connection it is used it must mean one or the other. It certainly does not mean both. We must therefore seek to determine what the Legislature means by manner of construction.

The Legislature must have distinguished between the "Nature of the work" and the "Manner of construction" because it frequently employs both phrases. In at least three different places in the ditch laws, it uses the term "nature of the work" and in as many places uses the term "manner of construction". In view of the fact that both terms are used, it would seem that the Legislature had a different meaning for each, and since the term

MALLON DITCH IMPROVEMENT

"nature of the work" is susceptible of but one meaning, it follows that the term "manner of construction" as used by the Legislature, means the method to be employed in the construction, the only other meaning of which it is susceptible.

Section 6452 further provide:

"On any petition for any improvement of a ditch, drain, watercourse or levee, the Commissioners may, without request or application, by their order, change either terminus of the proposed improvement, or the route thereof, if they find that such change is necessary to accomplish the purposes of the improvement."

From the above language it seems clear that the only change which the Commissioners may make, of their own motion, is in the route or termini of the proposed improvement.

In view of the foregoing provisions, and in view of the fact that the Courts hold that laws for the levying of special assessments are to be strictly construed, it is my opinion that the County Commissioners may not, legally, grant a tile ditch when the prayer of the petition expressly asks for the re-cleaning, deepening and widening of an open ditch, unless the petition be amended or written application be filed therefor.

Respectfully submitted,

H. H. Crabbe,
Prosecuting Attorney of
Madison County, Ohio.

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Commissioners' Office, Madison County,
London, Ohio, February 16, 1925.

Commissioners met in regular session.

Present: W. S. Robison, Charles Foster and L. W. Johnson.

In the Matter of the)
Single County Ditch petitioned for by) Proceedings Dismissed.
Hugh Mallon and Others)

It was moved by Mr. Foster and seconded by Mr. Johnson that further proceedings in the Mallon Ditch be discontinued; and that all proceedings including the petition of Hugh and P. A. Mallon be and the same is hereby dismissed; and all of the costs amounting to \$80.74 to be paid in cash by Hugh Mallon and P. A. Mallon.

The roll being called on the adoption of the above, the vote resulted as follows:

W. S. Robison, "No"; Charles Foster, "Yes"; L. W. Johnson, "Yes".

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