

Finding said bond in proper legal form, I have noted my approval thereon and same is transmitted to you herewith.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

543.

---

CERTIFICATE OF TITLE, DEED AND OTHER INSTRUMENTS  
—PROPOSED PURCHASE, STATE FROM ALBERT A. WISE  
AND MARY L. WISE, DESIGNATED PROPERTY, GREEN  
TOWNSHIP, SUMMIT COUNTY, USE, NIMISHILA RES-  
ERVOIR PROJECT.

COLUMBUS, OHIO, May 6, 1939.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a certificate of title, warranty deed, contract encumbrance record No. 20, and other files relating to the proposed purchase by your department for and in the name of the State of Ohio of a parcel of land which is owned of record by Albert A. Wise and Mary L. Wise in Green Township, Summit County, Ohio; which parcel of land is a part of the northeast quarter of Section No. 19 in said township and county and is more particularly described by metes and bounds as follows:

Beginning at a stone set on the southeast corner of the northeast quarter of Section No. 19 and on the northeast corner of property of the State of Ohio; thence along the north line of property of the State of Ohio and the south line of the property of A. and M. Wise, N. 83° 17' 55" W. nine hundred forty and eighteen hundredths (940.18) feet to a point and the true place of beginning of the description of the property to be conveyed; thence N. 69° 05' 20" W. four hundred forty-eight and sixteen hundredths (448.16) feet to a point in the east line of property of the State of Ohio; thence along the said east line S. 6° 59' 39" W. one hundred ten and no hundredths (110.00) feet to a stone on the northwest corner of property formerly belonging to Adam Pamer and now owned by the State of Ohio; thence along the north line of property of the State of Ohio S. 83° 17' 55" E. four hundred thirty-five and no hundredths (435.00) feet to the true place of beginning and containing (0.55) acres of land as surveyed by Francis W. Stafford, September, 1936.

Upon examination of the certificate of title submitted to me, which

certificate of title is executed by The Northern Ohio Guarantee Title Company under date of April 25, 1939, I find that said Albert A. Wise and Mary L. Wise have a good and indefeasible fee simple title to the above described parcel of land and that they own and hold the same free and clear of all encumbrances except the following, some of which, probably, do not in any substantial way affect the particular parcel of land here under investigation.

1. Under date of October 27, 1908, one A. F. Foust, who was then the owner of the east half of the northeast quarter of Section 19 in said township and county comprising 82 acres of land which included the parcel of land above described, executed an instrument, apparently in the form of a deed, in which he granted to The Tide-Water Pipe Company, Ltd., a right-of-way for a pipe line and for a telegraph line to be constructed in and upon and through said 82-acre tract of land herein referred to. There is nothing in the certificate of title or in any other files submitted to me to indicate what, if anything, was done by The Tide-Water Pipe Company, Ltd., pursuant to this grant. Nor is there anything in these files to show to what extent, if at all, such pipe line or telegraph line, if either were constructed pursuant to this grant, affects the particular parcel of land here under investigation with respect to the use which you desire to make of the same in connection with the Nimisila Reservoir Project.

2. The same can be said with respect to an easement granted by Abraham Foust and Sophia Foust to The Northern Ohio Traction and Light Company under date of September 3, 1918, by which said company was given the right to construct and maintain an electric power transmission line, consisting of towers, poles, wires and other necessary appliances, over and across a tract of land described in the instrument granting such easement as being the northeast one-half of the northeast quarter of Section 19. In this case, as in the other, I am not advised as to whether such electric transmission line was constructed or, if such electric transmission line were constructed pursuant to this easement, whether the same will in anywise affect this parcel of land.

3. Under date of April 21, 1936, Albert Wise and Mary L. Wise, the present owners of this property, granted an easement to the Ohio Edison Company in and by the terms of which said company was given the right to construct, operate and maintain lines for the transmission and distribution of electric energy over telephone and telegraph lines, including necessary poles, wires, anchors and conduits, upon, over and across that portion of the property of said grantors situated in said township and county which lies within the lines of a certain public road or highway known as Caston Road. Again, as noted with respect to the easements above noted, nothing is indicated in the files submitted to me to show whether this electric transmission line was constructed pursuant to said

grant or, if so, whether such line will in anywise affect the use which you desire to make of this property.

4. On July 14, 1927, Albert Wise and Mary Wise, who then owned the parcel of land here in question as a part of a larger tract of sixty acres in Section No. 19 in said township and county, executed an oil and gas lease to one William Byers covering said sixty-acre tract of land. This lease, which thereafter by mesne assignments passed into the ownership of The East Ohio Gas Company, was for a term of twenty years and for so much longer thereafter as oil or gas or their constituents might be found on the premises in paying quantities. This oil and gas lease is an encumbrance upon the parcel of land here under investigation unless the same has since been released with respect to this parcel of land. However, nothing of this kind appears in the certificate of title and I assume, therefore, that the lease is still legally effective as an encumbrance on the property.

However, with respect to this encumbrance, as well as to the other three encumbrances above noted, I assume that you and Mr. Francis W. Stafford, your engineer in charge of this project, are familiar with the facts relating to such encumbrances and that proper arrangements have been made with respect to this oil and gas lease and said easements so that they will in nowise affect the use which you desire to make of this property.

In addition to the encumbrances above noted, it appears that the taxes on the larger tract of land, including the parcel here under investigation, for the last half of the year 1938, amounting to \$17.72, are unpaid and are a lien upon the property as are the taxes on the property for the year 1939. Arrangements should be made with the County Auditor for the segregation of these taxes with respect to the parcel of land here under investigation and provision should be made for the payment of such segregated taxes before or at the time the transaction for the purchase of this property is closed.

Upon examination of the warranty deed tendered by said Albert A. Wise and Mary L. Wise, which deed was executed by said grantors under date of March 17, 1939, I find that said deed has been properly executed and acknowledged by said grantors and that the form of this deed is such as to be legally sufficient to convey the above described property to the State of Ohio by fee simple title with a covenant of warranty therein contained that this property is conveyed to the State of Ohio free and clear of all encumbrances whatsoever.

I have examined contract encumbrance record No. 20, which was submitted to me as a part of the files relating to this purchase, together with a certificate over the signature of the chief clerk of your department showing that there is an unexpended balance in the moneys covered by contract encumbrance record No. 20 more than sufficient to pay the purchase price of the above described property, which purchase price is the

sum of \$85.00. Upon consideration of this contract encumbrance record and of the certificate above referred to, I am of the opinion that there is available for the use of your department this sum of \$85.00 which can be covered by voucher and warrant in payment of the purchase price of the property. In this connection, it is noted that the purchase of this property as a matter included in the acquisition of other lands in connection with this project has been approved by the Controlling Board as is evidenced by recital to this effect set out in the contract encumbrance record.

Subject only to the exceptions above noted, the title of Albert A. Wise and Mary L. Wise in and to this property is approved, as are likewise the warranty deed and other files submitted to me in connection with the proposed purchase of this property.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

---

544.

CONTRACT—STATE WITH THE SMITH AND OBY COMPANY,  
PLUMBING WORK, HEATING PLANT ADDITION, KENT  
STATE UNIVERSITY, KENT, OHIO.

COLUMBUS, OHIO, May 6, 1939

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You have submitted for my approval, the contract by and between the State of Ohio, acting through you as Director of the Department of Public Works for the Board of Trustees of Kent State University, Kent, Ohio, and The Smith and Oby Company, an Ohio corporation, for the construction and completion of contract for plumbing work for a project known as P. W. A. Docket No. OH-1720-F, Senate Bill No. 456, Heating Plant Addition, Kent State University, Kent, Ohio—1938, as set forth in item No. 20, Plumbing Work for the Heating Plant Addition as specified and shown on the drawings for base bid, of the Form of Proposal dated December 14, 1938. This contract calls for an expenditure of \$2,253.00.

You have submitted the following papers and documents in this connection:

Form of proposal dated December 14, 1938, containing the contract bond signed by the Saint Paul Mercury Indemnity Company of Saint Paul; its power of attorney for the signer; certificate of compliance issued by the Division of Insurance, indicating a compliance with the laws of Ohio relating to surety companies; Contract encumbrance record No. 2270;