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LEASE—CANAL LANDS, STATE TO L. H. BARNETT, DESIGNATED PORTION, OHIO CANAL, NEWCOMERSTOWN, TUSCARAWAS COUNTY.

COLUMBUS, OHIO, May 19, 1939.

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

DEAR SIR: You have submitted to me for my examination and approval a canal land lease in triplicate executed by you as Superintendent of Public Works and as Director of said department for and in the name of the State of Ohio, to one L. H. Barnett of Newcomerstown, Ohio.

By this lease, which is one for a stated term of fifteen years and which provides for the payment of an annual rental of \$12.00, there is leased and demised to the lessee above named the right to occupy and use for residence and lawn purposes that portion of the Ohio Canal property, located in the village of Newcomerstown, Ohio, which is more particularly described as follows:

Beginning at a point in the southerly line of said canal property, that is opposite to Station 2871+68, of G. F. Silliman's Survey of said canal property, and running thence in a westerly direction with said southerly line, one hundred ten (110') feet; thence in a northerly direction at right angles to the transit line of said survey, ninety-eight (98') feet, more or less, to the northerly line of said canal property; thence easterly with said northerly line one hundred and ten (110') feet; thence southerly ninety-six (96') feet, more or less, to the point of beginning and excepting therefrom any of the above described property that may be occupied by a public street.

This lease is one executed by you under the authority of the act of the 89th General Assembly enacted under date of April 29, 1931, 114 O. L., 541, which provides for the abandonment of that portion of the Ohio Canal and all lateral canals and canal feeders situated within Tuscarawas, Coshocton and Muskingum Counties, Ohio. By section 6 of this act, there are reserved from the further provisions thereof all such portions of Ohio Canal property abandoned by this act as were at the time occupied by state highways or that might thereafter within one year from the effective date of the act be designated by the Director of Highways for highway purposes. Assuming that no part of the parcel of Ohio Canal property covered by this lease is occupied by a state highway and, further, that no part thereof was designated for highway purposes within

one year from the effective date of this act, you are authorized to execute this lease under the provisions of section 8 of the act, subject to the conditions therein prescribed. By this section certain persons and corporations are given prior rights with respect to the lease of Ohio Canal lands abandoned for canal purposes by the act of which this section is a part. In the first instance, railroads are given prior rights to acquire by lease such portions of the Ohio Canal abandoned by this act as were then occupied for right of way crossings. Secondly, owners of existing leases are given prior rights with respect to the lease of such portions of said property as are covered by their respective existing leases. In the third place, with respect to prior rights municipalities are given the right to lease those portions of the canal lands abandoned by the act that were applied for within one year from the effective date of the act. Next, the owners of tracts abutting upon canal property abandoned by this act are given a prior right to lease such contiguous canal properties, providing application therefor is made by such owner within ninety days after the expiration of the prior right of the municipal corporations with respect to the lease of such property. This section of said act in and by the last paragraph thereof provides as follows :

“All tracts of said abandoned canal property lying within a municipality, but not included in the application of any one of the four classes enumerated above, and likewise the abandoned canal property lying outside the corporate limits of any municipality, may be leased by the superintendent of public works, who shall appraise such tracts at their true value in money for any purpose for which they can be used, and the annual rental shall be six per cent of such appraisalment.”

It may be assumed that this lease is one executed by you under the authority of that part of section 8 of said act above quoted; although as to this, it is quite probable that the lessee above named is the owner of lands contiguous to the canal property covered by this lease. And assuming, as I do, that no application for the lease of this canal land has been made by any person or corporation entitled to prior rights with respect to the lease of the above described parcel of Ohio Canal land, I find that you are authorized to execute this lease to L. H. Barnett, the lessee therein named.

Upon examination of this lease, I find that the same has been properly executed by you, acting for and in the name of the State of Ohio, and by Mr. L. H. Barnett, the lessee. I further find, upon examination of the provisions of this lease and of the conditions and restrictions therein contained, that the same are in conformity with the provisions of the act above referred to and with those of other statutory enactments relating to leases of this kind. I am accordingly approving this lease, as is evi-

denced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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616.

LEASE—CANAL LAND, STATE TO THE BUCKEYE PIPE LINE COMPANY, RIGHT TO CONSTRUCT AND MAINTAIN CERTAIN PIPE LINE CROSSINGS OVER BED AND EMBANKMENTS, DESIGNATED PORTION, MIAMI AND ERIE CANAL, SPENCERVILLE, ALLEN COUNTY.

COLUMBUS, OHIO, May 19, 1939.

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

DEAR SIR: You have submitted for my examination and approval a canal land lease in triplicate executed by you as Superintendent of Public Works and as Director of said department to The Buckeye Pipe Line Company of Lima, Ohio.

By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of \$75.00, there is leased and demised to the lessee above named the right to construct and maintain three oil pipe line crossings to carry three eight-inch and one twelve-inch crude oil pipe lines over the bed and embankments of the Miami and Erie Canal, immediately south of the southerly right of way line of the Chicago and Erie Railway Company, in the village of Spencerville, Allen County, Ohio.

Upon examination of this lease, which is one executed by you under the authority of the DeArmond Act, so-called, 114 O. L., 546, I find that the same has been executed by you in your official capacity above stated and by The Buckeye Pipe Line Company, acting by the hands of its President and Secretary pursuant to a resolution of the Board of Directors of said company duly adopted under date of September 25, 1912, and which is in full force and effect at the present time. Assuming, as I do, that the parcel of canal land above described has not been designated by the Director of the Department of Highways for state highway purposes, and that no application for the lease of this property for park purposes has been made by any political subdivision entitled to the lease of the property for such purposes, I find that the provisions of this lease and the conditions and restrictions therein contained are in conformity with the act of the legislature above referred to and with other statutory provisions relating to leases of this kind. I am, accordingly, approving this lease and I am