

3140.

STATUS—CERTIFICATE OF TITLE AND WARRANTY DEED, STATE OF OHIO, THROUGH CONSERVATION COMMISSIONER, CERTAIN TRACT OF LAND, DONATED TO STATE BY THE JEFFERSON IRON COMPANY, LOCATED IN JEFFERSON TOWNSHIP, JACKSON COUNTY, OHIO, ACQUIRED PRIMARILY FOR PARK PURPOSES.

COLUMBUS, OHIO, October 25, 1938.

HON. L. WOODDELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you submit for my examination and approval a certificate of title and warranty deed relating to a certain tract of land which is owned of record by The Jefferson Iron Company, in Jefferson Township, Jackson County, Ohio, and which is more particularly described as follows:

Being in the South West corner of the South East quarter of the South West quarter of Section No. Fourteen (14), in Township No. Five (5) North, of Range Eighteen (18) West, beginning at the South West corner of said quarter quarter; thence running North $3^{\circ} 23'$ East, 1206.88 feet to the center line of the County Road; thence with the said center line South $65^{\circ} 12'$ East, a distance of 2.30 feet; thence with the said center line South $48^{\circ} 58'$ East, 135.54 feet; thence with the said center line South $46^{\circ} 02'$ East, 76.30 feet; thence with the said center line South $52^{\circ} 49'$ East, 39.15 feet; thence South $3^{\circ} 23'$ West, 1055.39 feet to the South line of said Section No. 14; thence North $85^{\circ} 36'$ West, 199.97 feet along the South line of said Section No. 14, to the place of beginning, containing 5.20 acres, more or less, and being a part of the same premises conveyed by John Walters and wife to David Edwards in Trust for the Jefferson Furnace Company, dated January 12, 1854, and recorded in Book Q, Page 495, of the Records of Deeds of Jackson County, Ohio, subject to the Oil and Gas Lease from the Jefferson Iron Company to the Ohio Fuel Supply Company, dated April 18, 1919, and recorded in Book 13, Page 539, of the Records of Leases of Jackson County, Ohio, now owned and held by the Ohio Fuel Gas Company and the Preston Oil Company respectively.

Upon examination of this certificate of title, which is certified by Mr.

Benmer Jones, attorney at law and abstractor, under date of October 3, 1938, I find that The Jefferson Iron Company has a good and indefeasible fee simple title to the above described tract of land and that it owns and holds the same free and clear of all encumbrances except the undetermined taxes on the property for the year 1938 and except the encumbrance of an oil and gas lease which was executed on this property by The Jefferson Iron Company to the Ohio Fuel Supply Company under date of April 18, 1919, which lease was later assigned to the Preston Oil Company. This oil and gas lease is for a period of twenty years and so much longer thereafter as oil or gas or their constituents are produced in paying quantities. And although there is nothing in the certificate of title or in any of the other files submitted to me to show what, if any, development has been made by The Ohio Fuel Supply Company or by the Preston Oil Company under this lease, it does appear from the certificate of title that this lease has not been surrendered or canceled and the same is an encumbrance upon the property. What, if any, effect this lease or any past or future development for oil or gas under the lease, will have with respect to such use as your department desires and intends to make of this property, is a matter for your determination or for the determination of your engineers or other employes and agents in the construction of the dam and lake as a site for which this property is being acquired.

On examination of the warranty deed tendered by The Jefferson Iron Company, I find that the same has been properly executed and acknowledged by said company by its President and Secretary duly authorized in the premises; and that the form of this deed is such that the same is legally sufficient to convey this property to the State of Ohio by fee simple title with a covenant that this property is conveyed to the State free and clear of all encumbrances whatsoever. From this covenant it may be inferred, perhaps, that it is the intention of the Jefferson Iron Company to secure the cancellation or surrender of the oil and gas lease on this property, above referred to, or to secure a release of this property from the operation of said oil and gas lease. However this may be, it is obvious that the mere fact that The Jefferson Iron Company is conveying this property to the State with a covenant that the property is free and clear of all encumbrances does not in itself remove the encumbrance of the oil and gas lease above noted.

In this connection, it is noted that the acquisition of this property has been approved and provided for by the Conservation Council of Ohio by a resolution of said Council adopted under date of September 28, 1938. And inasmuch as it appears from your communication that as to the State of Ohio and the Conservation Council this property is being donated to the State, no contract encumbrance record with respect to the

purchase of this property is necessary, and, of course, the acquisition of this property is not subject to the approval of the Board.

Apparently, this property is being acquired by the Conservation Council primarily for park purposes under the authority of Section 472, General Code. The acquisition of property by the Conservation Council under authority of this section is subject to the approval of the Attorney General. I am hereby approving such purchase as is evidenced by my approval endorsed upon the warranty deed by which this property is conveyed to the State.

Subject to the exception above noted with respect to the taxes on this property for the year 1938 and subject to the further exception noted above as to the oil and gas lease which is apparently now owned and held by The Preston Oil Company, the title to the above described property is hereby approved as is likewise the warranty deed by which this property is conveyed to the State of Ohio. Said certificate of title and warranty deed are herewith returned for your further attention in closing the transaction for the acquisition of this property.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

3141.

APPROVAL—CANAL LAND LEASE, STATE OF OHIO, THROUGH SUPERINTENDENT OF PUBLIC WORKS, WITH NOAH BROWN, CIRCLEVILLE, OHIO, TERM FIFTEEN YEARS, ANNUAL RENTAL, \$6.00, RIGHT TO OCCUPY AND USE FOR RESIDENTIAL PURPOSES, DESCRIBED PORTION, ABANDONED OHIO CANAL PROPERTY, CIRCLEVILLE TOWNSHIP, PICKAWAY COUNTY, OHIO.

COLUMBUS, OHIO, October 26, 1938.

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

DEAR SIR: You recently submitted for my examination and approval a canal land lease in triplicate executed by you in your official capacity as Superintendent of Public Works and as Director of said department to one Noah Brown of Circleville, Ohio.

By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of \$6.00, there is leased and demised to the lessee above named the right to occupy and use for residential and