

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other papers submitted in this connection.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

---

2437A.

APPROVAL--CANAL LAND LEASE, STATE OF OHIO, THROUGH SUPERINTENDENT OF PUBLIC WORKS, FOR DEPARTMENT OF AGRICULTURE, DIVISION OF CONSERVATION, TERM FIFTEEN YEARS, ANNUAL RENTAL, \$12.00, DESIGNATED SECTION, ABANDONED OHIO AND ERIE CANAL LANDS, STARK COUNTY, OHIO, FOR FISH PROPAGATION AND PUBLIC RECREATION PURPOSES.

COLUMBUS, OHIO, May 10, 1938.

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 Department of Agriculture, Division of Conservation.

By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of \$12.00, there is leased and demised to the above named lessee for fish propagation and public recreation purposes a section of the abandoned Ohio and Erie Canal lands located in Stark County, Ohio, and more particularly described as follows:

That portion of the Ohio and Erie Canal including the full width of the bed and embankments and all wide waters thereof, that lies between stations 896+00, near the northerly corporation line of Canal Fulton and station 1345+65.15, said station being at or near the northerly corporation line of the city of Massillon, excepting therefrom any portion of the above described property that may be occupied by a public highway. Also, that portion of the Nimisila Feeder from the diversion dam across the Nimisila Creek to the intersection of the feeder to the canal being at station 896+42 of the survey of said Ohio and Erie Canal.

This lease is one executed by you under the provisions of Amended Senate Bill No. 235 enacted by the 88th General Assembly under date of April 19, 1929, 113 O. L., 532, abandoning for canal purposes that portion of the Ohio Canal and lateral canals connected therewith, located in Stark County, Ohio, and providing for the lease and sale thereof.

Assuming, as I do, that there are no pending applications for the lease of the above described property or of any part thereof by municipal corporations or other political subdivisions having prior rights with respect to the lease of canal lands abandoned by said act and assuming further that no part of the canal property above described has been designated for hydraulic purposes, other than the particular sections noted in the lease which with the approval of the Governor have been stricken by you from the list of hydraulic sections theretofore designated as such under the terms of this act, I find that the provisions of this act are such as to authorize you to execute the lease here in question if it further appears that the Division of Conservation of the Department of Agriculture is authorized to accept a lease of this kind for the purpose above stated.

The stated purpose for which this lease is executed to the Division of Conservation of the Department of Agriculture is that the same may be used by such Division for fish propagation and public recreation purposes. Section 1435-1, General Code, provides, among other things, that the Conservation Council, which as a body is a constituent part of the Division of Conservation in the Department of Agriculture, may acquire by lease suitable land for the purpose of establishing state fish hatcheries and may erect thereon such buildings or structures as it may deem necessary. As above stated, one of the purposes of this lease and, I assume, the primary purpose therefor is that the Conservation Council may use the same for fish hatchery or fish propagation purposes. In this connection, it may be assumed that even if the Conservation Council takes no steps whatever to improve this property for the purpose of propagating fish, such propagation will nevertheless go on in the future as it has in the past. However, I take it that the purpose of the Conservation Council is to make such improvements in the property or in suitable parts thereof in order to more efficiently provide for the propagation of fish and their preservation until they are of suitable size to be taken by fishing conducted in the manner provided by law. Just what improvements the Conservation Council may find it necessary to make in carrying out the stated purpose of the lease is not a matter for the determination of this office but is one lying within the sound judgment and discretion of the Conservation Council itself. Assuming further the good faith of the Conservation Division and of the several officers thereof in taking this lease for fish propagation purposes, no objection is seen to the incidental use of the property for public recreation purposes.

In line with the views above expressed, I am inclined to approve this lease with respect to the purposes for which the same is made and inasmuch as an examination of the lease shows that the same has been properly executed by you as Superintendent of Public Works, acting for and on behalf of the State of Ohio, and by the Conservation Commissioner, acting presumably on the authority conferred upon him by the Conservation Council for this purpose, I am approving the lease as is evidenced by my approval endorsed thereon and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

2438.

APPROVAL.—LEASE, STATE OF OHIO, THROUGH DIRECTOR, DEPARTMENT OF PUBLIC WORKS, WITH THE BANK OF WOOD COUNTY COMPANY, BOWLING GREEN, OHIO, DESIGNATED TERM, MONTHLY RENTAL \$40.00, ROOMS NOS. 313-314-315 THE BANK OF WOOD COUNTY BUILDING, BOWLING GREEN, OHIO, FOR USE, DIVISION OF AID FOR THE AGED.

COLUMBUS, OHIO, May 10, 1938.

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

DEAR SIR: You have submitted for my examination and approval a lease executed by The Bank of Wood County Company of Bowling Green, Ohio, in and by which there are leased and demised to the State of Ohio, acting through you as Director of the Department of Public Works, certain premises for the use of the Division of Aid for the Aged of the Department of Public Welfare.

By this lease, which is for the term commencing February 1, 1938, and ending December 31, 1938, and which provides for the rental of forty dollars per month, there are leased and demised to the State for the use of the Division of Aid for the Aged Rooms Nos 313-314-315 in The Bank of Wood County Building located on the west side of South Main Street, Bowling Green, Ohio.

This lease has been properly executed by The Bank of Wood County Company, the lessor, by the hands of its President and Secretary, duly