

gestion that inasmuch as considerable time has elapsed since this certificate of title was made and executed, that a further check be made in the proper offices of Summit County, Ohio, for the purpose of ascertaining whether or not any other liens or encumbrances have been charged against this land since the certificate of title was executed on the date above mentioned.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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6052.

APPROVAL—CERTIFICATE OF TITLE TO LAND IN GREEN TOWNSHIP, SUMMIT COUNTY, OHIO—LEWIS SWIGART.

COLUMBUS, OHIO, September 9, 1936.

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. 6 and other files relating to the proposed purchase of a tract of 33.12 acres of land now owned of record by one Lewis Swigart in Green Township, Summit County, Ohio, which the state proposes to purchase as a part of the Nimisila Creek Reservoir project.

This tract of land, as the same has been surveyed for your department and as it appears in the deed tendered to the state by Lewis Swigart, as the grantor therein, is as follows:

Beginning at a stone set in the center line of Christman Road and on the southeast corner of Section No. 30; thence N. 6° 45' 30" E. along the center line of Christman Road and the east line of Section No. 30, ten hundred fifty two and four hundredths (1052.04) feet to a stake; thence along Lilly Swigart's south line N. 82° 55' 10" W. eleven hundred five and forty eight hundredths (1105.48) feet to a stake and the true place of beginning of the description of the property to be conveyed; thence N. 3° 49' 50" E. ten hundred ninety two and sixty three hundredths (1092.63) feet; thence N. 32° 04' 50" E. two hundred thirty one and no hundredths (231.00) feet; thence N. 5° 34' 50" E. forty-nine and fifty hundredths (49.50) feet; thence N. 62° 31' 30" W. seven hundred twenty-seven and

thirty-six hundredths. (727.36) feet to the north line of the south-east quarter of section No. 30; thence along the quarter section line N.  $83^{\circ} 01' 30''$  W. three hundred thirty and no hundredths (330.00) feet to Frank Spikerman's northeast corner; thence along Spikerman's east line S.  $6^{\circ} 21' 00''$  W. seven hundred eighty-six and seventy-eight hundredths (786.78) feet to the north-east corner of land now or formerly owned by Nelson Pippus; thence along Pippus' east line S.  $7^{\circ} 11' 50''$  W. eight hundred fifteen and eighty-six hundredth (815.85) feet to Lilly Swigart's northwest corner; thence along Lilly Swigart's north line and the continuation thereof, S.  $82^{\circ} 55' 10''$  E. nine hundred sixty-nine and two hundredths (969.02) feet to the true place of beginning and containing thirty-three and twelve hundredths (33.12) acres of land as surveyed May 28, 1936, by Francis Stafford.

Upon examination of the certificate of title which has been made by The Northern Ohio Guarantee Title Company of Akron, Ohio, and which is certified under date of March 26, 1936, I find that as of said date Lewis Swigart had a good indefeasible fee simple title to the above described tract of land and that the same was free and clear of all encumbrances other than those hereinafter stated as exceptions to the title:

1. On August 25, 1902, Mary Myers, widow of Peter Myers, deceased, together with Isaac S. Myers and Sarah K. Sours, executed a deed to The East Ohio Gas Company in and by which they conveyed to said company an easement in the nature of a right of way in and upon the above described lands thereby enabling the company to lay, maintain and operate pipe lines for the transportation of gas in and through said lands. There is nothing in the certificate or title or in any of the other files submitted to me to indicate what, if anything, has been done by The East Ohio Gas Company pursuant to this easement. If, as a matter of fact, pipe lines for the transportation of gas have been laid in and upon the lands above described, you are in a position to know just how much, if at all, the presence of the pipe lines in and upon this property will interfere with the purposes for which the property is being acquired by the state.

2. On August 30, 1907, Lewis Swigart executed a deed in any by which he conveyed to the East Ohio Gas Company another easement in the nature of a right of way for the maintenance and operation of a pipe line for the transportation of gas in and over this property. As in the case above noted, nothing is shown in the certificate of title or otherwise to indicate whether said company acting pursuant to this easement has

laid down and operated any pipe lines in and upon the property. If this has been done, you are doubtless advised of the fact and are in a position to know in what manner, if at all, the presence of this pipe line will interfere with the use of the property for reservoir purposes. In any event, this easement, as above noted, is an encumbrance upon the land.

3. On February 3, 1933, Lewis Swigart and Lilly Swigart, his wife, executed an oil and gas lease of this property to The East Ohio Gas Company. By this lease instrument, the lessee therein named was given the right to enter in and upon the premises above described for the purpose of drilling and operating for oil and gas upon the premises and for the purpose of constructing thereon tanks, stations and other structures for use in the production, storage and transportation of oil and gas produced on the premises with the right thereafter to remove all appliances, fixtures and machinery placed thereon.

This lease, which covered the property above described, as well as other lands owned by the lessors in Green Township, Summit County, Ohio, is for a term of seven years from April 23, 1933, and for so much longer as oil or gas is found on said premises in paying quantities. The certificate of title does not indicate what, if anything, has been done by said company in the development of oil or gas upon said premises pursuant to said lease or in the construction of tanks, stations and other appliances and fixtures for this purpose. In any event, this lease is an encumbrance upon this property which if not released may seriously interfere with the use of this property for the purposes for which the state is acquiring the same.

4. It appears from the certificate of title that the taxes for the year 1935 are unpaid and that the same are now a lien upon this property. In addition to this, the undetermined taxes for the year 1936 are a lien. Inasmuch as the executed deed which has been tendered to the state by the grantor above named conveys this property to the state free and clear of all encumbrances, I assume that said grantor is to pay the taxes upon this property. It follows from this that some arrangement should be made for the payment of the taxes on this property before the warrant covering the purchase price of the property is delivered to said grantor.

The warranty deed tendered by Lewis Swigart has been properly executed and acknowledged by him and by his wife, Lilly Swigart, and the form of this deed is such that the same is legally sufficient to convey the above described property to the state of Ohio by fee simple title free and clear of the inchoate dower interest of said Lilly Swigart, as the wife of Lewis Swigart, and free and clear of all encumbrances whatsoever. In view of the fact that this deed conveys the above described property to the State of Ohio with a covenant therein contained that this property is free and clear of all encumbrances whatsoever, I assume that arrange-

ments have been made or will be made for the release by The East Ohio Gas Company of the encumbrances which result from the easement deeds and the oil and gas lease above referred to.

Upon examination of contract encumbrance record No. 6, I find that the same has been properly executed and that there is shown thereby a sufficient unencumbered balance in the appropriation account to pay the purchase price of the above described tract of land, which purchase price is the sum of \$4,605.93. It likewise appears from this contract encumbrance record that the purchase of this property has been approved by the Controlling Board and that the money necessary for said purchase has been released for this purpose.

As above noted, the certificate of title which has been submitted to me was executed by The Northern Ohio Guarantee Title Company under date of March 26, 1936. Inasmuch as negotiations for the purchase of this property have doubtless been going on for some time, it is improbable that Lewis Swigart has by any voluntary action on his part placed any additional encumbrances upon this property. However, by reason of the fact that a considerable period of time has elapsed since the date of the certification of this instrument, it is suggested that before the warrant for the purchase price of this property is delivered to the grantor, an additional check of the records in the office of the Recorder, Clerk and Sheriff of Summit County be made before the transaction is closed for the purchase of the property.

Subject to the exceptions above noted and with the suggestions and observations here made, I am hereby approving the title to the above described property and the certificate of title, warranty deed and other files submitted to me in connection with the purchase of this property. I am herewith enclosing the certificate of title and the warranty deed and am retaining the contract encumbrance record for consideration in connection with my examination of the files relating to other property which you propose to purchase for this project.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*