

approved by this office in an opinion rendered to the Industrial Commission under date of May 19, 1936, being Opinion No. 5560.

It is accordingly my opinion that these bonds constitute a valid and legal obligation of said city.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

941.

APPROVAL—PERMIT TO TAKE SAND AND GRAVEL, EXECUTED BY THE SUPERINTENDENT OF PUBLIC WORKS TO JAMES SCANES BOAT AND DOCK OF TOLEDO, OHIO.

COLUMBUS, OHIO, July 29, 1937.

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

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you submit for my examination and approval a certain written permit, together with duplicate and triplicate copies thereof, executed by you as Superintendent of Public Works to James Scanes Boat and Dock of Toledo, Ohio.

By this permit, which is one for a term of one year from January 1, 1937, there is given and granted to the permittee above named the right to take sand and gravel from the subaqueous lands of Lake Erie, Maumee Bay and the Maumee River within an area which is more particularly described in the written permit as follows:

Commencing at a line drawn at right angles across the bed and banks of the Maumee River and about thirty-three hundred (3300') feet southwest of Fassett Street Bridge in the city of Toledo, Ohio, and extending thence westerly and southwesterly approximately twenty thousand (20,000') feet to a point two and five-tenths (2.5) miles below Perrysburg, with a width of from five hundred to six hundred sixty feet, according to the width of channel.

Also the right to locate and operate dredging outfits at the west end of Lake Erie at points indicated upon the blue print hereto attached and made a part hereof, providing that no section heretofore operated by other dredge operators within one

year prior to January 1st, 1937, shall be considered as a part of this permit.

In consideration of the permit so granted and the privileges thereby conferred, the permittee in and by this instrument agrees to pay to the State of Ohio a royalty of five cents per ton of sand and gravel removed by it under the terms of the lease, with the further provision that sand and gravel removed from the bed of Lake Erie or from the bed of streams flowing into said lake prior to January 1, 1937, shall be paid for at the rate of three cents per ton.

The permit here in question is one granted by you as Superintendent of Public Works under the authority of Substitute Senate Bill No. 236, enacted by the 91st General Assembly under date of May 21, 1935, 116 O. L., 244. And upon examination of the terms of this written permit, I find that the provisions thereof and the conditions and restrictions therein contained are such as are consistent with the provisions of this act and with other statutes and common law principles touching the rights of the State in the waters and subaqueous lands of Lake Erie and of the open bays and harbors thereof. The permit has been properly executed by you as Superintendent of Public Works and as Director of said department, acting on behalf of the State of Ohio, and by the permittee by the hands of Joseph H. Scanes and Grace Scanes.

I am, therefore, approving this permit as to legality and form, as is evidenced by my approval endorsed upon this permit and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

942.

INCUMBENT COUNTY COMMISSIONER AT TIME OF PASSAGE NOT AFFECTED BY AMENDED SECTION 3001, GENERAL CODE, DURING EXISTING TERM OF OFFICE.

SYLLABUS:

By virtue of the provisions of Section 20, Article II of the Constitution of Ohio, the compensation of the incumbents of the office of county commissioner, prior to the effective date of amended Section 3001,