

situated at a point where SH No. 291, Medina-Norwalk Road crosses the B. & O. Railroad Company tracks, approximately four miles northwest of Medina in Medina County, Ohio.

Upon examination, it is my opinion that said form of agreement is correct as to the form thereof and will constitute a binding contract when executed by the Director of Highways, as provided by law. I, therefore, approve the same as to form and am returning said agreement herewith.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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2286.

STATUS—CERTIFICATE OF TITLE AND OTHER INSTRUMENTS, PROPOSED PURCHASE, TRACT OF LAND, DESIGNATED, SOUTHEAST QUARTER SECTION 19, GREEN TOWNSHIP, SUMMIT COUNTY, OHIO, PROJECT, NIMISILA CREEK BASIN RESERVOIR, PURCHASE PRICE, \$6450.00.

COLUMBUS, OHIO, April 12, 1938.

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 certificate of title, warranty deed, contract encumbrance record No. 34 and other files relating to the proposed purchase and acquisition of a tract of land in the southeast quarter of Section 19, Green Township, Summit County, Ohio, which is more particularly described as follows:

Beginning at the southeast corner of the southeast quarter of Section No. 19; thence along the east line of Section No. 19 N 6° 55' 45" E. nine hundred seven and twenty two hundredths (907.22) feet to a point in the center line of the Clinton-Greensburg Road and the true place of beginning of the description of the land to be herein conveyed; thence continuing along the east line of Section No. 19 N 6° 55' 45" E seventeen hundred seventy-two and thirty-five hundredths (1772.35) feet to a stone in the southeast corner of lands now owned by A. & M. Wise; thence along Wise's south line N 83° 17' 55" W thirteen hundred seven-

ty-five and eighteen hundredths (1375.18) feet to a stone in the east line of lands now or formerly owned by Almus Dissinger; thence along Dissinger's east line S 6° 46' 29" W twenty hundred thirty-seven and seventy-six hundredths (2037.76) feet to a point in the center line of the Clinton-Greensburg Road; thence along the center line of the Clinton-Greensburg Road N 85° 44' 40" E. thirteen hundred ninety-six and thirty-seven hundredths (1396.37) feet to the true place of beginning and containing sixty and three hundredths (60.03) acres of land as surveyed June, 1936 by Francis W. Stafford.

Upon examination of the certificate of title above referred to, which certificate is certified by the abstractor under date of March 23, 1938, I find that Adam Pamer, the owner of record of said property, has a good and indefeasible fee simple title to the same; and that he owns and holds said property free and clear of all encumbrances except those here noted which are set out as the only exceptions to the title of said Adam Pamer in and to this land, to wit:

1. On April 6, 1928, Adam Pamer, then an unmarried man, executed a mortgage deed to The Kentucky Joint Stock Land Bank on the above described and other property then owned by said mortgagor, to secure the payment of a mortgage note of even date therewith in the sum of \$2,000.00 with interest thereon at six per cent per annum. This mortgage is not canceled of record and the same is a lien upon the above described property to the extent of the amount of money remaining unpaid upon such mortgage note, together with unpaid interest thereon. This mortgage should be paid and satisfied before the transaction for the purchase of the above described property is closed.

2. Under date of June 8, 1928, said Adam Pamer executed an oil and gas lease on the above described and other property then owned by him, to The East Ohio Gas Company. By the terms of this lease instrument, sub-lessee company was given the right to enter in and upon said premises and to drill and operate thereon for oil and gas and to construct and erect on said premises such pipe lines, tanks, stations and other structures as might be necessary to take and transport oil or gas from said premises. The term of this lease is for twenty years and for so much longer as oil or gas may be found on the premises. I am not advised by this certificate of title or by any other information in the files submitted to me as to what, if anything, was done by The East Ohio Gas Company under the provisions of this lease. You and your engineers and other agents in the field are doubtless familiar with the facts in regard to this lease. It is enough for me to note that this oil and gas lease is an

encumbrance upon the property, whether any operations have been conducted by the lessee under the same or not.

3. It is stated in the certificate of title that the taxes on this property for the last half of the year 1937, amounting to the sum of \$15.49, are unpaid and are a lien upon the property. The taxes for the year 1938 likewise became a lien upon the property on the day preceding the second Monday in April, 1938, which was the 10th day of the month.

In this connection, it is noted that on March 3, 1938, you as Superintendent of Public Works filed a certificate of appropriation in the Probate Court of Summit County, Ohio, to appropriate the above described property for use in the construction of the Nimisila Basin Reservoir Project. No further proceedings were had in said matter other than to notify Adam Pamer and other parties having an interest in the property of the filing of such certificate of appropriation, and the filing of proof of the service of such notices. This proceeding in the Probate Court of Summit County to appropriate this property for the purpose above stated should, of course, be dismissed upon the close of the transaction for the purchase of this property.

Upon examination of the warranty deed tendered by said Adam Pamer, I find that this deed has been properly executed and acknowledged by said grantor and by Magda Pamer, his wife, who thereby remises, releases and forever quit claims to the State of Ohio, the grantee in said deed, all of her right and title of dower in said property. I further find that the form of this deed is such that the same is legally sufficient to convey the above described property to the state by fee simple title with a covenant of warranty contained therein that this property is conveyed to the state free and clear of all encumbrances whatsoever.

Contract encumbrance record No. 34, which has been submitted as a part of the files relating to the purchase of this property, has been properly executed and the same shows a sufficient balance in the appropriation account to the credit of your department for the acquisition of lands in connection with the Nimisila Creek Basin Reservoir Project, to pay the purchase price of the above described property, which purchase price is the sum of \$6450.00. It further appears by appropriate recital in said contract encumbrance record that the purchase of this property has been duly approved by the Controlling Board.

Subject only to the exceptions above noted, I am hereby approving the title of said Adam Pamer in and to the real estate here under investigation; and I am herewith returning to you the certificate of

title, together with the warranty deed and contract encumbrance record No. 34, both of which are hereby duly approved.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

2287.

APPROVAL—WATER LEASE, STATE OF OHIO, THROUGH SUPERINTENDENT OF PUBLIC WORKS, WITH THE BABCOCK & WILCOX COMPANY, BARBERTON, OHIO, TERM FIVE YEARS, RIGHT TO USE WATERS OHIO AND ERIE CANAL, NEXT ABOVE LOCK NO. 1, SOUTH OF PORTAGE SUMMIT AT BARBERTON, OHIO, FOR MANUFACTURING AND FIRE PROTECTION, ANNUAL RENTAL \$564.00.

COLUMBUS, OHIO, April 13, 1938.

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

DEAR SIR: This is to acknowledge the receipt of a recent communication with which you submit for my examination and approval a water lease in triplicate executed by you as Superintendent of Public Works to The Babcock & Wilcox Company of Barberton, Ohio, by the terms of which said company is granted the right to insert into the level of the Ohio and Erie Canal next above Lock No. 1, south of Portage Summit at Barberton, Ohio, one six-inch pipe and to take therefrom water for manufacturing and fire protection purposes.

By the terms of this lease, which is one for a stated term of five years from the first day of May, 1938, the payment of an annual rental by said lessee is provided for; this rental being based on an estimated annual consumption of 58,000,000 gallons of water at the rate of eight mills per thousand gallons with the provision that said lessee shall pay an additional sum of \$100.00 annually for such water as is used for fire protection purposes—making in all an annual rental of \$564.00 to be paid by said lessee, which annual rental is to be paid in semi-annual instalments of \$282.00 each.

This lease is one executed by you for and in the name of the State of Ohio under the authority of Section 14009, General Code.