

2392.

STATUS, ABSTRACT OF TITLE AND OTHER INSTRUMENTS, STATE OF OHIO, THROUGH CONSERVATION COMMISSIONER, DESIGNATED AND DESCRIBED TRACTS OF LAND, ST. MARYS TOWNSHIP, AUGLAIZE COUNTY, OHIO, GRANTOR, ALLEN C. KOOP, PURCHASE PRICE \$15,000.00.

COLUMBUS, OHIO, April 29, 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 an abstract of title, warranty deed and contract encumbrance record No. 14, relating to certain tracts of land owned of record by one Allen C. Koop in St. Marys Township, Auglaize County, Ohio, which tracts of land are more particularly described as follows:

Tract No. 1. The following described land being the northeast part of the Northeast quarter of Section 17 more particularly described as follows: Beginning at the Northeast corner of Section 17, Town 6 South, Range 4 East, St. Marys Township, Auglaize County, Ohio; said point also being the section corner of Sections 8, 9, 16 and 17, said point being marked by a cedar post; thence South $1^{\circ}33'$ East along section line for a distance of 410.52 feet to a post, thence in a westerly direction at an angle of $90^{\circ}25'$ for a distance of 647.40 feet to the center of a 2 foot square concrete fence post; thence north at an angle of $89^{\circ}35'$ for a distance of 413.89 feet to an iron pipe in section line between sections 8 and 17, thence in an easterly direction along said section line for a distance of 647.40 feet to the place of the beginning. Said tract of land containing 6.13 Acres of land more or less.

Tract No. 2. The following described land being part of the Southeast quarter of Section 8 more particularly described as follows: Beginning at the Southeast corner of Section 8, Town 6 South, Range 4 East, St. Mary's Township, Auglaize County, Ohio, said point being the section corner of Section 8, 9, 16 and 17, said point being marked by a cedar corner post; thence West along section line between Sections 8 and 17, 647.40 feet to an iron pipe; thence in a Northerly direction and at an angle of $89^{\circ} 53'$ for a distance of 1248 feet to an iron pipe; thence in a

Northeasterly direction at an angle of $14^{\circ} 56'$ for a distance of 1441.0 feet to an iron pipe located in the East and West half section line of Section 8; thence East along said $\frac{1}{2}$ section line for a distance of 273.54 feet to a corner post; thence in a Southerly direction along section line between Sections 8 and 9 for a distance of 2640.00 feet to the point of beginning. Said point being the Southeast corner of Section 8. Said described land containing 33.26 acres more or less.

Tract No. 3. The following described land being the West Half of the Southwest Quarter of Section 9, Town 6 South, Range 4 East, St. Marys Township, Auglaize County, Ohio, beginning at a point on the Southwest corner of Section 9, said point being the corner of Sections 8, 9, 16 and 17, thence North $1^{\circ} 33'$ East along section line between Sections 8 and 9 for a distance of 2640.0 feet to a cedar fence post located in the East and West half section line of Sections 8 and 9, thence in an Easterly direction along said half section line for a distance of 1324.83 feet to a point in the quarter section line of Section 9, said point being located in the center of a public highway, thence south along said center of public highway and quarter section line for a distance of 2640.0 feet to a point located in the section line between Sections 9 and 16, thence West along said section line for a distance of 1330.08 feet to the corner of Sections 8, 9, 16 and 17, said point being the place of beginning. Said described tract of land containing 80 acres more or less.

Upon examination of the abstract of title submitted to me, which abstract is certified by the abstracter under date of March 18, 1935, I find that said Allen C. Koop has a good merchantable title to the above described tracts of land and to the appurtenances thereto belonging, subject only to the following liens and encumbrances which are here noted as exceptions to the title in and by which said Allen C. Koop owns and holds the real estate above described:

1. On June 19, 1936, said Allen C. Koop, his wife Alma C. Koop joining with him in the instrument, executed a mortgage deed to The Home Bank Company of St. Marys, Ohio, to secure the payment of a promissory note of even date therewith in the amount of \$3500.00 payable in six months from date with interest thereon at six per cent from date, with the further provision that after the maturity of the note the interest should be eight per cent. This mortgage has not been cancelled of record and the same is a lien on the above described property to the extent of the amount of money remaining unpaid upon the promissory note secured by this mortgage, together with accrued interest thereon.

Provision should, of course, be made for the payment and cancellation of this mortgage before the transaction for the purchase of this property is closed by your department.

2. On February 16, 1888, one D. J. Hamilton, then the owner of the west half of the southwest quarter of Section 9 above described, executed an oil lease of this tract of land to one William Flemming. By subsequent assignments, the interest of the original lessee in and to this lease passed to one Caroline P. Lewis who acquired her interest in this lease under date of February 1, 1937, by assignment from the Security Oil Corporation, which company had theretofore taken over the lease by assignment from The Ohio Oil Company, which company, in turn, acquired its interest in the lease by assignment from William Flemming, the original lessee. No cancellation of this lease appears of record, although it is possible that there was an abandonment of the lease by reason of extraneous facts which do not appear in the abstract of title or in any of the other files submitted to me in connection with my examination of the title to this property. Further, nothing appears in the abstract of title or in any of the other files submitted to me to show what, if anything, was done by the lessee in this lease instrument or by any of his successors in interest in the way of any developments upon this tract of land for the purpose of producing oil from this land. All of these facts, as well as the question as to what effect this lease may have on this property for the use which your department desires and intends to make of the same, are matters for your investigation and determination as questions of fact. It is sufficient for me to note that this lease is not canceled of record and stands as an encumbrance on the property.

3. On January 8, 1919, said Allen C. Koop, being then the owner of the above described tract of land in the southwest quarter of Section 9 in said township, executed an instrument in deed form to The Buckeye Pipe Line Company in and by which he gave said company, its successors and assigns the right to lay, maintain and operate pipe lines and telegraph or telephone lines in and over this tract of land. The abstract of title does not indicate what, if anything, was done by said company under the easement granted to it for the above named purposes. And it is for you to determine how this easement or anything done under the same will affect the use which you desire to make of this property upon your purchase of the same from Allen C. Koop.

4. It appears from the abstract of title that all the taxes on this property have been paid up to and including the taxes payable December, 1937. I infer from this that the taxes on the property for the last half of the year 1937, which are payable in June, 1938, are unpaid and are a lien upon the property. The undetermined taxes for the year 1938 are likewise a lien upon the property.

Upon examination of the warranty deed tendered by Allen C. Koop, I find that said deed has been properly executed by said Allen C. Koop and by Alma C. Koop, who thereby releases to the State of Ohio as the grantee named in this deed all of her inchoate dower interest in this property.

Upon examination of this deed 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 of Ohio by fee simple title with a covenant of warranty that this property is free and clear of all encumbrances whatsoever. By reason of the fact that the deed does contain this covenant of warranty, all of the liens and encumbrances above noted should be extinguished before the transaction for the purchase of this property is closed by the issue of voucher and warrant covering the purchase price thereof.

Upon examination of contract encumbrance record No. 14, which has been submitted as a part of the files relating to the purchase of this property, I find that the same has been properly executed and that there is shown thereby a sufficient balance in the appropriation account to the credit of your department, otherwise unappropriated, to pay the purchase price of the above described property, which purchase price is the sum of \$15,000.00.

In this connection, I assume that the above described lands are being acquired by the Conservation Council for and in the name of the State of Ohio for fish hatchery purposes pursuant to the resolution of the Conservation Council adopted under date of December 22, 1937, a copy of which resolution has been submitted to me as a part of the files relating to the purchase of this property. This action of the Conservation Council was taken under the authority conferred upon it by the provisions of Section 1435-1, General Code. And as to this, it is further noted that the purchase of this property for the purpose above stated was approved by the Controlling Board by resolution under date of January 11, 1938.

Subject to the exceptions above noted, the title of Allen C. Koop in and to the above described property is approved. And I am herewith returning said abstract of title, warranty deed and contract encumbrance record for your further consideration in closing the transaction for the purchase of this property.

Respectfully,
HERBERT S. DUFFY,
Attorney General.