

terms and provisions thereof and the conditions and restrictions therein contained are in conformity with said Act and with other statutory provisions relating to leases of this kind. I am accordingly approving this lease, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

2462.

APPROVAL.—PERMIT, STATE OF OHIO, THROUGH SUPERINTENDENT OF PUBLIC WORKS, TO JAMES SCANES BOAT AND DOCK OF TOLEDO, OHIO, RIGHT TO TAKE AND REMOVE SAND AND GRAVEL FROM BED OF LAKE ERIE IN MAUMEE RIVER AND MAUMEE BAY, AS DESCRIBED.

COLUMBUS, OHIO, May 16, 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 certain written permit in triplicate executed by you as Superintendent of Public Works to the James Scanes Boat and Dock of Toledo, Ohio, in and by the terms of which the permittee above named is given the right to take and remove sand and gravel from the bed of Lake Erie within certain areas described in this permit as follows:

(1) Being an area in the Maumee River extending from about 23,500 feet upstream of the Fassett Street Bridge at Toledo, to about 3,500 feet upstream of that bridge.

(2) Being a circular area about 2,500 feet in diameter in Maumee Bay and located 2,000 feet northeasterly of Turtle Island.

This permit is one granted by you under the authority conferred upon you for this purpose by Section 5 of Substitute Senate Bill No. 236 enacted by the 91st General Assembly under date of May 21, 1935, 116 O. L., 244. This section of the act here referred to provides:

"Subject to the limitations set forth in Section 6 of this act, authority is hereby granted to the superintendent of public works to issue permits, subject to the approval of the governor and attorney general, to parties making application therefor, for permission to take and remove sand, gravel, stone, minerals and other substances from the bottom of said lake, either upon a royalty basis or for a fixed annual rental as they may deem for the best interests of the state; said permits for sand, gravel, stone, minerals and other substances, shall be issued for terms of not less than one nor more than ten years, to be taken within certain fixed boundaries that do not conflict with the rights of littoral owners."

Upon examination of this permit and the terms and provisions thereof, I find that with one exception, here noted, this permit and the provisions, conditions and restrictions therein contained are in conformity with said act and with other laws of the State and of the United States regulating the use of Lake Erie and of the navigable waters thereof. The exception above referred to relates to the time or duration of this permit; and as to this, it is noted that by some inadvertence the term of the permit has not been provided for in this instrument. Apparently, it is your intention to grant this permit for that part of the year 1938 subsequent to the time when the permit becomes effective by the approval of the Governor and the Attorney General. However, on account of your failure to fill in the blank therefor in this instrument, no provision is made for the term of the permit.

The lease has been properly executed by you as Superintendent of Public Works, acting for and on behalf of the State, and by the James Scanes Boat and Dock, the permittee therein named.

I am approving this permit as is evidenced by my approval endorsed upon the permit and upon the duplicate and triplicate copies thereof; but it is to be distinctly understood that this approval is upon the condition that the instrument be corrected so as to indicate the term of the permit in the manner above indicated.

Respectfully,

HERBERT S. DUFFY,

*Attorney General*