

2-424.

APPROVAL—CERTIFICATE OF TITLE AND OTHER INSTRUMENTS, STATE OF OHIO, THROUGH DIRECTOR, DEPARTMENT OF PUBLIC WORKS, WITH ANNA E. HUGHES, DESIGNATED TRACT OF LAND, GREEN TOWNSHIP, SUMMIT COUNTY, OHIO, USE, NIMISILA CREEK BASIN RESERVOIR, PURCHASE PRICE, \$6,000.00.

COLUMBUS, OHIO, May 10, 1938.

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

DEAR SIR: This is to acknowledge receipt of your recent communication submitting for my examination and approval certificate of title, warranty deed and contract encumbrance record No. 40 relating to the proposed purchase in connection with the Nimisila Creek Basin Reservoir Project of a tract of land which is owned of record by one Anna E. Hughes in Green Township, Summit County, Ohio, and which, subject to the exceptions and reservations therein noted, is described in the warranty deed tendered to the state by said Anna E. Hughes, as follows:

Being all of Lot No. 16 in C. C. McCue's Little Farms in the West half of the Northwest Quarter of Section No. 19, Green Township, as surveyed by S. G. Swigart and Son, and recorded in Plat Book 36, Page 7, Summit County Records of Plats.

Said Lot is subject to all legal highways.

Excepting and reserving from the above described premises the land conveyed to The Canton, Massillon and Akron Railroad Company by deed dated August 14, 1901, and recorded in Volume 273, Page 613, of Summit County Records.

Also excepting and reserving from the above described premises to the grantors herein, their heirs, executors, administrators and assigns, all the natural gas and oil rights.

Upon examination of the certificate of title executed by The Northern Ohio Guarantee Title Company under date of May 5, 1938, I find that said Anna E. Hughes has a good and indefeasible title to the above described parcel of land and that she owns and holds the same free and clear of all liens and other encumbrances other than the following which are here noted as exceptions to the title in and by which said Anna E. Hughes now owns and holds this property:

1. On December 27, 1932, Anna E. Hughes and Fred H. Hughes, her husband, executed a mortgage on this property to one Virginia Han-

cock to secure the payment of a promissory note of even date therewith in the sum of \$1404.57 payable in sums of \$30.00 monthly with interest at six per cent per annum, payable semiannually. On February 26, 1934, Virginia Hancock assigned and transferred this note and mortgage to one Mary Virginia Hancock who, apparently, now owns and holds the same. It does not appear from this certificate of title that this mortgage has been canceled of record; and the same is a lien on the above described property to the amount remaining unpaid upon the note secured thereby, together with accrued and unpaid interest thereon.

2. On September 14, 1937, Anna E. Hughes and Fred H. Hughes, her husband, executed a mortgage on the above described and other lands to one Virginia H. Hancock, to secure the payment of a promissory note of even date therewith in the sum of \$2200.00 payable on or before six months after the date of said note, with interest at six per cent per annum. It does not appear that this mortgage has been canceled of record and the same is a lien on the above described property to the extent of the amount remaining unpaid upon the note secured by this mortgage, together with accrued and unpaid interest thereon.

Needless to say, this mortgage, as well as that above noted, should be paid off and canceled before or at the time the transaction for the purchase of this property is closed by the issue of voucher and warrant or warrants covering the purchase price of the property.

3. On July 5, 1930, Fred H. Hughes, who then owned this property, executed an oil and gas lease, his wife Anna E. Hughes joining with him in the instrument, in and by which there was granted to one Arthur L. Smith the right to drill for oil or gas in this property as long as either of these minerals is found in paying quantities. By subsequent assignments of fractional interests of the right and interest of Arthur L. Smith under this lease, the same under date of March 15, 1934, became vested in the Columbian Carbon Company which, it appears, now owns and holds all the rights of the original lessee under this oil and gas lease. This oil and gas lease is, of course, an encumbrance on this property. This is apparently well understood by you and all of the other parties concerned in the transaction for the purchase of this property for and on behalf of the State inasmuch as it appears that in the warranty deed conveying this property to the State there is reserved to the grantors, Anna E. Hughes and Fred H. Hughes, all of the oil and gas in the property, and that gas is now being taken from the premises by means of a well which was drilled under the authority of said lease.

4. On March 16, 1907, one Charles A. Smith, who was then the owner of the above described and other lands which were later laid out as C. C. McCue's Little Farms Addition, executed an instrument in writing in and by which he granted or purported to grant to one Charles E.

Wise an easement or right of way for a telephone line to be constructed along the highway on the west line of grantor's premises and along the east side of a public highway contiguous to the premises which, of course, included what later became Lot 16 of C. C. McCue's Little Farms Addition, above described. This easement is set out in the certificate of title as an encumbrance upon the property and should be so treated; although as to this I assume that you and your engineers and agents in the field are familiar with this easement and with any telephone lines which may have been erected pursuant to the same.

5. On November 13, 1908, said Charles A. Smith executed an instrument in deed form in and by which he conveyed to the Tide Water Pipe Company, Ltd., a right of way or easement in and upon the larger tract of land above referred to for certain pipe lines to be laid down and constructed by the grantee in and upon the property described in the instrument. The certificate of title does not indicate whether Lot 16 of C. C. McCue's Addition here under consideration was or is affected by this easement or by any pipe lines laid down pursuant to the same. I assume that this easement and pipe lines, if any, laid down pursuant to the same are familiar to you and to your agents in the field. The same is here noted for the reason that it may be an encumbrance upon the property.

6. It appears that the premises above described are subject to the lien of an assessment for the construction of South Main Street Road in an amount not stated in the certificate of title, but as to which it does appear that delinquent installments of said assessment amounting in the aggregate to the sum of \$121.43 are a lien upon the property.

It further appears that delinquent taxes on this property for the years prior to 1937, together with penalties thereon, amount to the sum of \$24.51; taxes for the first half of the year 1937, amounting to \$6.60, together with penalty thereon in the amount of \$.66, are a lien on the property as well as are the taxes for the last half of the year 1937, amounting to the sum of \$6.60. In addition to this, the undetermined taxes for the year 1938 are a lien upon this property.

Upon examination of the warranty deed conveying to the State of Ohio the above described property, which deed excepts from Lot 16 of C. C. McCue's Little Farms Addition that part thereof included in the original right of way granted to The Canton, Massillon and Akron Railroad Company by deed of Charles A. Smith and wife to said railroad company under date of August 14, 1901, I find that said deed has been properly executed by the grantor, Ann E. Hughes, and by her husband Fred H. Hughes who thereby remises and releases to the State of Ohio all of his dower interest in the property. I further find that the form of this deed is such that the same is legally sufficient to convey the above de-

scribed property, subject to the exceptions and reservations above noted, to the State of Ohio by fee simple title.

Upon examination of contract encumbrance Record No. 40 relating to the purchase of the above described 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 to pay the purchase price of the above described parcel of land and the appurtenances thereunto belonging, which purchase price is the sum of \$6,000.00. It likewise appears from this contract encumbrance that the purchase of this property has been approved by the Controlling Board, which board has released from the appropriation account the moneys necessary for the purchase of this and other properties needed in connection with the Nimi-sila Creek Basin Reservoir Project.

I am herewith returning to you the certificate of title and deed above referred to. I am retaining contract encumbrance Record No. 40 for the reason that the same relates as well to Lot No. 15 in C. C. McCue's Little Farms Addition, the title to which will be made the subject of a separate opinion.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

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APPROVAL.—CERTIFICATE OF TITLE AND OTHER INSTRUMENTS, STATE OF OHIO, THROUGH DIRECTOR, DEPARTMENT OF PUBLIC WORKS, GRANTOR, FRED H. HUGHES, DESIGNATED TRACT OF LAND, GREEN TOWNSHIP, SUMMIT COUNTY, OHIO, USE, NIMISILA CREEK BASIN RESERVOIR, PURCHASE PRICE, \$1200.00.

COLUMBUS, OHIO, May 10, 1938.

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 and contract encumbrance record relating to the proposed purchase of a tract of land which is owned of record by one Fred H. Hughes in Green Township, Summit County, Ohio, and which, together with the exceptions and reservations therein noted, is described in the warranty deed tendered to the State of Ohio by said Fred H. Hughes as follows: