

of Ohio, acting by the Department of Public Works, for the Department of Public Welfare (Hawthornden Farm), and the Spohn Heating and Ventilating Company of Cleveland, Ohio. This contract covers the construction and completion of Contract for Plumbing for a project known as Cottage No. 5, Hawthornden Farm, Cleveland State Hospital, Cleveland, Ohio, in accordance with Item No. 2, Item No. 8 (Alt. P-1), Item No. 9, (Alt. P-2), Item No. 10 (Alt. P-3) and substitution for Crane Company's plumbing fixtures of the form of proposal dated April 13, 1934. Said contract calls for an expenditure of eight thousand seven hundred and eighty-nine dollars (\$8,789.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have submitted the certificate of the Controlling Board showing that said board has released funds for this contract in accordance with section 3 of House Bill No. 698 of the regular session of the 90th General Assembly, and section 1 of House Bill No. 36 of the first special session of the 90th General Assembly. In addition, you have submitted a contract bond upon which the Seaboard Surety Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the Workmen's Compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2775.

APPROVAL, CANAL LAND LEASE FOR THE RIGHT TO USE AND OCCUPY FOR FISHING AND FOR THE PROPAGATION OF FISH AND GAME, MADISON TOWNSHIP—MUSKINGUM COUNTY—DIVISION OF CONSERVATION—DEPARTMENT OF AGRICULTURE.

COLUMBUS, OHIO, June 4, 1934.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of your recent communication with which you enclose and submit for my examination and approval a canal land lease in triplicate executed by the State of Ohio through you as Superintendent of Public Works to the Division of Conservation in the Department of Agriculture. This lease which is one for a stated term of fifteen years and which provides for an annual rental of fifteen dollars (\$15.00) payable semi-annually, leases and demises to the lessee above named the right to occupy and use for fishing and for the propagation of fish and game, that portion of the abandoned Ohio Canal lands

known as Monroe Basin located in Madison Township, Muskingum County, Ohio, which parcel of canal land so leased and demised is more particularly described as follows:

"Being all of that portion of said canal property lying between the southerly line of State Highway No. 347, and being State Route No. 16, as relocated in 1933 and 1934, and the southerly line of said State Canal property, and extending from a line drawn through State 4338, of G. F. Silliman's survey of said canal property, said line being located one thousand eight hundred and twenty-one (1,821') feet westerly, as measured along the transit line of the said Silliman survey, from the lower end of Lock No. 29, and running thence westerly and northerly three thousand five hundred (3,500') feet, more or less, as measured along said transit line to the southerly line of State Highway No. 347, and containing twenty-two and five-tenths (22.5) acres, more or less."

From the location of the parcel of abandoned Ohio canal lands covered by this lease, I assume that the lease is one executed by you under the authority of Amended Substitute Senate Bill No. 72, enacted by the 89th General Assembly under date of April 9, 1931, and that your power and authority to execute this lease is subject to the conditions and restrictions provided for in said act. 114 O. L. 541. In this view, I must assume in approving this lease that no applications for the lease of the parcel of land here in question were filed by any municipality or by any owners of abutting lands having, under the provisions of said act, a prior right with respect to the lease of this property. In this connection I note that one of the purposes in the lease of this property is that the same may be used for recreational purposes and to this extent Amended Substitute Senate Bill likewise enacted by the 89th General Assembly, 114 O. L. 518, provides authority for the execution of this lease. However, I am inclined to the view that the purpose clause in this lease goes beyond those which the legislature intended to serve in the enactment of Amended Substitute Senate Bill No. 69 above referred to, and that the validity of the lease is to be tested likewise by the provisions of Amended Substitute Senate Bill No. 72.

Inasmuch as under the terms of the act just mentioned municipalities were required to assert their prior rights with respect to canal lands abandoned under this act within one year from the effective date of the act, and the owners of abutting property were required to assert their rights within ninety days thereafter, it is quite clear that any such municipality and abutting land owners have waived their respective rights with respect to the lease of this property, and that you are authorized to execute this lease to the lessee therein named.

Holding this view and finding that the lease has been properly executed by you and by the Conservation Commissioner acting under the authority of the Conservation Council, the lease is approved as to legality and form as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned to you.

Respectfully,

JOHN W. BRICKER,
Attorney General.