

1520.

APPROVAL—CANAL LAND LEASE EXECUTED BY THE
STATE OF OHIO TO FRANK ECEBARGER OF HEBRON,
OHIO.

COLUMBUS, OHIO, November, 22, 1937.

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

DEAR SIR: You have submitted for my examination and approval a canal land lease in triplicate executed by you as Superintendent of Public Works to one Frank Ecebarger of Hebron, Ohio.

By this lease, which is one for a term of fifteen years and which provides for an annual rental of \$6.00, there is leased and demised to the lessee above named the right to occupy and use for general business purposes a small quadrangular tract of land on the berme bank of the Ohio Canal described as follows:

Beginning at the point of intersection of the northwesterly line of the Ohio Canal property in the Village of Hebron, Licking County, Ohio, and a line which is parallel to and ten (10') feet, measured at right angles from Bartholow's drug store building, fronting on the south side of Main Street, in said village, and running thence in a northeasterly direction with the line of state property twelve (12) feet, more or less, to the south line of Main Street; thence easterly with the south line of Main Street, twenty-three and five-tenths (23.5') feet, more or less, to the northwesterly corner of a tract of land heretofore leased by the State of Ohio to K. C. White of Hebron, Ohio; thence in a southwesterly direction with White's westerly line forty-six (46') feet, more or less, to the first above described line; thence in a northerly direction with said first described line, twenty (20') feet, more or less, to the place of beginning, containing four hundred seventy-four (474) square feet, more or less.

From the location of the parcel of land here in question as indicated by the description thereof contained in the lease, I assume, although this fact is not entirely clear to me, that this parcel of land is a part of that section of the Ohio Canal which was abandoned for canal and hydraulic purposes by the Act of March 21, 1917, 107 O. L., 741, which provided that the portion of the Ohio Canal, commenc-

ing at the inner face of the westerly abutment of the aqueduct over Raccoon Creek in West Newark, Ohio, and extending thence westerly and southwesterly, including the full width of said canal and its embankments to the northerly line of Main Street in the Village of Hebron, Licking County, Ohio, be abandoned for both canal and hydraulic purposes. This act, which has been carried into the General Code as Sections 14203-20 to 14203-25, inclusive, provides that as soon as surveys and plats of said abandoned canal lands have been completed, the Superintendent of Public Works shall proceed to appraise, sell or lease said lands, subject to the approval of the Governor and the Attorney General, in strict conformity with the various provisions of the General Code relating to the selling and leasing of state canal lands, except that the term of such leases shall not be for less than fifteen, nor more than twenty-five years, and that the bed and banks of such canal shall be included in any lease of such abandoned canal lands. With respect to the application of said act and of the authority therein conferred upon the Superintendent of Public Works to lease the canal lands thereby abandoned for canal and hydraulic purposes, to the lessee here in question, it is noted that there is excepted from the above described section of the Ohio Canal abandoned by said act "so much of the same between what is known as 'Crab creek culvert' under said canal and the northerly line of Main Street, in the Village of Hebron, as in the judgment of the Superintendent of Public Works will be required for hydraulic raceway purposes for caring for the surplus water discharged into the canal by the electric power plant at Hebron, Ohio." Assuming, as above stated, that the parcel of canal land covered by this lease is a part of the section of the Ohio Canal abandoned for canal and hydraulic purposes by the Act of March 21, 1917, above referred to, I am unable to determine whether this parcel of land is a part of the canal which by determination of the Superintendent of Public Works is required for hydraulic raceway purposes, as provided for in the act and thereby excepted from that part of this section of Ohio Canal lands which the Superintendent of Public Works is authorized to lease under this act.

However, assuming that this parcel of Ohio Canal lands is included within the section abandoned by said act and that the same has not been excepted for lease purposes by the provision of the act last above referred to, this lease may be approved as one executed under this act.

If, however, this parcel of land is not a part of the section of the Ohio Canal abandoned by the Act of March 21, 1917, the lease may nevertheless be approved by you as one executed under the general authority conferred upon you by Section 13965, General Code. Upon

examination of this lease, I find that the same has been executed by you as Superintendent of Public Works and by Frank Eceberger, the lessee therein named, in the manner provided by law. And finding, as I do, that the lease is one which you are authorized to make, the same is hereby approved by me 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.

1521.

APPROVAL—CANAL LAND LEASE EXECUTED BY THE
STATE OF OHIO TO THE PICKAWAY GRAIN COMPANY
OF CIRCLEVILLE, OHIO.

COLUMBUS, OHIO, November, 22, 1937.

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

DEAR SIR: You recently submitted for my examination and approval a canal land lease in triplicate executed by you in your official capacity as Superintendent of Public Works and as Director of said department to The Pickaway Grain Company of Circleville, Ohio.

By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of \$66.00, there is leased and demised to the lessee above named the right to occupy and use for building and business purposes that portion of the abandoned Ohio and Erie Canal, located in the City of Circleville, Pickaway County, Ohio, that is in the rear of the original numbered lots 31, 32, 33, together with 11.25 feet off the south side of Lot 30, and also the 16.5 foot alley between Lots 31 and 32, and described as follows:

Beginning on a line which is the northerly boundary produced of the said 11.25 foot portion of Lot 30, said line intersecting the transit line of W. O. Sanzenbacher survey of said canal property at or near Station 3273+18; thence in a southwesterly direction with the canal property lines a distance of 191 feet, more or less to Station 3275+09, said station being at or near the intersection of the said transit line with