

find, upon consideration of the provisions of this lease and of the conditions and restrictions therein contained, that the same are in conformity with Section 471, General Code, under the authority of which this lease is executed, and with other statutory enactments relating to leases of this kind.

I am accordingly approving this lease 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.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5540.

APPROVAL—APPLICATION FOR CANCELLATION OF O&E
CANAL LAND LEASE—GEORGE FLORENCE, TRUSTEE
IN BANKRUPTCY FOR CHARLES C. TRUAX.

COLUMBUS, OHIO, May 18, 1936.

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

DEAR SIR: You have submitted for my examination and approval a finding made by your predecessor in office, acting under the authority of House Bill No. 467, 115 O. L., 512, in which he directed the cancellation of a certain lease of Ohio Canal lands (O&E No. 405) which was originally executed to one Charles C. Truax and which is now owned and held by one George Florence, as Trustee in Bankruptcy for said Charles C. Truax.

The lease here in question covers a certain parcel of Ohio Canal lands in the city of Circleville, Pickaway County, Ohio, which parcel is more particularly described in said lease and in the application above referred to as follows:

Beginning at Station 3276 plus 78.8, this point being the north line of Main Street in said city, thence extending northwardly including the full width of the bed and embankments, a distance of 500 feet to station 3271 plus 78.8, and containing 54.175 square feet, more or less.

In the application for the cancellation of this lease, which is made by George Florence, as Trustee in Bankruptcy, of the original lessee

above named, it is stated as reasons for the cancellation requested that Charles C. Truax, the Bankrupt, never used the premises covered by this lease and that the applicant, as Trustee in Bankruptcy, has never made any use of the same. Attached to the application is a statement which indicates that the operation of the affairs of the Bankrupt has resulted in a loss and that his estate will probably pay a dividend of less than ten per cent.

Although, as above noted, the finding made by the Superintendent of Public Works directs the cancellation of this lease, such cancellation is made contingent upon the payment of delinquent rentals on this lease which had been reduced by the Superintendent of Public Works from \$900 to \$650. Although there may be some question whether, under the provisions of House Bill No. 467, 115 O. L., 512, above referred to, the Superintendent of Public Works has authority to cancel a lease of canal lands otherwise than upon payment of the full amount of delinquent rentals upon the lease, the Bankruptcy Court would undoubtedly have authority to order the cancellation of this lease if the interests of the estate in the hands of the Trustee required such action; and, furthermore, the Superintendent of Public Works would have authority to cancel this lease under his general powers and under the provisions of the lease providing for the cancellation of the same for the non-payment of rentals in accordance with the terms thereof. In view of these facts and the further consideration that the state might otherwise receive only a dividend amounting to ten per cent of its claim, I am hereby approving the action of the Superintendent of Public Works in directing the cancellation of this lease on the payment of the sum of \$650, the amount of the delinquent rentals upon this lease, as the same have been reduced by order of the Superintendent of Public Works.

I am endorsing my approval upon the resolution which accompanies the finding so made by the Superintendent of Public Works, and upon the duplicate copies of the resolution, all of which, together with the finding made by the Superintendent of Public Works and the application above referred to, are herewith enclosed.

Respectfully,

JOHN W. BRICKER,
Attorney General.