

3800.

APPROVAL, CERTIFICATE OF TITLE, ETC., TO LANDS IN FRANKLIN TOWNSHIP, COSHOCTON COUNTY, OHIO, IN CONNECTION WITH MUSKINGUM WATERSHED CONSERVANCY DISTRICT.

COLUMBUS, OHIO, January 12, 1935.

The Board of Directors of the Muskingum Watershed Conservancy District, New Philadelphia, Ohio.

GENTLEMEN:—There has been submitted for my examination and approval certificates of title, together with reports thereon, as to four certain tracts of land. Two of these tracts of land are in Franklin Township, Coshocton County, Ohio, in Range 6 west, Township 4 north, United States Military Survey, and as described in the certificates, are set out as tracts 1 and 2 as follows:

TRACT 1.

Beginning at the northeast corner of the south half of the southwest quarter of Section twenty-two (22); thence north eighty-five and one-half ($85\frac{1}{2}$) degrees, west along the north line of said half quarter three hundred (300) feet; thence north twenty-one (21) feet; thence north eighty-five and one-half ($85\frac{1}{2}$) degrees west one hundred and thirty-four (134) feet; thence south twenty-one (21) feet; thence north eighty-five and one-half ($85\frac{1}{2}$) degrees west one thousand nine hundred and seventy (1970) feet to the low water mark in Wills Creek; thence south with said low water mark to the northwest corner of a part of said south half and a part of Section twenty-three (23) conveyed to S. Lapp by W. M. Clark; thence south eighty-six and one-half ($86\frac{1}{2}$) degrees east along said Lapp's north line two thousand six hundred and twenty-seven (2627) feet to a stake in the public road; thence south fifteen (15) degrees east along said road two hundred and twenty-eight and one-half ($228\frac{1}{2}$) feet to a stake in the east line of said south west quarter; thence north three and one-half ($3\frac{1}{2}$) degrees east along said east line to the place of beginning; containing thirty-six and thirty-seven one-hundredths (36.37) acres more or less.

TRACT 2.

Part of Sections twenty-two (22) and twenty-three (23) in Township four (4) north, Range six (6) west, United States Military District, bounded and described as follows:

Beginning at a stone on the line between Coshocton and Muskingum Counties, near a road leading from Frews Mills in said Coshocton County to Maysville in said Coshocton County, running thence north three and one-half ($3\frac{1}{2}$) degrees east twenty rods to a stone in said road; thence north fifteen and one-half ($15\frac{1}{2}$) degrees west nineteen and nine-tenths (19.9) rods to a stone in said road; thence south eighty-six and one-half ($86\frac{1}{2}$) degrees west to the east bank of Wills Creek at low water mark; thence along said bank with the meanderings thereof to the line between said Coshocton and Muskingum Counties; thence north eighty-six and one-half ($86\frac{1}{2}$) degrees east along said line one hundred and ninety-five (195) rods to the place of beginning, containing forty (40) acres in Section twenty-two (22) and five (5) acres in Section twenty-three (23) containing altogether forty-five (45) acres, be the same more or less.

The other two tracts of land are in Adams Township, Muskingum County, Ohio, and are a part of the northwest quarter of Section 2 of Township 3, Range 6 and a part of the east half of the northeast quarter of Section 3 in said township

and range, and as described in certificate of title, these tracts of land are set out as Tracts No. 3 and 4.

TRACT 3.

Beginning at the Northeast corner of said Northwest quarter near where the Coshocton Road crosses the County line, and running thence west along said line to the northwest corner of said east half of the northeast quarter of section three; thence south sixty-six (66) rods; thence east to the east line of the northwest quarter of section two; thence north to the place of beginning, containing one hundred acres more or less, being the same tract of land described in the deed of Benjamin E. Leslie as Sheriff of said County of Muskingum to Solomon Lapp, dated May 29, 1868, and of record in said County Deed Records Book 50 at pages 62 and 63.

TRACT 4.

Also the following tract, situated in the Township, County and State aforesaid, being the south part of the northwest quarter of Section two (2), Township Three (3) and Range six (6), and also the south part of the east half of the northeast quarter of section three (3), township three (3) and range six (6), in all containing One Hundred Seven (107) acres more or less, the foregoing premises being the home farm of one James Wilcox, deceased, and bounded on the north by the lands of said Solomon Lapp; bounded on the east by the lands of Samuel Voorhees; bounded on the south by Wills Creek and by lands of Brecht and Gerweg; and bounded on the west by lands of Hahn, and being the premises described in the deed of William and Emily Stillwell to said Solomon Lapp, dated September 17, 1868, and is recorded in said County Deed Record in Book 50 at page 640.

Upon examination of the certificates of title submitted, together with detailed reports thereon, and the abstracts of title, I find that Francis W. Lapp has a good merchantable title to the above described tracts of land, subject only to the following liens and incumbrances:

1. It appears that all of the taxes on this property and the several tracts thereof have been paid, other than the undetermined tax for the year 1934, the first half of which, of course, was due and payable December 20, 1934, or at such later time to which the date for collecting such taxes may be lawfully extended.

2. There are two mortgages affecting a part or all of the above described property. On July 26, 1924, Francis W. Lapp and Flora E. Lapp, his wife, executed a mortgage on the third and fourth tracts of land above described, to the Federal Land Bank of Louisville. This mortgage was one executed for the purpose of securing a mortgage note or other similar instrument of even date with a mortgage providing for the re-payment of the loan with interest at 5½% according to the amortization plan under which such mortgages are liquidated. This mortgage, to the extent of the amount unpaid on the instruments secured thereby, is a lien upon the property.

Under date of May 14, 1933, Francis W. Lapp and Flora E. Lapp, his wife, executed a mortgage to the Land Bank Commissioner of Louisville, Kentucky, on each and all of the above described tracts of land. This mortgage was executed to secure a loan in the sum of \$2,100.00 with interest at 5%, payable semi-annually due February 1 and August 1 until 1946. This mortgage, to the extent of the amount unpaid on the principal and interest of the obligation secured thereby, is a lien on each and all of these tracts of land.

3. On or about December 20, 1922, Francis W. Lapp and wife executed an oil and gas lease to the Logan Natural Gas & Fuel Company, on the first two tracts

of land above described. By this lease, which was and is one for a term of 20 years and so much longer as oil or gas is found in paying quantities, the lessee is given the right to take oil and gas from the premises, on a royalty and rental basis respectively.

4. On August 18, 1922, Francis W. Lapp and wife executed an oil and gas lease to the Logan Natural Gas & Fuel Company on the third and fourth tracts above described. By this lease, which was one for a term of 20 years and for as much longer as oil or gas might be found in paying quantities, the lessee was given the right to enter upon said premises and to take therefrom oil and gas upon a royalty and rental basis. This lease which appears now to be owned and held in part by the Ohio Fuel Gas Company and part by the Preston Oil Company, is of course an incumbrance upon these two tracts of land.

5. Under date of January 26, 1933, Francis W. Lapp executed to the Ohio Bell Telephone Company a certain instrument in and by which said company was given the right, by way of easement, to construct and maintain lines of telephone and telegraph across and over the third and fourth tracts of land above referred to.

Deed forms, to the number, of the deeds to be executed by Francis W. Lapp and Flora E. Lapp conveying the above described tracts of land to the Muskingum Watershed Conservancy District, have been submitted to me. It appears that new surveys were made by your authorized engineers of both the Coshocton County and the Muskingum County lands above described. In one of these deed forms the Coshocton County lands above referred to are described in two separate parcels by a description according to metes and bounds, which follows the new survey.

A separate deed form, covering the Muskingum County land, is tendered by Francis W. Lapp and wife, which tracts of land above referred to as Tracts 3 and 4 respectively, are therein described as Parcels 1 and 2 by metes and bounds according to the new survey.

The certificate which has been submitted by the engineer in charge of this survey, identifies these properties as described in the deed forms respectively, with that covered by the certificates of title; and in this view these descriptions are approved.

As a part of the files relating to the purchase of the above described property, you have submitted to me contract encumbrance record No. 21. This instrument, which is executed upon the regular form used by state officers and departments in encumbering funds for the purpose of meeting contractual obligations of the State for the use of such officers or departments, is authenticated by T. J. Haley and C. W. Ullom, acting pursuant to the authority of a resolution of the Board of Directors of the Muskingum Watershed Conservancy District. Although this resolution of the Board of Directors of said Conservancy District does not, of course, give to the persons above named the status of state officers or agents, or give them any authority to contract on behalf of the State of Ohio, their signatures on this contract encumbrance record do have the effect of authenticating the fact that the Muskingum Watershed Conservancy District has contracted for the purchase of the particular property therein described and afford a sufficient predicate to the certificate of the Director of Finance that there is a sufficient unencumbered balance to the credit of the Muskingum Watershed Conservancy District under the appropriation made to said Conservancy District in and by House Bill No. 61 enacted by the 90th General Assembly under date of April 7, 1934; all of which is contemplated by and is in accordance with the agreement entered into by and between the Controlling Board and the Board of Directors of said Con-

servancy District with respect to the expenditure of the moneys appropriated by said act for the uses and purposes of the Conservancy District.

In this view and for the purpose above stated, this contract encumbrance record has been properly executed and the same shows that there is a sufficient unencumbered balance in the appropriation account covered by the moneys released by the Board of Control to pay the purchase price of the real property here in question, which purchase price is the sum of \$3,868.35. In this connection, it is noted that under date of December 5, 1934, the Controlling Board released from this appropriation account an additional sum of \$100,000, which is an amount sufficient to cover the purchase price of the real property here in question and of all other tracts of land which have been submitted to this office for consideration.

Subject to the exceptions above noted, the title to the above described property of Francis W. Lapp and Flora E. Lapp is approved, and the certificate of title, warranty deed, contract encumbrance record No. 21 and other files relating to this purchase are herewith enclosed for further appropriate action on your part and upon the part of the Auditor of State.

Respectfully,

JOHN W. BRICKER,

Attorney General.

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COLUMBUS, OHIO, January 12, 1935.

The Board of Directors of the Muskingum Watershed Conservancy District, New Philadelphia, Ohio.

GENTLEMEN:—You have submitted for my examination and approval a certificate of title, detailed chain of title and comments, certificate of items not of record, warranty deed form, owner's description, surveyor's certificate, statement as to unrecorded mining agreement, contract encumbrance and Controlling Board certificate, relating to the proposed purchase by the Muskingum Watershed Conservancy District of three tracts or parcels of land which are owned of record by Fred W. Randles and Marie Randles, in Franklin Township, Coshocton County, Ohio, which parcels of land are more particularly described by metes and bounds as follows:

The following lands situate in the State of Ohio, County of Coshocton, Township of Franklin, being a part of Section Twenty-two (22), Town Four (4) North, Range Six (6) West of the United States Military Survey; the lands hereby conveyed being all the lands of Fred W. and Marie Randles in said Section Twenty-two (22) and being more particularly described as the following three (3) parcels:

First Parcel:

All lands in the north half of the southwest quarter of said Section Twenty-two (22) lying south and east of the centerline of Wills Creek,