

years from the effective date of said act, any portion of said abandoned Miami and Erie Canal that has not been designated by the Director of Highways as necessary for state highway improvements or has not been leased for public park purposes, to any of the parties authorized to make application to lease portions of said abandoned canal for such purposes, may be appraised by the Superintendent of Public Works and leased to responsible parties for terms of fifteen years or multiples thereof.

Assuming as I do that the above described parcel of abandoned Miami and Erie Canal lands has not been designated by the Director of Highways for highway purposes and that no application for the lease of the same for public park purposes has been made within the time designated in said act, you are clearly authorized to execute the lease here in question.

The provisions of this lease and the conditions and restrictions therein contained are in conformity with the act of the legislature above referred to and with other statutory provisions relating to leases of this kind. I further find that the lease has been executed by you and by Eugene Easton, the lessee above named, in the manner required by law. 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,

HERBERT S. DUFFY,
Attorney General.

671.

APPROVAL—LEASE EXECUTED BY THE STATE OF OHIO
TO M. S. AND IRAL D. YODER, D. B. A. YODER BROTHERS
AT BARBERTON, OHIO.

COLUMBUS, OHIO, June 1, 1937.

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

DEAR SIR: You have submitted for my examination and approval a certain lease in triplicate executed by you as Superintendent of Public Works to M. S. and Ira D. Yoder, doing business as Yoder Brothers, at Barberton, Ohio.

By the lease here in question the lessees therein named are given the right to insert into the level of the Ohio Canal next above Lock,

No. 1 of the Summit Level of said canal, a six-inch pipe and, by this means, to withdraw from the Ohio Canal at this point such water as may be needed by the lessees for hot house irrigation purposes.

This lease, which is a renewal of a lease for the same purpose heretofore owned and held by the lessees above named, is one for a term of five years from November 1, 1935, and the annual rental therein provided for is the sum of \$500.00, payable in semiannual monthly installments of \$250.00 each.

The statutory provisions which authorize the execution of this lease were enacted at an early date when the canals of the state were in active use for purposes of navigation, and these provisions have now been carried into the General Code as Section 14009 which reads in part as follows:

“Whenever, in the opinion of the superintendent of public works, there shall be any surplus water in any of the state canals, or in any of the feeders, or reservoirs, or at any dams created by the state for the purpose of supplying any of said canals with water, or erected for improving the navigation of any river, over and above the quantity of water which may be required for the purpose of navigation, said superintendent of public works may sell or lease the right to use such surplus water for hydraulic or other purposes, for any term not exceeding twenty-five years for a certain annual rental, or otherwise, as he may deem most beneficial for the interests of the state, subject to such conditions, reservations and restrictions as he may deem necessary and proper. All rentals shall be fixed by the superintendent of public works with the approval of the governor and attorney general.”

The above quoted provisions of Section 14009, General Code, not to speak of the provisions of Section 433, General Code, which likewise authorizes the Superintendent of Public Works to execute leases for water and to collect rentals thereon, are ample authority for the execution of the lease here in question. And inasmuch as it appears from an examination of the lease that the provisions thereof and the conditions and restrictions therein contained are in conformity with the statutory provisions above referred to and since it further appears that this lease has been executed by you in your official capacity as Superintendent of Public Works and as Director thereof and by the lessees above named, in the manner required by law, this lease is approved as is evidenced by

my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

672.

APPROVAL—LEASE OF CANAL LANDS EXECUTED BY THE STATE OF OHIO TO WILLARD WOLFE OF CIRCLEVILLE, OHIO, THE LANDS BEING LOCATED IN DEERFIELD TOWNSHIP, PICKAWAY COUNTY, OHIO.

COLUMBUS, OHIO, June 1, 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 Willard Wolfe of Circleville, Ohio.

By this lease, which is one for a term of fifteen years, and which provides for an annual rental of \$7.50, there is leased and demised to the lessee above named a portion of abandoned Ohio and Erie Canal land which is described in the lease as being located in Deerfield Township, Pickaway County, Ohio, and which is therein further described as follows:

Beginning at a point 973 feet westerly, as measured along the transit line of W. H. Heiby's survey of said canal property, from the westerly end of the old lock immediately west of the Scioto River, said point being at Station 3310÷00 of said survey, and being also the westerly line of an agricultural permit now held by William Baughan; thence extending westerly with the state property lines a distance of 300 feet, to Station 3313÷00.

Excepting and reserving so much of the above that may be occupied by the public highway, and also by a private lane crossing over said property.

I am unable to see from the location of this property as the same is described in the lease or from any other information in the lease contained, whether your authority to execute this lease is governed by