

237.

DEED—ABANDONED HOCKING CANAL—STATE TO THE  
CHESAPEAKE AND OHIO RAILWAY COMPANY, DESIG-  
NATED PORTION, NELSONVILLE, ATHENS COUNTY.

COLUMBUS, OHIO, March 4, 1939.

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

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you submit for my examination and approval a transcript of your proceedings as Superintendent of Public Works and as Director of said department relating to the sale to The Chesapeake and Ohio Railway Company of a parcel of abandoned Hocking Canal land in the City of Nelsonville, Ohio, which parcel of land is designated as Parcel No. 2 of the Hocking Canal lands in said city and which is more particularly described as follows :

Beginning at an iron monument marking the state property line of the abandoned Hocking Canal in said river lot No. 636, said monument being 60.1 feet southwesterly at right angles from the canal survey transit line at canal survey station 2203+00; thence north  $38^{\circ} 49\frac{1}{2}'$  west (C&O bearing) north  $39^{\circ} 44'$  west (Allen bearing) 88.12 to a point; thence north  $51^{\circ} 47\frac{1}{2}'$  west (C&O bearing) north  $53^{\circ} 53'$  east, at right angles to the center line between curbs of a street or boulevard now under construction by the city of Nelsonville, 53.88 feet to a point opposite to canal survey station 2202+11.88, said point being 35 feet distant at right angles from the center line between curbs of said street or boulevard; thence south  $38^{\circ} 12\frac{1}{2}'$  east (C&O bearing) south  $39^{\circ} 07'$  east (Allen bearing) parallel with and 35 feet distant from said center line between curbs 184.72 feet to a point opposite to canal survey station 2203+96.6 thence south  $51^{\circ} 47\frac{1}{2}'$  west (C&O bearing) south  $53^{\circ} 53'$  west (Allen bearing) 37.17 feet to a point in the state property line, said point being opposite to canal survey station 2203+96.6; thence north  $47^{\circ} 28\frac{1}{2}'$  west (C&O bearing) north  $48^{\circ} 23'$  west (Allen bearing) 97.96 feet to the point of beginning and containing 0.208 acres, more or less.

Upon examination of this transcript, it appears that this parcel of land is not required for the use and operation of the canal but that the same, together with other Hocking Canal lands, has been abandoned for both canal and hydraulic purposes. It further appears from the finding made by you and set out in this transcript that this parcel of land cannot be leased so as to produce an annual rental of six per cent on the appraised value of the property, which appraised value is the sum of \$250.00. And as to this, it appears that this property is being sold to The Chesapeake and Ohio Railway Company in consideration of the payment by said company of said sum of \$250.00, the appraised value of the property sold.

Your authority to sell this property, subject to the approval of the Governor and the Attorney General, is that conferred upon you by the general provisions of section 13971, General Code, and by the more particular provisions of House Bill No. 417, 113 O. L., 521.

In this connection, it appears that all of these abandoned Hocking Canal lands in the City of Nelsonville, Ohio, were reserved for highway purposes by the Director of Highways under section two of the Act above referred to, but that the particular parcel of canal land above described and certain other parcels in said city were later found by the Director of Highways to be lands which were not needed for highway purposes and were released to the Superintendent of Public Works for sale or other disposition in the manner provided by law.

In this situation with respect to your authority to sell the parcel of

land here in question, I find from an examination of this transcript that you have made all of the findings of fact necessary to authorize you to sell this property in the manner provided by section 13971, General Code, and the special act of the legislature above referred to. And inasmuch as the appraised value of this property and the sale price thereof does not exceed \$500.00, you are authorized to sell this property at private sale, subject to the approval of the Governor and the Attorney General. I am, therefore, approving the sale of this property and the transcript of your proceedings relating to such sale as evidenced by my approval endorsed upon the transcript and upon the duplicate copy thereof, both of which are herewith enclosed.

Respectfully,

THOMAS J. HERBERT,

*Attorney General.*