

of Trustees, letter of certification from the Auditor of State showing that the necessary papers and documents are on file in said office, Controlling Board release, approval of award by P. W. A., and the tabulation of bids received on this project.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other documents submitted in this connection.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

3338.

APPROVAL—CONTRACT, STATE OF OHIO, THROUGH DEPARTMENT OF PUBLIC WORKS, WITH THE NORFOLK AND WESTERN RAILWAY COMPANY, ROANOKE, VIRGINIA, PARCEL, ABANDONED OHIO CANAL LANDS, ROSS COUNTY, OHIO, \$500.00.

COLUMBUS, OHIO, December 5, 1938.

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

DEAR SIR: This is to acknowledge the receipt of your communication of recent date submitting for my examination and approval a transcript of your proceedings relating to the sale to The Norfolk and Western Railway Company, Roanoke, Virginia, in consideration of the payment by said company of the sum of \$500.00, the appraised value of the property, of a parcel of abandoned Ohio Canal lands in Ross County, Ohio, which is more particularly described as follows:

Being all that portion of the abandoned Ohio Canal, situate in the Township of Franklin, County of Ross, State of Ohio, including the full width of the canal property, and extending east and west twenty-five (25') feet at right angles on each side of the center line of Norfolk and Western Railroad Bridge No. 1119, as bridge was located at the time of sale of canal property to James F. Blaine, said bridge being located 1,050 feet, more or less, south of Mile Post No. 652, as measured from Norfolk, Virginia, and containing twenty-one hundredths (0.21) acres, more or less.

It appears that the property above described was sold by you to said railroad company at private sale, subject to the approval of the

Governor and Attorney General, under the provisions of Section 13971, General Code, relating to the general power and authority of the State Canal Commission to sell canal lands, the more specific provisions of the Act of June 7, 1911, 102 O. L., 293, relating to the sale of abandoned Ohio Canal lands between Buckeye Lake and the Ohio River by the Board of Public Works, and the provisions of Section 464, General Code, which confer upon the Superintendent of Public Works all of the power and authority theretofore vested in the Ohio Canal Commission and the Board of Public Works with respect to the sale of canal lands.

Looking to the transcript of your proceedings relating to the sale of the particular parcel of abandoned Ohio Canal lands here in question, it is noted that said transcript contains a finding duly made by you that this land has been legally abandoned for canal purposes, that the same is not necessary or required for the use, maintenance and operation of the canal, and that the property cannot be leased so as to yield an income of six per cent upon the appraised value of the land. All of these findings are required to be made as a condition precedent to the exercise of your power and authority to sell this land; and such findings having been made by you in the exercise of powers conferred upon you by law, such findings are, of course, binding in the absence of any showing that such findings or any of them are palpably wrong.

It appears further in this connection that since the appraised value of this property does not exceed the sum of \$500.00, you were authorized to sell this property at private sale subject to the approval of the Governor and the Attorney General. No reason for disapproving this sale appears on the face of the transcript or from any other information submitted to me; I am accordingly approving this sale and the transcript of your proceedings relating to the same as is evidenced by my approval endorsed upon the transcript and upon the duplicate copy thereof, both of which are herewith returned.

Respectfully,

HERBERT S. DUFFY,

Attorney General.