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APPROVAL—LEASE TO RESERVOIR LAND IN RICHMOND  
TOWNSHIP, ASHTABULA COUNTY, OHIO—ASHTABULA  
COUNTY FISH AND GAME PROTECTIVE ASSOCIATION.

COLUMBUS, OHIO, July 24, 1936.

HON. L. WOODDELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR: This is to acknowledge the receipt of a recent communication over the signature of the Chief of the Bureau of Inland Lakes and Parks, with which there was submitted for my examination and approval a reservoir land lease in triplicate, executed by you as Conservation Commissioner to the Ashtabula County Fish and Game Protective Association, by which there is leased and demised to the lessee above named the right to occupy and use for club house and private docklanding purposes a parcel of state land at Pymatuning Reservoir and the buildings and other appurtenances thereto attached and belonging. This lease is one for a stated term of fifteen years, provides for an annual rental of one dollar and demises to the lessee the parcel of land above referred to, which is more particularly described as follows:

Beginning at the northwest corner of Lot No. 79, Town 10 North, Range 1 West, Richmond Township, Ashtabula County; thence easterly along the center line of the road between Lots Nos. 62 and 79, 1096 feet to a point that marks the true place of beginning; thence south, 300 feet; thence east, 166 feet; thence north, 300 feet, to the center line of the above highway; thence west along the center line of said highway, 166 feet, to the true place of beginning and containing 1.25 acres of land, more or less, being known as the "Lee tract," and being a part of Lot No. 79, Richmond Township.

The subaqueous lands of Pymatuning Reservoir and the lands adjacent thereto in this state are a tract of about 5,018 acres of land in Williamsfield, Andover and Richmond Townships, Ashtabula County, Ohio, which were acquired by the state of Ohio by warranty deed executed by the Pymatuning Land Company, which tract of land was accepted for and in the name of the state of Ohio by the Conservation Council of the Division of Conservation by a resolution duly adopted by said body with the consent of the Attorney General, on the 17th day of December, 1934, which action on the part of the Conservation Council was authenticated by the official signature of the then Conservation Commissioner upon said

deed and as of said date. The tract of land above referred to was thus acquired through the action of the Conservation Council pursuant to the authority conferred upon the Conservation Council by Section 472, General Code, which provides that all lands and waters now or hereafter dedicated and set apart for public park or pleasure resort purposes, or which may hereafter be acquired for such purposes, shall be under the control and management of the Conservation Council, who shall protect, maintain and keep them in repair; and which further provides as follows:

“And said Conservation Council may, subject to the approval of the Attorney General, acquire by gift, purchase or by appropriation proceedings, on behalf of the state, such real and personal property, rights and privileges as may be necessary in its judgment for the use, extension, enlargement and maintenance of such public parks and resorts, and for new public parks, resorts, reservoirs, channels, drives, roadways, docks, dams, landings, wharves and other improvements.”

As was stated in the deed above referred to conveying these lands to the state of Ohio and as likewise noted in the resolution of the Conservation Council accepting this property on behalf of the state, the lands were acquired by the state of Ohio for the purpose and to the end that such lands and the waters inundating and submerging a part of the same might be owned, maintained and used by the state of Ohio, through the Conservation Council of the Division of Conservation or other authorized agency of the state of Ohio, as a public recreation park and, subject to rules prescribed by law and the lawful orders of the Conservation Council or other authorized agency of the state of Ohio, as public hunting and fishing grounds.

It thus appears that that part of the Pymatuning Reservoir and the lands adjacent thereto in the state of Ohio are owned and held by the state for the purposes above stated and that the same are under the control of the Conservation Council to carry out the purposes for which these lands were acquired conformable to the provisions of Section 472, General Code, and of Section 1435-1, General Code, which likewise authorize the Conservation Council to acquire these lands in the name of the state of Ohio for purposes of hunting and fishing.

Pursuant to the proceedings had in the acquisition of these lands, which for the most part have been submerged by waters in connection with and as result of the construction of the Pymatuning Dam across the Shenango River in Crawford County, Pennsylvania, the Pymatuning Reservoir now has the status of a public park and pleasure resort and is also territory owned and held by the state for hunting and fishing purposes.

In this situation, the only constituted authority of the state which is empowered to execute leases with respect to the lands of the Pymatuning Reservoir is the Conservation Council and, obviously, that body has no authority to execute leases of such lands or of any part thereof for purposes inconsistent with those for which these lands are now owned and held by the state.

The lease here in question is one executed by the Conservation Commissioner apparently in the exercise of his independent statutory authority as Conservation Commissioner of the state. As has been pointed out in opinions of this office directed to you on other occasions, the only independent authority which the Conservation Commissioner has to execute leases of state reservoir lands is with respect to lands owned by the state in or adjacent to the particular lakes and reservoirs named in Section 471, General Code, which do not, of course, include the Pymatuning Reservoir in this state which, as above noted, was acquired after Section 471 was enacted in its present form. Inasmuch, therefore, as you do not have any authority as Conservation Commissioner to execute the lease here in question, I am herewith returning the same without approval.

As above noted, the conclusion reached in this opinion is that the Conservation Council is the only authority of the state which on any view is empowered to execute leases of Pymatuning Reservoir lands; and this lease is disapproved specifically for the reason that the lease is executed by the Conservation Commissioner in the exercise of the independent authority which for some purposes is conferred upon this officer. No views are here expressed with respect to the question suggested by the rental provisions of this lease as to whether any constituted authority of the state of Ohio has the power to lease lands, buildings, or other appurtenances of the state otherwise than for an annual rental which has some relation in amount to the real value of the property leased. In this connection, it has been noted herein that the annual rental provided for in this lease is the sum of one dollar, which is six per centum of the sum of \$16.67, which is given as the appraised value of the property covered by the lease. It would seem on the face of things that this sum of \$16.67 as the appraised value of this 1.25-acre tract of land and of the residence building thereon is so clearly out of line with the real value of the property that there must have been, in the mind of the Conservation Commissioner, other benefits to be derived by the state and by the Conservation Division in the custody and control of this reservoir as a public park and as territory set apart for lawful hunting and fishing, which serve as additional considerations for the execution of a lease to the Ashtabula County Fish and Game Protective Association. However,

it will, perhaps, be more appropriate for me to discuss this question when there has been submitted to me a lease executed under lawful authority.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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APPROVAL—CONTRACT FOR HIGHWAY IMPROVEMENT IN  
CLARK COUNTY, OHIO.

COLUMBUS, OHIO, July 24, 1936.

HON. JOHN JASTER, JR., *Director of Highways, Columbus, Ohio.*

DEAR SIR: You have submitted for my approval a contract covering the following:

Clark County  
D. T. & I. Overhead  
Fountain Avenue, Springfield,  
Ohio  
U. S. Works Program Grade  
Crossing Project No. Ohio  
W. P. G. M. 859-A

Finding said contract correct as to form and legality, I have accordingly endorsed my approval thereon and return the same herewith.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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APPROVAL—LEASE TO LAND IN DEFIANCE COUNTY, OHIO,  
FOR PARK AND RECREATIONAL PURPOSES—DEFIANCE  
COUNTY METROPOLITAN PARK BOARD.

COLUMBUS, OHIO, July 25, 1936.

HON. L. WOODDELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a certain lease in triplicate, executed by the state of Ohio, through you