

5854.

APPROVAL—LEASE TO LAND AT BUCKEYE LAKE, FAIRFIELD COUNTY, OHIO—OHIO POWER COMPANY.

COLUMBUS, OHIO, July 17, 1936.

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

DEAR SIR: In and by a communication over the signature of the Chief of the Bureau of Inland Lakes and Parks directed to me under date of July 13, 1936, there has been submitted to me for my examination and approval a certain lease in triplicate executed by you as Conservation Commissioner to The Ohio Power Company.

By this lease, which is one for a stated term of fifteen years and which provides for the payment of a nominal annual rental of one dollar, there is leased and demised to the lessee above named, subject to certain conditions and restrictions therein contained, the right to install and maintain a submarine cable for the purpose of transmitting electrical power under the waters and over the subaqueous lands of Buckeye Lake from the south shore of the lake to the south water line of Journal Island located in the northeast quarter of the southwest quarter of Section 23, Town 17, Range 18, Fairfield County, Ohio, and, also, the right to maintain an overhead transmission line from the east water line of Journal Island to the west water line of Orchard Island, and thence in an eastward direction over Orchard Island to a point approximately in the center of said island, and to install service lines to the several lots and properties on Orchard Island from the terminal point of the transmission lines.

Inasmuch as it appears from the terms of this lease that the annual rental to be paid by the lessee for the rights and privileges demised to and conferred upon it by the lease, is the nominal sum of one dollar, it is assumed that the reasons which actuated you in executing this lease were such as have relation to the benefits that will accrue to owners and occupants of properties holding under lease from the state and thereby indirectly benefiting the state in its control and management of Buckeye Lake and adjacent lands as a public park and as a part of the public works of the state. In this view, I am of the opinion that you are authorized to execute this lease upon the terms and conditions therein contained and subject to the conditions and restriction which are made a part of the lease and which have obvious relation to the protection of the public and others as against the hazards which may be created by the construction of the electrical power lines provided for in the lease.

An examination of the lease shows that the same has been properly

executed by you as Conservation Commissioner and by The Ohio Power Company, the lessee therein named, acting by the hand of its Vice President pursuant to the authority of the Board of Directors of said company expressed in a resolution of such Board of Directors under date of July 8, 1935.

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 enclosed.

It is noted that in the first line of this lease instrument the lease is referred to as one "entered into this 11th day of July, 1935." Inasmuch as under the law leases of this kind are not effective until they have been approved by the Governor and the Attorney General and since, in the present instance, this lease was not approved by the Governor until July 10, 1936, it is obvious that the lease did not become effective as an executed instrument prior to my approval of the same as Attorney General. The notation made by you in the first line of the instrument should, therefore, be changed to correspond with the fact with respect to the effective date of this instrument.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5855.

APPROVAL—PROPOSED AGREEMENT COVERING RECONSTRUCTION OF CROSSING IN PORTSMOUTH, SCIOTO COUNTY, OHIO.

COLUMBUS, OHIO, July 17, 1936.

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

DEAR SIR: You have submitted for my consideration a proposed agreement by and between the Director of Highways, the City of Portsmouth and The Baltimore and Ohio Railroad Company, covering the reconstruction of the existing separated crossing with the track of said company on State Highway No. 7 located at a point in Scioto County, Ohio, in the city of Portsmouth.

After examination, it is my opinion that said proposed agreement is in proper legal form and when the same is properly executed it will constitute a valid and binding contract.

Said proposed contract is being returned herewith.

Respectfully,

JOHN W. BRICKER,
Attorney General.