

312.

APPROVAL, ABSTRACT OF TITLE TO LAND OF HEIRS OF WILLIAM S. BARTON, IN BENTON TOWNSHIP, HOCKING COUNTY, OHIO.

COLUMBUS, OHIO, April 16, 1929.

HON. CARL E. STEEB, *Secretary, Ohio Agricultural Experiment Station, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication submitting for my examination and approval corrected abstract, warranty deed, encumbrance estimate No. 4709, controlling board certificate, and copy of appraisal, relating to a tract of 63.28 acres of land in Benton Township, Hocking County, Ohio, owned of record by the heirs of William S. Barton, deceased, and which is more particularly described in Opinion No. 224, directed to you under date of March 21, 1929.

As a result of my examination of the corrected abstract of title submitted, I am of the opinion that Howard G. Barton, Elizabeth Lloyd, Laura Allen and Anna R. Porterfield, children and sole heirs-at-law of said William S. Barton, deceased, have a good and merchantable fee simple title to said tract of land subject only to the following encumbrances:

1. An easement and right granted to the Logan Gas Company to lay pipe lines and to erect telephone poles in and upon said tract of land;
2. An easement and right granted to the Ohio Fuel and Gas Company to lay pipe lines and erect telephone poles on said premises.

It does not appear from the abstract what, if anything, has been done by said utilities pursuant to said respective easements in the matter of laying pipe lines or erecting telephone poles. However, it appears under date of July 10, 1928, there was executed and delivered to the Ohio Fuel and Gas Company a deed by way of easement granting to said Ohio Fuel and Gas Company a right of way in and upon and across said lands for the purpose of enabling said company to lay and maintain a pipe line; and that in pursuance to said authority the Ohio Fuel and Gas Company has laid about ten rods of pipe in the most rugged and broken part of said land. How, if at all, these pipe line easements or the exercise of any authority thereunder, will interfere with the use that your department expects to make of these lands is a matter for you to determine.

There is also an oil and gas lease on said premises executed by Howard G. Barton, et al., *supra*, heirs of William S. Barton, deceased, to the Hope Construction and Refining Company. Inasmuch, however, as this lease by its term expires April 16, 1929, no further mention of the same need be made.

The warranty deed of Howard G. Barton, Elizabeth Lloyd, Laura Allen and Anna R. Porterfield, and their respective spouses, was approved by me in the former opinion above referred to and said deed together with said encumbrance estimate and controlling board certificate which were therein likewise approved, are herewith returned.

While proceedings relating to the purchase of this tract of land by the State of Ohio for the use of your department have been pending, the taxes for the year 1929 have become a lien. For the reasons set out in my opinion directed to you under this date with respect to the lands of Mary Elizabeth Baird in the same county and township, I am of the opinion that if the transaction relating to the purchase of this tract of land is closed by you, that said land should go on the tax exempt list as of the date of the execution and delivery of the deed.

Respectfully,
GILBERT BETTMAN,
Attorney General.