

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL. :
WAYNE T. DONER, ET AL. :

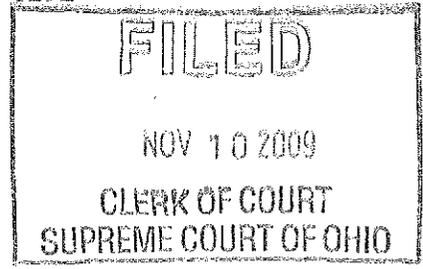
Relators, :

v. :

SEAN D. LOGAN, DIRECTOR :
OHIO DEPARTMENT OF :
NATURAL RESOURCES, ET AL. :

Respondents. :

Case No.: 2009-1292



RELATORS' PROPOSED SCHEDULE GOVERNING DISCOVERY AND
THE PRESENTATION OF EVIDENCE

Pursuant to the Entry of the Master Commissioner dated November 3, 2009, Relators submit the following proposed schedule to govern discovery and the presentation of evidence in this matter:

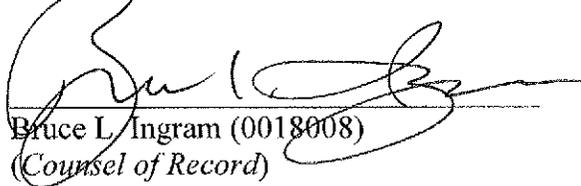
- Respondents' Deadline for Filing Answer: 7 days after entry of Court's Discovery Schedule¹
- Discovery Period: 45 days after filing of Respondents' Answer²
- Presentation of Evidence: 15 days after close of Discovery Period

¹ On September 30, 2009, in response to Respondents' Motion to Dismiss, the Court granted an alternative writ and set forth a schedule for the presentation of evidence and briefing. Despite having over one month to do so, Respondents have yet to file an Answer to Relators' Complaint. Respondents have represented to this Court that the purpose of their requested discovery is "to narrow the disputed issues, which will allow the parties to reach a comprehensive agreed statement of facts pursuant to S. Ct. Prac. R. X(7)." Combined Mot. of Respondents to Refer the Action to a Master Commissioner & to Amend the Alternative Writ Schedule at 2. There is no more efficient manner of narrowing the disputed issues than for Respondents to answer Relators' Complaint.

² Relators' anticipate that Respondents will propose a discovery period of several months. In no event, however, should this Court order a Discovery Period of more than 90 days. Previously, on October 6, 2009, Respondents requested an extension of 90 days and represented to this Court that this extension would be entirely sufficient for it to complete such discovery. See Combined Mot. of Respondents to Refer the Action to a Master Commissioner & to Amend the Alternative Writ Schedule. Additionally, over three months has passed since this litigation was instituted and over thirty days has passed since Respondents requested an extension of 90 days, yet during this time Respondents have chosen not to conduct any discovery. Relators should not be punished for Respondents' deliberate indolence.

Dated: November 10, 2009

Respectfully submitted,



Bruce L. Ingram (0018008)
(Counsel of Record)

Joseph R. Miller (0068463)

Thomas H. Fusonie (0074201)

Kristi Kress Wilhelmy (0078090)

VORYS, SATER, SEYMOUR AND PEASE LLP

52 East Gay Street, P.O. Box 1008

Columbus, OH 43216-1008

Tel: 614.464.6480

Fax: 614.719.4775

blingram@vorys.com

jrmiller@vorys.com

thfusonie@vorys.com

kkwilhelmy@vorys.com

Attorneys for Relators

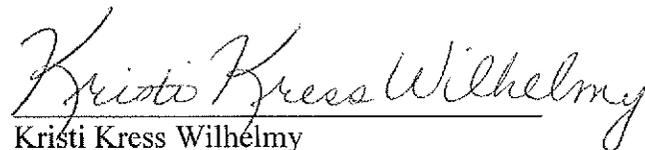
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served upon the following, via electronic mail and U.S. Mail postage prepaid, this 10th day of November, 2009:

William J. Cole
Assistant Solicitor
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

Raymond J. Studer
Rachel H. Stelzer
Assistant Attorneys General
Environmental Enforcement Section
2045 Morse Road # D-2
Columbus, Ohio 43229

Attorneys for Respondents



Kristi Kress Wilhelmy