

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL.
ROBERT MERRILL, TRUSTEE, et al.,

: Case No. 2009-1806

Appellees,

: On Appeal from the
: Lake County

and

: Court of Appeals,
: Eleventh Appellate District

HOMER S. TAFT,

Appellee / Cross-Appellant,

: Court of Appeals Case
: Nos. 2008-L-007, 2008-L-008
: Consolidated

and

L. SCOTT and DARLA J. DUNCAN,

Appellees,

v.

STATE OF OHIO, DEPARTMENT OF
NATURAL RESOURCES, et al.,

Appellants / Cross-Appellees,

and

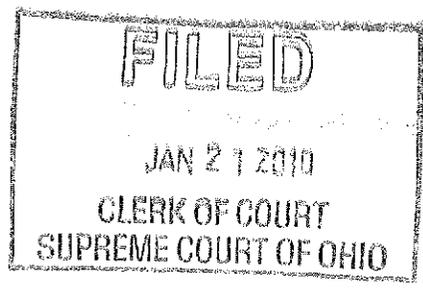
STATE OF OHIO,

Appellant / Cross-Appellee,

and

NATIONAL WILDLIFE FEDERATION, et
al.,

Appellants / Cross-Appellees.



SUPPLEMENTAL MEMORANDUM IN SUPPORT OF JURISDICTION
OF APPELLANTS / CROSS-APPELLEES
NATIONAL WILDLIFE FEDERATION
AND OHIO ENVIRONMENTAL COUNCIL

NEIL S. KAGAN* (pro hac vice pending)

**Counsel of Record*

Senior Counsel
National Wildlife Federation
Great Lakes Regional Center
213 West Liberty Street, Suite 200
Ann Arbor, Michigan 48104
734-887-7106
734-887-7199 fax
kagan@nwf.org

PETER A. PRECARIO (0027080)

326 South High Street
Annex, Suite 100
Columbus, Ohio 43215
614-224-7883
614-224-4510 fax
precariolaw@aol.com

Counsel for Appellants / Cross-Appellees,
National Wildlife Federation and
Ohio Environmental Council

RICHARD CORDRAY (0038034)

Attorney General of Ohio

BENJAMIN C. MIZER* (0083089)

Solicitor General

**Counsel of Record*

STEPHEN P. CARNEY (0063460)

Deputy Solicitor

CYNTHIA K. FRAZZINI (0066398)

JOHN P. BARTLEY (0039190)

Assistant Attorneys General

30 East Broad Street, 17th Floor

Columbus, Ohio 43215

614-466-8980

614-466-5087 fax

benjamin.mizer@ohioattorneygeneral.gov

Counsel for Appellant / Cross-Appellee,
State of Ohio

KATHLEEN M. TRAFFORD (0021753)

Porter, Wright, Morris & Arthur, LLP

41 S. High Street

Columbus, Ohio 43215

614-227-1915

614-227-2100 fax

ktrafford@porterwright.com

Special Counsel for Appellants /

Cross-Appellees Ohio Department of

Natural Resources and Sean Logan,

Director

JAMES F. LANG (0059668)

FRITZ E. BERCKMUELLER (0081530)

Calfee, Halter & Griswold LLP

1400 McDonald Investment Center

800 Superior Avenue

Cleveland, Ohio 44114-2688

216-622-8200

216-241-0816 fax

jlang@calfee.com

Class Counsel and Counsel for Appellees,

Robert Merrill, Trustee, et al.

HOMER S. TAFT (0025112)

20220 Center Ridge Road, Suite 300

P.O. Box 16216

Rocky River, Ohio 44116

440-333-1333

440-409-0286 fax

hstaft@yahoo.com

Appellee / Cross-Appellant, Pro Se

L. SCOT DUNCAN (0075158)

1530 Willow Drive

Sandusky, Ohio 44870

419-627-2945

419-625-2904 fax

scotduncan@alum.mit.edu

Appellee, Pro Se and

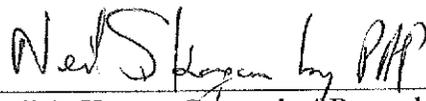
Counsel for Appellee,

Darla J. Duncan

The Court has asked the parties to brief two issues before deciding whether to accept the discretionary appeals and cross-appeal in this case. Those issues are (1) whether the attorney general has standing to appeal a judgment against the State of Ohio if such an appeal is contrary to the governor's directive and the attorney general is not representing an administrative agency, and (2) whether the record in this matter is sufficient for the Court to resolve the appeals and cross-appeal, if accepted.

The correct answer to both issues is "yes." Rather than burden the Court by reiterating the points ably made by the State of Ohio in its Supplemental Jurisdictional Memorandum, Appellants National Wildlife Foundation and Ohio Environmental Council concur with and affirmatively adopt the Supplemental Jurisdictional Memorandum of Defendant-Appellant / Cross-Appellee State of Ohio filed in this case, and incorporate that memorandum in its entirety in this memorandum by this reference.

Respectfully submitted,


Neil S. Kagan, Counsel of Record *per Kagan*
(pro hac vice pending)



Peter A. Precario

*Counsel for Appellants / Cross-Appellees,
National Wildlife Federation and
Ohio Environmental Council*

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Supplemental Memorandum in Support of Jurisdiction of Appellants / Cross-Appellees National Wildlife Federation and Ohio Environmental Council was sent by ordinary U.S. mail to the following counsel of record and parties not represented by counsel on January 21, 2010:

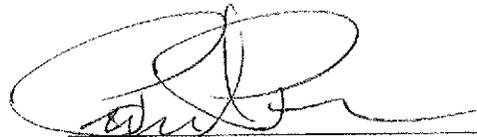
BENJAMIN C. MIZER
Solicitor General
STEPHEN P. CARNEY
Deputy Solicitor
CYNTHIA K. FRAZZINI
JOHN P. BARTLEY
Assistant Attorneys General
30 East Broad Street, 17th Floor
Columbus, Ohio 43215

KATHLEEN M. TRAFFORD
Porter, Wright, Morris & Arthur, LLP
41 S. High Street
Columbus, Ohio 43215

JAMES F. LANG
FRITZ E. BERCKMUELLER
Calfee, Halter & Griswold LLP
1400 McDonald Investment Center
800 Superior Avenue
Cleveland, Ohio 44114-2688

HOMER S. TAFT
20220 Center Ridge Road, Suite 300
P.O. Box 16216
Rocky River, Ohio 44116

L. SCOT DUNCAN
1530 Willow Drive
Sandusky, Ohio 44870



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