

IN THE SUPREME COURT OF OHIO

ORIGINAL

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

Master Commissioner Campbell

**NOTICE OF FILING OF SUBPOENA
TO STANTEC CONSULTING CORPORATION**

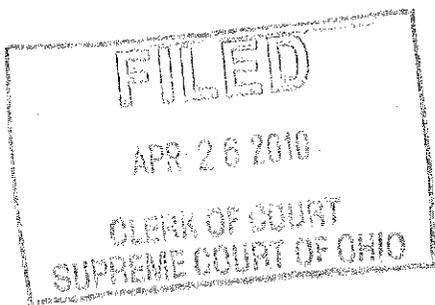
Bruce L. Ingram (0018008)
(Counsel of Record)
Joseph R. Miller (0068463)
Thomas II. Fusonic (0074201)
Kristi Kress Wilhelmy (0078090)
Martha C. Brewer (0083788)
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
Tel.: (614) 464-6480
Fax: (614) 719-4775
blingram@vorys.com
jrmiller@vorys.com
thfusonic@vorys.com
kkwilhelmy@vorys.com
mcbrewer@vorys.com

Attorneys for Relators

William J. Cole (0067778)
(Counsel of Record)
Mindy Worly (0037395)
Jennifer S.M. Croskey (0072379)
Assistant Attorneys General
30 East Broad Street, 26th Floor
Columbus, Ohio 43215
Tel: (614) 466-2980
Fax: (866) 354-4086
william.cole@ohioattorneygeneral.gov
mindy.worly@ohioattorneygeneral.gov
jennifer.croskey@ohioattorneygeneral.gov

Dale T. Vitale (0021754)
Rachel H. Stelzer (0083124)
Daniel J. Martin (0065249)
Assistant Attorneys General
Environmental Enforcement Section
2045 Morse Road # D-2
Columbus, Ohio 43229
Tel.: (614) 265-6870
Fax: (614) 268-8871
dale.vitale@ohioattorneygeneral.gov
rachel.stelzer@ohioattorneygeneral.gov
daniel.martin@ohioattorneygeneral.gov

Attorneys for Respondents



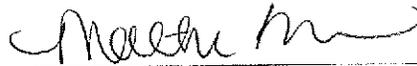
CERTIFICATE OF SERVICE

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 ____ day of April, 2010:

William J. Cole
Mindy Worly
Jennifer S.M. Croskey
Assistant Attorneys General
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

Dale T. Vitale
Daniel J. Martin
Rachel H. Stelzer
Assistant Attorneys General
Environmental Enforcement Section
2045 Morse Road # D-2
Columbus, Ohio 43229

Attorneys for Respondents



Martha C. Brewer

[[[[[CIVIL CASE SUBPOENA [[[[[

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

Case No. 2009-1292

Relators,

-vs-

FOR CLERK USE ONLY:

Receipt # _____ (cost) _____ (deposit)

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

Respondents.

CLERK \$ _____ \$ _____
FR. CO. SHERIFF \$ _____ \$ _____
FOREIGN SHERIFF \$ _____ \$ _____

TO: Stantec Consulting Corporation
1500 Lake Shore Drive, Suite 100
Columbus, Ohio 43204

YOU ARE HEREBY COMMANDED TO:

X ATTEND AND GIVE TESTIMONY AT A (TRIAL) (HEARING) (DEPOSITION) ON THE DATE, TIME AND AT THE PLACE SPECIFIED BELOW.

X ATTEND AND PRODUCE (DOCUMENTS) (TANGIBLE THINGS) AT A (TRIAL) (HEARING) (DEPOSITION) ON THE DATE, TIME AND AT THE PLACE SPECIFIED BELOW.

____ PRODUCE, AND PERMIT INSPECTION AND COPYING, ON THE DATE AND AT THE TIME AND PLACE SPECIFIED BELOW, OF ANY DESIGNATED DOCUMENTS THAT ARE IN YOUR POSSESSION, CUSTODY OR CONTROL.

____ PRODUCE AND PERMIT INSPECTION AND COPYING, TESTING OR SAMPLING, ON THE DATE AND AT THE TIME AND PLACE SPECIFIED BELOW, OF ANY TANGIBLE THINGS THAT ARE IN YOUR POSSESSION, CUSTODY OR CONTROL.

____ PERMIT ENTRY UPON THE FOLLOWING DESCRIBED LAND OR OTHER PROPERTY, FOR THE PURPOSES DESCRIBED IN CIV. R. 34(A)(3), ON THE DATE AND AT THE TIME SPECIFIED BELOW.

DESCRIPTION OF LAND OR OTHER PREMISES : _____

Day Thursday DATE April 29, 2010 TIME 12:00 p.m.

PLACE Vorys Sater Seymour and Pease LLP, 52 E. Gay Street, Columbus, Ohio 43215

DESCRIPTION OF ITEMS TO BE PRODUCED: See Exhibit A attached.

THE STATE OF OHIO

Franklin County, ss:

To the Sheriff of N/A

County, Ohio Greetings :

YOU ARE HEREBY COMMANDED TO SUBPOENA THE ABOVE NAMED PERSON.
WITNESS MY HAND AND SEAL OF SAID COURT THIS 30th DAY OF DECEMBER, 2009.

KRISTINA D. FROST, CLERK OF THE SUPREME COURT OF OHIO

BY: Martha C. Brewer
SIGNATURE OF ATTORNEY FOR RELATORS

REQUESTING PARTY INFORMATION

NAME: Martha C. Brewer Attorney for Relators

ATTORNEY CODE 0083788 TELEPHONE NUMBER: (614) 464-5626

Civil rule 45(c) protection of persons subject to subpoenas

- (1) A PARTY OR AN ATTORNEY RESPONSIBLE FOR THE ISSUANCE AND SERVICE OF A SUBPOENA SHALL TAKE REASONABLE STEPS TO AVOID IMPOSING UNDUE BURDEN OR EXPENSE ON A PERSON SUBJECT TO THAT SUBPOENA.
- (2) (a) A PERSON COMMANDED TO PRODUCE AND PERMIT INSPECTION AND COPYING OR DESIGNATED BOOKS, PAPERS, DOCUMENTS, OR TANGIBLE THINGS, OR INSPECTION OF PREMISES, NEED NOT APPEAR IN PERSON AT THE PLACE OF PRODUCTION OR INSPECTION UNLESS COMMANDED TO APPEAR FOR DEPOSITION, HEARING, OR TRIAL.
- (b) SUBJECT TO DIVISION (D)(2) OF THIS RULE, A PERSON COMMANDED TO PRODUCE AND PERMIT INSPECTION AND COPYING MAY, WITHIN FOURTEEN DAYS AFTER SERVICE OF THE SUBPOENA OR BEFORE THE TIME SPECIFIED FOR COMPLIANCE IF SUCH TIME IS LESS THAN FOURTEEN DAYS AFTER SERVICE, SERVE UPON THE PARTY OR ATTORNEY DESIGNATED IN THE SUBPOENA WRITTEN OBJECTIONS TO INSPECTION AND COPYING OR ANY OR ALL OF THE DESIGNATED MATERIALS OR OF THE PREMISES. IF OBJECTION IS MADE, THE PARTY SERVING THE SUBPOENA SHALL NOT BE ENTITLED TO INSPECT AND COPY THE MATERIALS OR INSPECT THE PREMISES EXCEPT PURSUANT TO AN ORDER OF THE COURT BY WHICH THE SUBPOENA WAS ISSUED. IF OBJECTION HAS BEEN MADE, THE PARTY SERVING THE SUBPOENA, UPON NOTICE TO THE PERSON COMMANDED TO PRODUCE, MAY MOVE AT ANYTIME FOR AN ORDER TO COMPEL THE PRODUCTION. AN ORDER TO COMPEL PRODUCTION SHALL PROTECT ANY PERSON WHOSE IS NOT A PARTY OR AN OFFICER OF A PARTY FROM SIGNIFICANT EXPENSE RESULTING FROM THE INSPECTION AND COPYING COMMANDED.
- (3) ON TIMELY MOTION, THE COURT FROM WHICH THE SUBPOENA WAS ISSUED SHALL QUASH OR MODIFY THE SUBPOENA, OR ORDER APPEARANCE OR PRODUCTION ONLY UNDER SPECIFIED CONDITIONS, IF THE SUBPOENA DOES ANY OF THE FOLLOWING:
 - (a) FAILS TO ALLOW REASONABLE TIME TO COMPLY;
 - (b) REQUIRES DISCLOSURE OF PRIVILEGED OR OTHERWISE PROTECTED MATTER AND NO EXCEPTION OR WAIVER APPLIES;
 - (c) REQUIRES DISCLOSURE OF AN UNRETAINED EXPERT'S OPINION OR INFORMATION NOT DESCRIBING SPECIFIC EVENTS OR OCCURRENCES IN DISPUTE AND RESULTING FROM THE EXPERT'S DUTY MADE NOT AT THE REQUEST OF ANY PARTY;
 - (d) SUBJECTS A PERSON TO UNDUE BURDEN.
- (4) BEFORE FILING A MOTION PURSUANT TO DIVISION (C)(3)(d) OF THIS RULE, A PERSON RESISTING DISCOVERY UNDER THIS RULE SHALL ATTEMPT TO RESOLVE ANY CLAIM OF UNDUE BURDEN THROUGH DISCUSSIONS WITH THE ISSUING ATTORNEY. A MOTION FILED PURSUANT TO DIVISION (C)(3)(d) OF THIS RULE SHALL BE SUPPORTED BY AN AFFIDAVIT OR THE SUBPOENAED PERSON OR A CERTIFICATE OF THAT PERSON'S ATTORNEY OF THE EFFORTS MADE TO RESOLVE ANY CLAIM OF UNDUE BURDEN.
- (5) IN CASES UNDER DIVISION (C)(3)(c) OR (C)(3)(d) OF THIS RULE, THE COURT SHALL QUASH OR MODIFY THE SUBPOENA UNLESS THE PARTY IN WHOSE BEHALF THE SUBPOENA IS ISSUED SHOWS A SUBSTANTIAL NEED FOR THE TESTIMONY OR MATERIAL THAT CANNOT BE OTHERWISE MET WITHOUT UNDUE HARDSHIP AND ASSURES THAT THE PERSON TO WHOM THE SUBPOENA IS ADDRESSED WILL BE REASONABLY COMPENSATED.

Civ. R. 45(D) Duties in responding to subpoena

- (1) A PERSON RESPONDING TO A SUBPOENA TO PRODUCE DOCUMENTS SHALL PRODUCE THEM AS THEY ARE KEPT IN THE USUAL COURSE OF BUSINESS OR SHALL ORGANIZE AND LABEL THEM TO CORRESPOND WITH THE CATEGORIES IN THE DEMAND. A PERSON PRODUCING DOCUMENT PURSUANT TO A SUBPOENA FOR THEM SHALL PERMIT THEIR INSPECTION AND COPYING BY ALL PARTIES PRESENT AT THE TIME AND PLACE SET IN THE SUBPOENA FOR INSPECTION AND COPYING.
- (2) WHEN INFORMATION SUBJECT TO A SUBPOENA IS WITHHELD ON A CLAIM THAT IT IS PRIVILEGED OR SUBJECT TO PROTECTION AS TRIAL PREPARATION MATERIALS, THE CLAIM SHALL BE MADE EXPRESSLY AND SHALL BE SUPPORTED BY A DESCRIPTION OF THE NATURE OF THE DOCUMENTS, COMMUNICATIONS, OR THINGS NOT PRODUCED THAT IS SUFFICIENT TO ENABLE THE DEMANDING PARTY TO CONSENT THE CLAIM.

Civ. R. 45(E) Sanctions

FAILURE BY ANY PERSON WITHOUT ADEQUATE EXCUSE TO OBEY A SUBPOENA SERVED UPON THAT PERSON MAY BE DEEMED A CONTEMPT OF THE COURT FROM WHICH THE SUBPOENA ISSUE. A SUBPOENAED PERSON OR THAT PERSON'S ATTORNEY FRIVOLOUSLY RESISTING DISCOVERY UNDER THIS RULE MAY BE REQUIRED BY THE COURT TO PAY REASONABLE EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, OF THE PARTY SEEKING THE DISCOVERY. THE COURT FROM WHICH A SUBPOENA WAS ISSUED MAY IMPOSE UPON A PARTY OR ATTORNEY IN BREACH OF DUTY IMPOSED BY DIVISION (C)(1) OF THIS RULE AN APPROPRIATE SANCTION, WHICH MAY INCLUDE, BUT IS NOT LIMITED TO, LOST EARNINGS AND REASONABLE ATTORNEY'S FEES.

***** RETURN OF SERVICE *****

I RECEIVED THIS SUBPOENA ON April 23, 2010 AND SERVED THE PARTY NAMED ON THE REVERSE HEREOF
 BY personal service ON April 23, 2010
 I WAS UNABLE TO COMPLETE SERVICE FOR THE FOLLOWING REASON: _____

Sheriff's Fees _____

Service _____
 Mileage _____
 Copy _____
 Total _____

Martin M...

(Signature of Serving Party)

Circle One: Deputy Sheriff Attorney
 Process Server Deputy Clerk
 Other _____

EXHIBIT A

DOCUMENTS TO BE PRODUCED AND TESTIMONY TO BE GIVEN

Relators Wayne T. Doner, *et al.* ("Relators") hereby requests that a corporate representative of Stantec Consulting Corporation ("Stantec"), chosen by Stantec to testify as to matters known or available to Stantec. In addition, Stantec shall produce the following documents to counsel for Relators at or before Stantec's deposition on April 29, at 12:00 p.m. and offer testimony on the following areas during that deposition.

Definitions

1. "Documents" means all writings and things of any nature whatsoever, including originals and all non-identical copies and drafts thereof, in your possession, custody or control, regardless of where located, and includes, but is not limited to, contracts, agreements, memoranda, notes, correspondence, letters, electronic mail, telegrams, teletypes, telecopies, transmissions, messages (including, but not limited to, records, reports or memoranda of telephone calls and conversations), reports, studies, summaries, analyses, minutes, diaries, calendars, manuals, brochures, statements, books of account, ledgers, statistical, accounting and financial statements, forecasts, work papers, notebooks, data sheets, computer-stored information which can be retrieved or placed into reasonably usable form, written communications and written evidence of oral communications, and any other "document" from which information can be obtained or translated, if necessary, by you through detection devices into reasonably usable form. In all cases where originals and/or non-identical copies are not available, "documents" also means identical copies of original documents and copies of non-identical copies.

2. A document "relating to", "related to", or that "relates to" a given subject matter means a document or communication that constitutes, embodies, comprises, reflects, identifies, states, refers to, deals with, comments on, responds to, describes, analyzes, contains information concerning, or is in any way pertinent to that subject matter.

3. The term "you" or "your" means Stantec Consulting Corporation, and any other companies or entities with which you are associated and/or affiliated, and any employees, agents, representatives, attorneys, accountants, and any other persons or entities representing you and/or directly or indirectly employed by or connected with you.

4. "Respondent" means and refers to the Respondent in this action, the Ohio Department of Natural Resources, and includes any employee, agent, contractor, subcontractor, representative, surveyor, or attorney or other person acting on behalf of the Ohio Department of Natural Resources in this action.

5. "Lawsuit" means the case entitled State of Ohio Ex Rel. Wayne T. Doner, et al. v. Sean D. Logan, Director Ohio Department of Natural Resources, et al., Case No. 2009-1292, currently pending in the Supreme Court of Ohio, and any of the claims, factual allegations, or legal conclusions asserted therein.

6. "Hydrosphere" means Hydrosphere Engineering and any of its employees, including, but not limited to, Philip H. De Groot.

7. "Person" or "persons" includes natural persons, departments or agencies, corporations, companies, firms, partnerships, associations, joint ventures, or any other type or form of legal or governmental entity, whether formal or informal.

Instructions

1. If you contend that the contents of a writing herein requested to be produced for inspection and copying are protected from disclosure by virtue of a privilege, it is requested that you nevertheless provide the following with respect to each such writing:

- a. A description of the type of each such writing (e.g. letter, memoranda, etc.);
- b. The date of each such writing;
- c. The author of each such writing;
- d. The person to whom such writing was directed;
- e. The person who received a copy of each such writing; and
- f. The general subject matter of each such writing.

2. With respect to each writing which you claim is protected from disclosure by virtue of a privilege, as provided for in the foregoing instruction, it is requested that you provide as part of such description thereof:

- a. Each privilege whereby you contend the contents of such writing are protected from disclosure; and
- b. Each and every fact upon which you rely to support such claim of privilege.

Documents Requested

1. All documents that reflect, refer, or relate in any way to the Lawsuit.

2. All documents that reflect, refer, or relate in any way to hydrology or hydraulics review and analysis you have performed or rendered to Respondent from January 1, 1997 to the present.

3. In addition to those documents responsive to the foregoing requests, all reports, draft reports, draft documents of any kind, files or notes of any kind, and/or review documents of any kind that in any way reflect, refer, or relate to the Lawsuit or any hydrology or

hydraulics review and analysis you have performed or rendered to Respondent from January 1, 1997 to the present.

4. In addition to those documents responsive to the foregoing requests, all notes, correspondence, email, or other documents that reflect, refer, or relate in any way to communications between you and Respondent (including, but not limited to, counsel for Respondent) related to the Lawsuit or any hydrology or hydraulics review and analysis you have performed or rendered to Respondent from January 1, 1997 to the present.

5. In addition to those documents responsive to the foregoing requests, all documents given to Respondent (including, but not limited to, counsel for Respondent) by you or received by you from Respondent (including, but not limited to, counsel for Respondent) that reflect, refer, or relate in any way to communications between you and Respondent (including, but not limited to, counsel for Respondent) related to the Lawsuit or any hydrology or hydraulics review and analysis you have performed or rendered to Respondent from January 1, 1997 to the present.

6. All documents that reflect, refer, or relate in any way to any contracts or agreements between you and Respondent related in any way to the Lawsuit or any hydrology or hydraulics review and analysis you have performed or rendered to Respondent from January 1, 1997 to the present.

7. All documents that reflect your curriculum vitae, resume, professional or educational experience, credentials, qualifications, and/or identify or describe any and all instances and matters in which you have previously served or currently serve as an expert witness, including any and all instances and matters in which you have served or currently serve as an expert witness for Respondent.

Areas of Testimony for Deposition

1. Testimony regarding the search for and the content of the documents produced in response to Documents Requested Nos. 1 through 7.
2. The affidavit of Tadd Hanson, dated March 1, 2010.
3. The report entitled, "Grand Lake Saint Marys and Beaver Creek Hydrologic and Hydraulic Analysis," dated March 1, 2010.
4. The report entitled, "Grand Lake Saint Marys and Beaver Creek Hydrologic and Hydraulic Analysis – Discussion of Results and other Analysis," dated March 1, 2010.
5. Communications between Stantec and ODNR and/or the Ohio Attorney General's Office.
6. Communications between Stantec and Hydrosphere Engineering and/or Philip H. De Groot.