

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

Master Commissioner Campbell

RELATORS' MOTION FOR ORAL ARGUMENT

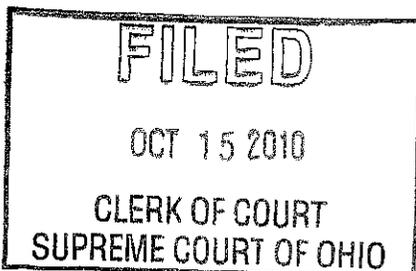
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MEMORANDUM IN SUPPORT

Pursuant to S. Ct. Prac. R. 9.2, Relators, by and through their counsel, respectfully move this Court for an order setting this case for oral argument upon completion of the briefing by both parties.

As this Court has undoubtedly gathered, this is not your typical original action in mandamus. Rather, this case involves over 75 landowners/Relators who own 91 parcels for a total of over 2,500 acres of land in Mercer County. The properties of these landowners' have been subject to continuing, persistent, frequent, and inevitable increased severe flooding from the western spillway of Grand Lake St. Mary's as a direct result of the ongoing actions of the Ohio Department of Natural Resources ("ODNR"). The flooding has repeatedly interfered with the landowners' use and enjoyment of their property, not just through the inundation of long-standing flood waters on their property, but through the actual flooding of homes and farm buildings, massive deposits of debris (ranging from silt and sand to hog carcasses and appliances), field and bank erosion, and soil compaction. The firsthand evidence indicates that the intermittent, continuing, persistent, frequent, and increased severe flooding will continue and inevitably recur as a result of ODNR's replacement of the western spillway and ODNR's current management practices.

With no end in sight to the flooding, the landowners have come to this Court seeking an order compelling ODNR to initiate appropriations proceedings to compensate them for taking a permanent flowage easement over and across their land. To prove their claim, landowners filed a comprehensive Presentation of Evidence consisting of eleven volumes plus an additional eighteen Joint Exhibit volumes of depositions. The amount of firsthand evidence in the form of photos, videos and eyewitness testimony of the new and increased flooding ODNR casts upon

Relators' land is exhaustive and overwhelming. Relators submit that oral argument would assist this Court in reviewing and analyzing this evidence.

Moreover, this case raises significant legal issues that affect one of our most cherished and fundamental rights – the right to own property and to be given just compensation when that property has been taken. Thus, the legal issues raised in the present action have potential ramifications for all property owners in the state of Ohio. Relators submit that oral argument would assist this Court in analyzing these important legal issues.

Accordingly, Relators respectfully request that this Court grant the foregoing motion and set this matter for oral argument upon completion of the briefing.

Respectfully submitted,



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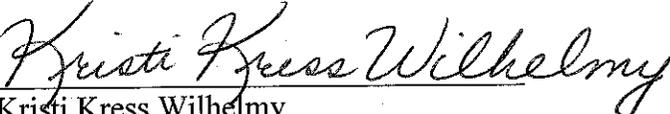
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served upon the following, via U.S. mail and electronic mail, this 15th day of October, 2010:

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