

ORIGINAL

In the
Supreme Court of Ohio

STATE OF OHIO ex rel. ROBERT MERRILL,
TRUSTEE, et al.

Appellees and Cross-Appellees,

v.

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

Appellants and Cross Appellees.

Case No. 2009-1806

On Appeal from the Lake
County Court of Appeals,
Eleventh Appellate District

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

MOTION TO DETERMINE ORDER AND ALLOCATE SEPARATE
ADDITIONAL TIME OF ORAL ARGUMENT
OF APPELLEE/CROSS-APPELLANT HOMER S. TAFT

HOMER S. TAFT (0025112)
20220 Center Ridge Rd., STE 300
P.O. Box 16216
Rocky River, OH 44116-0216
440-333-1333
440-409-0286 fax
hstaft@yahoo.com
Appellee and Cross-Appellant, Pro Se

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 and Cross-Appellee,
State of Ohio

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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

RICHARD CORDRAY
Attorney General of Ohio

KATHLEEN M. TRAFFORD* (0021753)
*Counsel of Record
Porter, Wright, Morris & Arthur, LLP
41 S. High Street
Columbus, Ohio 43215
614-227-1915
614-227-2100
Special Counsel for Appellants and Cross-
Appellees, Ohio Department of Natural
Resources and Sean Logan, Director

L. SCOT DUNCAN (0075158)
1530 Willow Drive
Sandusky, Ohio 44870
419-627-2945
419-625-2904 fax
Appellee, Pro Se, and Counsel for Appellee,
Darla J. Duncan

PETER A. PRECARIO (0027080)
326 South High Street
Annex, Suite 100
Columbus, Ohio 43215
614-224-7883
614-224-4510 fax
Counsel for Appellants and Cross Appellees,
National Wildlife Federation and Ohio
Environmental Council

JAMES F. LANG* (0059668)
*Counsel of Record
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
Class Counsel and Counsel for Appellees
Robert Merrill, Trustee, et al.

**MOTION TO DETERMINE ORDER AND ALLOCATE SEPARATE
ADDITIONAL TIME OF ORAL ARGUMENT
OF APPELLEE/CROSS-APPELLANT HOMER S. TAFT**

Appellee/Cross-Appellant Homer S. Taft moves this Honorable Court for an order expanding oral argument, allocating independent argument time to Appellee/Cross-Appellant and determining the order of argument of the respective parties as follows:

1. That the order of argument be Appellants/ Cross-Appellees argument-in-chief, followed by Appellee/Cross-Appellant's argument in chief, followed by Appellees/Cross-Appellees argument in chief, followed by Appellants/Cross—Appellants rebuttal argument, if any, followed by Appellee/Cross-Appellant's rebuttal argument, if any.
2. That 15 minutes of argument be allocated for division among the Appellants/Cross-Appellees, 15 minutes of argument be allocated to Appellee/Cross-Appellant, and 15 minutes of argument be allocated for division among Appellees/Cross-Appellants.

The grounds and reasons for the motion are that Cross-Appellant raises somewhat unique issues different from those of the respective Appellants or respective Appellees, and should be permitted opportunity to argue the propositions of law of his Cross-Appeal as well as respond to the propositions of Appellants separately from Appellees/Cross-Appellees. In the limited prior cases where this Court has had before it three distinct parties or groups of parties with differing issues and perspectives, it has entered orders for this order of argument and for an appropriate expansion and division of the time among the respective parties. In re Estate of Mason (2006), 2006-Ohio-13, 107 Ohio St. 3d. 1704; Payphone Assoc. of Ohio v. Pub. Util. Comm. (2005), 2005-Ohio-4803 , 106 Ohio St.3d. 1514. Such an order would be particularly appropriate here, where Appellee/Cross-Appellant presents two distinct Propositions of Law of his Cross-Appeal in addition to responding to all Appellants' issues and

arguments, including the response to Appellant State of Ohio's Proposition of Law No. 1 relative to the Attorney General's authority to appeal.

Respectfully submitted,



Homer S. Taft (0025112)

Appellee and Cross-Appellant, Pro Se
20220 Center Ridge Rd. STE 300

P.O. Box 16216

Rocky River, OH 44116-0216

440-333-1333

440-409-0286 (fax)

hstaft@yahoo.com

CERTIFICATE OF SERVICE

I certify that a copy of this Motion To Determine Order and Allocate Separate Additional Time of Oral Argument of Appellee/Cross-Appellant Homer S. Taft was served on December 15, 2010 by electronic mail upon the parties' counsel for all parties as follows:

Richard Cordray
Attorney General of Ohio
*Benjamin C. Mizer
Solicitor General
benjamin.mizer@ohioattorneygeneral.gov
Stephen P. Carney
Deputy Solicitor
Cynthia K. Frazzini,
Asst. Attorney General
30 E. Broad St. 17th Flr.
Columbus, Ohio 43215

Counsel for Defendant-Appellant-
Cross-Appellee State of Ohio

James F. Lang*
Fritz E. Berckmueller
jlang@calfee.com
Calfee, Halter & Griswold LLP
1400 McDonald Investment Center
800 Superior Avenue East
Cleveland, OH 44114-2688

Class Counsel and Counsel for Plaintiffs-
Appellees Robert Merrill, Trustee, et al.

L. Scot Duncan*
Scotduncan@alum.mit.edu
1530 Willow Drive
Sandusky, OH 44870

Intervening Plaintiff-Appellee, Pro Se,
Counsel for Intervening Plaintiff-Appellee
Darla J. Duncan

Kathleen M Trafford*
ktrafford@porterwright.com
Porter, Wright, Morris & Arthur LLP
41 S. High Street
Columbus, OH 43215

Special Counsel for Defendants-Appellants
Cross-Appellees Ohio Dept. of Natl. Res.
And Sean Logan, Director

Neil S. Kagan*
kagan@nwf.org
National Wildlife Federation
Great Lakes Regional Center
213 W. Liberty Street STE 200
Ann Arbor, MI 48104

Peter A. Precario
precariolaw@aol.com
326 S. High St. Annex STE 100
Columbus, OH 43215

Counsel for Intervening Defendants-
Appellants/Cross-Appellees Natl. Wildlife
Federation and Ohio Environmental Council


Homer S. Taft (0025112)
Appellee and Cross Appellant, Pro Se