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2004 OCT 15 A 11: 25

LYNNE L. MAZEIKA  
LAKE CO CLERK OF COURT

IN THE COURT OF COMMON PLEAS  
LAKE COUNTY, OHIO

STATE OF OHIO EX REL.	)	CASE NO. 04CV001080
ROBERT MERRILL, TRUSTEE, et al.,	)	
	)	JUDGE EUGENE A. LUCCI
Plaintiffs-Relators,	)	
	)	
vs.	)	
	)	<b>PLAINTIFFS' MEMORANDUM</b>
	)	<b>IN OPPOSITION TO MOTION</b>
STATE OF OHIO, DEPARTMENT OF	)	<b>OF THE STATE OF OHIO FOR STAY</b>
NATURAL RESOURCES, et al.,	)	
	)	
Defendants-Respondents.	)	

**I. INTRODUCTION**

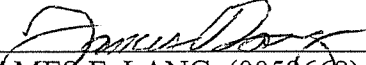
The Motion for Stay filed by the Defendants-Respondents (collectively, the "State") can serve no purpose other than to delay a decision on the merits regarding the State's unlawful actions, thereby delaying justice for thousands of Ohio's citizens. The State's most recent delaying tactic is simply one in a series of attempts by the State to avoid coming to terms with what the Ohio Attorney General has deemed to be unlawful conduct. Plaintiffs respectfully request that the Motion for Stay be denied.

The State's Motion for Stay is based on the misguided notion that its Motion to Dismiss has some merit. It does not, as discussed at length in Plaintiffs' Memorandum in Opposition filed September 30. While Plaintiffs agree with the basic proposition that this Court has the discretion to allow the State to delay answering Plaintiffs' Motion for Class Certification, the State's strong desire to avoid reaching the merits of this action is not sufficient justification to grant the State a delay. Simply because the State's counsel chose to move to dismiss rather than answer Plaintiffs' complaint does not, in and of itself, justify delaying class certification

proceedings. Indeed, neither of the State's motions contain a persuasive reason to hold this case in abeyance.

Thus, Plaintiffs' ask that the Court deny the State's Motion for Stay. In addition, Plaintiffs suggest that a decision swiftly denying the State's Motion to Dismiss would be equally effective in forcing the State to address the merits of the ODNR's wrongdoing.

Respectfully submitted,

  
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**CERTIFICATE OF SERVICE**

A copy of the foregoing Memorandum in Opposition to Motion of the State of Ohio for Stay was served, via regular U.S. mail, upon the following, this 14th day of October, 2004:

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