


IN THE COURT OF COMMON PLEAS  
LAKE COUNTY, OHIO

STATE OF OHIO EX REL.	)	CASE NO. 04CV001080
ROBERT MERRILL, TRUSTEE, <i>et al.</i> ,	)	
	)	JUDGE EUGENE A. LUCCI
Plaintiffs-Relators,	)	
	)	
vs.	)	<b>RESPONSE OF CLASS</b>
	)	<b>PLAINTIFFS/APPELLEES TO STATE</b>
STATE OF OHIO, DEPARTMENT OF	)	<b>OF OHIO'S MOTION FOR STAY OF</b>
NATURAL RESOURCES, <i>et al.</i> ,	)	<b>EXECUTION OF JUDGMENT</b>
	)	<b>PENDING APPEAL</b>
Defendants-Respondents.	)	

The Class Plaintiffs/Appellees (“Plaintiffs”) agree that the State is entitled under Ohio’s civil rules to a stay of execution of this Court’s December 11, 2007 Order without the necessity of posting bond. Plaintiffs note, however, that the stay requested by the State will merely extend the damages period for an additional one or two years until the State’s appeal is rejected and this action is returned for consideration of the amount of damages resulting from the State’s temporary unconstitutional taking of Plaintiffs’ property. Plaintiffs anticipate, at minimum, that appropriate damages would include a refund of submerged land lease payments wrongfully collected and any fees property owners incurred because of leases and/or permits, such as engineering fees or mitigation fees. In addition, Plaintiffs could pursue compensation, calculated using market-based lease rates over a multi-year period, for the private property wrongfully taken as well as damages to Plaintiffs’ residual property to the extent, for example, that the State’s wrongful conduct devalued the market value of Plaintiffs’ littoral property.

Thus, although the State is legally entitled to a stay, its request for a stay could prove to be economically injurious to the State in the long run.

Respectfully submitted,

  
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## CERTIFICATE OF SERVICE

A copy of the foregoing Response was served, via e-mail and regular U.S. Mail, upon the following, this 30th day of January, 2008:

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