

For Immediate Release

Contact: Will Reisinger
614-487-5841
Will@theOEC.org

Sportsmen and Conservation Groups File Brief with Ohio Supreme Court, Urging Reversal of Decision by Lower Court that Threatens Natural Resources

(January 29, 2010—Columbus, OH) – A group of sportsmen and conservation groups are asking the Ohio Supreme Court to overrule a controversial decision by a lower court that threatens to hobble the authority of the Ohio Attorney General to protect Ohio’s natural resources.

On January 22, the groups—Ohio Bass Federation; Izaak Walton League of America, Ohio Division; Rivers Unlimited; Ohio League of Conservation Voters; Green Environmental Coalition; and Buckeye Forest Council—filed an *amicus curiae* (“friend of the court”) brief, requesting the Ohio Supreme Court overturn a decision by Ohio’s Eleventh District Court of Appeals to remove the Ohio Attorney from a class-action lawsuit involving protection of and public access to Ohio’s 312-mile Lake Erie shore.

The brief emphasizes how protection of Ohio’s natural resources, including the Lake Erie coast, depends on enforcement provided by the Ohio Attorney General.

The appeals court, when ruling on *State ex rel. Merrill v. Ohio Department of Natural Resources*, took the unusual step of removing the Ohio Attorney General from the case, finding that the Attorney General had no standing to participate in the appeal.

In removing the Attorney General from the case, the Eleventh District found that “The Ohio Attorney General may only act at the behest of the governor, or the General Assembly.”¹ However, the court’s decision on this point was a misreading of Ohio law (Ohio Revised Code Section 109.02), which defines the powers of the Attorney General. Nowhere in the revised code is the Attorney General’s authority so limited, and, moreover, the Ohio Attorney General has long had common law powers to act as the top lawyer and watchdog for Ohio citizens.

While this question has arisen in the context of a dispute over the right of the public to walk and fish along the Ohio Lake Erie shore and the state’s authority to control commercial development along the coast, the Ohio Supreme Court’s ruling on the Attorney General issue could have a broad impact on the Ohio Attorney General’s authority and independence to represent the interests of the citizens and sportsmen of Ohio on virtually any subject,

¹ *State ex rel. Merrill*, 11th District Opinion at ¶ 44 (2009).

including this and any other natural resource conservation or environmental protection issue.

“Conservation organizations and their members have a compelling interest in assuring that the Ohio Attorney General has the power to protect our natural resources—even when not asked to do so by the governor or the legislature,” said Will Reisinger, a lawyer for the Ohio Environmental Council.

“The fundamental question we want the court to answer is, *Does the Attorney General work for the governor and the General Assembly, or does he work for the 11 million citizens of Ohio?*”

“With this case, the Ohio Supreme Court can definitively protect the independence of the Ohio Attorney General, making sure that he has the power to represent 11 million Ohioans and their natural resources.”

--end--

The mission of the Ohio Environmental Council (OEC) is to secure healthy air, land, and water for all who call Ohio home. The OEC is Ohio’s leading advocate for fresh air, clean water, and sustainable land use. The OEC has a 40-year history of innovation, pragmatism, and success. Using legislative initiatives, legal action, scientific principles, and statewide partnerships, the OEC secures a healthier environment for Ohio’s families and communities. For more information, visit www.theOEC.org.