



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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December 29, 2011

The Honorable J. Mac Davis
Circuit Judge, Branch 7
Waukesha County Courthouse
515 W. Moreland Blvd.
Waukesha, WI 53188-2428

Re: *Reddelien Road Neighborhood Association, et al. v. DNR*
Case No. 10-CV-5341

Dear Judge Davis:

I have received Attorney Gleisner's proposed order submitted by letter dated December 28, 2011. I object to the form of that order for all of the reasons stated in my December 23, 2011, letter. Attorney Gleisner's proposed order goes beyond the bounds of the hearing at which the Court granted the motion remanding this matter for an administrative hearing, and has no basis in the transcript of that hearing. Attorney Gleisner's proposed order erroneously provides that this Court may exercise supervisory authority over the Administrative Law Judge prior to judicial review of the hearing. Attorney Gleisner's proposed order overrides regulations that guide the procedures, including the identification and litigation of issues, for the hearing, in the absence of any challenge to those regulations. There is no question that Attorney Gleisner has tried in every forum, whether appropriate or not, to raise the questions he asks in his Order Supplement. In this forum, at this hearing on this motion, this Court was not asked to direct that those questions be included in the scope of the hearing, and this Court did not so direct in its decision.

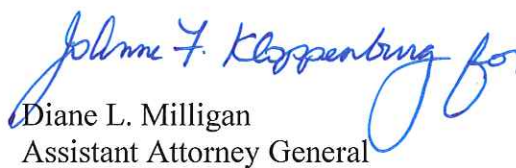
As a compromise, I've redrafted our proposed Order to acknowledge what the petitioners have requested and stating, consistent with the applicable law, that the Administrative Law Judge has the authority to determine the hearing's scope.

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The Department respectfully requests that the Court sign the enclosed Order, which recognizes petitioners' concerns and accurately conforms to the Court's decision as recorded in the transcript.

Thank you.

Sincerely,


Diane L. Milligan
Assistant Attorney General

DLM:kmr

Enclosure

c w/enc: William C. Gleisner, III
William H. Harbeck