

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

WWALS WATERSHED COALITION, INC.,

Petitioner,

vs.

Case No. 15-4975

SABAL TRAIL TRANSMISSION, LLC
AND DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Respondents.

_____ /

ORDER OF PRE-HEARING INSTRUCTIONS

In view of the brief time remaining until the final hearing, it is

ORDERED that:

1. The final hearing in this case will be conducted as more specifically set forth in the Notice of Hearing issued today. Continuance of the hearing shall be only by agreement of the parties or for good cause shown.

2. In the absence of agreement by all parties to waive the statutory time for conducting the hearing, any discovery must be initiated immediately and all parties are charged with a special duty of prompt cooperation in the discovery process. In order to provide for accelerated discovery in this case, the discovery provisions of the Florida Rules of Civil Procedure are modified as follows:

(a) Service of all pleadings and documents related to discovery (including, without limitation, notices of deposition, requests for production of documents, written interrogatories, requests for admissions, and responses or objections to discovery) shall be by hand delivery, by electronic transmission, or by some form of express or expedited mail or courier service which is reasonably expected to effect delivery on the next business day.

(b) All responses or objections to discovery must be served within five days from the date of receipt of the discovery request.

(c) Any party seeking to take depositions prior to the hearing shall contact all other parties prior to scheduling the depositions and shall attempt to schedule any depositions at times and places convenient to all parties.

(d) In the event of any disputes regarding discovery, the parties shall first attempt to arrive at an amicable resolution of the disputes. If the disputes cannot be so resolved, the aggrieved party shall contact the Judge by telephone and schedule a time for a hearing by telephone conference call to resolve the matter. If time allows, the Judge may permit written responses to any motion to compel. Otherwise, the dispute will be resolved by oral argument.

(e) The last day for serving requests for discovery shall be the eighth day prior to the final hearing. The last day for conducting depositions shall be the third day prior to the final hearing.

(f) The five-day and longer periods mentioned above shall include Saturdays, Sundays, and legal holidays, except that when the last day is a Saturday, Sunday, or legal holiday, the period is extended to the next day which is not a Saturday, Sunday, or legal holiday.

(g) Any party may by written motion request modification of any of the provisions of the foregoing subparagraphs. The motion shall state whether the other parties concur or oppose the request. See paragraph 8 for when the parties agree to the extension of a deadline imposed by this Order.

3. In order to facilitate the presentation of evidence at the hearing and to narrow the issues to the extent possible, the parties shall confer and execute a joint pre-hearing stipulation which shall contain the following:

(a) A concise statement of the nature of the controversy;

(b) A brief general statement of each party's position;

(c) A list of all exhibits (whether for substantive, corroborative, impeachment, or rebuttal purposes) to be offered at the hearing, noting any objections thereto and the grounds for each objection;

(d) A list of the names and addresses of all witnesses (whether for substantive, corroborative, impeachment, or rebuttal purposes) intended to be called at the hearing by each party, with expert witnesses being so designated;

(e) A concise statement of those facts which are admitted and will require no proof at hearing, together with any reservations directed to such admissions;

(f) A concise statement of those issues of law on which there is agreement;

(g) A concise statement of those issues of fact which remain to be litigated;

(h) A concise statement of those issues of law which remain for determination by the Judge;

(i) A concise statement of any disagreement as to the application of the rules of evidence;

(j) A list of all motions or other matters which require action by the Judge;

(k) An estimate as to the length of time required for the hearing; and

(l) The signature of the attorney or representative of record of each party.

4. The attorney or representative of record for the agency shall initiate arrangements for the conference to draft the joint pre-hearing stipulation. However, the attorneys or representatives of all parties are charged with the duty of conferring in good faith and complying with the joint pre-hearing stipulation requirements of this Order. The joint pre-hearing stipulation required by this Order shall be filed no later than two days before the hearing.

5. Motions. All motions shall include the certification required by Florida Administrative Code Rule 28-106.204(3) and shall also indicate whether a written response will be filed. Failure to include the required certification may result in the summary denial of the motion. Also, before filing a motion to compel or other motion related to a discovery dispute, the parties shall make a good faith effort to resolve the dispute without the undersigned's intervention. The motion shall

include the certification required by Florida Rule of Civil Procedure 1.380(a)(2).

6. Motions to intervene must substantially conform with Florida Administrative Code Rule 28-106.205 and should be filed at the earliest practicable date. Any unwarranted delay in the filing of a motion to intervene may be grounds for the imposition of limitations on the scope of the intervening party's participation in the hearing. The late filing of a motion to intervene will not cause a continuance of the hearing absent agreement of the parties or for good cause shown.

7. Exhibits.

(a) The parties shall stipulate to the introduction of as many exhibits as possible so as to minimize the amount of time spent at the hearing laying a foundation for exhibits.

(b) Exhibits shall be pre-marked in advance of the hearing, consistent with the numbering used in the joint pre-hearing stipulation, if practicable.

(c) The pages of each multi-paged exhibit shall be consecutively numbered.

(d) Multi-paged exhibits shall be stapled or otherwise securely bound. Paperclips and rubber bands are not acceptable.

(e) Mounted maps or other oversized exhibits may be used as demonstrative exhibits at the hearing, but the version received into evidence shall be foldable to 8 1/2 by 11 inches, if possible.

(f) Exhibits shall not be pre-filed with the Division of Administrative Hearings (DOAH) unless specifically ordered.

(g) The parties are responsible for ensuring that confidential information is redacted from exhibits prior to their introduction into evidence or their filing with DOAH.

8. Modification of deadlines. The deadlines in this Order, except the filing of the joint pre-hearing stipulation, may be altered by agreement of the parties without leave of the undersigned.

9. Sanctions. Failure to comply with the requirements of this Order may result in cancellation of the hearing on the

Administrative Law Judge's own motion, or may result in the exclusion of witnesses or exhibits not previously disclosed.

DONE AND ORDERED this 22nd day of September, 2015, in Tallahassee, Leon County, Florida.



BRAM D. E. CANTER
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 22nd day of September, 2015.

COPIES FURNISHED:

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