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Ten Mile Creek Developers At It Again...Pulte Subpoenas ANS, Other Coalition Members

This summer, Audubon Naturalist Society (ANS) along with twelve other individuals and groups in the Save Ten Mile Creek Coalition received a subpoena to produce documents for a lawsuit brought by Pulte Home Corporation against Montgomery County. Pulte is suing the County in federal court to recover damages from lost development rights in the Ten Mile Creek watershed. ANS attorney Don Mitchell, from Washington's Arent Fox law firm, filed an objection to the subpoena on the following grounds:

- It violates the 1st amendment rights of those subpoenaed;
- The documents requested are not needed for the lawsuit;
- The document request is overbroad; and
- Producing the documents requested is burdensome.

ANS's attorney is representing all the individuals and nonprofits who received subpoenas, including the Friends of Ten Mile Creek. Arent Fox filed objections on behalf of all groups. Pulte responded to the objection by indicating they will pursue the subpoenas with a court order.

What's next? The court could: a) uphold the objection without a hearing; b) call a hearing and uphold the objection; or c) call a hearing and reject the objection.

Either way, ANS members and clean water community advocates should stand at the ready. If the judge upholds the objection, we will celebrate victory over a punitive subpoena designed specifically to quash citizen engagement in public land use decisions. If the judge rejects the objection, we may call on the federal Court of Appeals to uphold the objection. We can't let Pulte set a terrible precedent of punitive actions against citizens and small nonprofits who engage in constitutionally protected democratic activity to protect our environment and the Chesapeake Bay watershed.

Editor's Note: Conservation Montgomery Board Chair Caren Madsen was among those who received a subpoena this summer.