SNYDER MORGAN LLP

ATTORNEYS AT LAW

Stephen R. Snyder*
Randall L. Morgan
Laura E. Kaufman
*Registered Civil Mediator

200 West Main Street
Syracuse, Indiana 46567
Telephone: 574-457-3300
Facsimile: 574-457-2056
www.snydermorgan.com

March 10, 2016

Matthew R. Shipman
Bloom Gates & Whiteleather
119 S. Main St.
PO Box 807
Columbia City, IN 46725

Re: Stine v. E.F.A.C.

Dear Matt:

Enclosed are Plaintiffs' Responses to your Request for Production of Documents.

Very truly yours,

SNYDER MORGAN LLP

Stephen R. Snyder
srs@snydermorgan.com

SRS/kke
Enclosure

STATE OF INDIANA	)	IN THE KOSCIUSKO CIRCUIT COURT
	) SS:	
COUNTY OF KOSCIUSKO	)	CAUSE NO. 43C01-1511-MI-270

ROBERT H. STINE AND)
MOLLY MCGINNIS STINE)
)
Plaintiffs,)
v.)
)
EPWORTH FOREST ADMINISTRATION)
COMMITTEE, INC.,)
)
Defendant.)

PLAINTIFFS' RESPONSE TO DEFENDANT'S
FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS

Plaintiffs, in response to Defendant's First Set of Request for Production of Documents provides the following documents.

REQUEST NO. 1: Produce any and all copies of surveys you have for your Property.

RESPONSE: Survey of Richard J. Kemper dated October 12, 2014 is attached.

REQUEST NO. 2: Produce any and all exhibits you intend to use at the trial of this matter.

RESPONSE: Plaintiff has not prepared a final list of exhibits for use at trial. Among those exhibits will be the Richard J. Kemper Survey attached hereto, letter from Richard Mann dated July 14, 2006 which is attached, numerous family photos showing location of the Stine pier such as the undated photo attached and the black and white undated photo attached, Articles and Bylaws of the Epworth Forest Administration Committee, Inc., copies of which are in possession of Defendant. Plaintiffs will reasonably supplement this response as additional exhibits are determined.

REQUEST NO. 3: Produce copies of any and all pictures in your possession which show the location of your pier, boat lifts, and boats in relation to your Property.

RESPONSE: See response to Request No. 2.

REQUEST NO. 4: Produce any and all other documents which to support your allegation in Paragraph 3 of Plaintiffs' Complaint for damages.

RESPONSE: See response to Request Nos. 1-3.

REQUEST NO. 5: Produce any and all documents you have that support the allegation contained in Paragraph 6 of Plaintiffs' Complaint.

RESPONSE: See attached Memorandum in Support of Appeal in the matter of Jerry and Pat Powell.

Plaintiffs reserve the right to supplement these responses as discovery continues.

SNYDER MORGAN LLP

By: _____

Stephen R. Snyder, #413-43
200 West Main Street
Syracuse, Indiana 46567
Telephone: 574/457-3300
srs@snydermorgan.com
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned certifies that on the 10 day of March, 2016, a true and correct copy of the foregoing pleading was served upon the following by first class U.S. mail, postage prepaid:

Mr. Matthew R. Shipman
Attorney at Law
PO Box 807
Columbia City, IN 46725-0807

_____
Stephen R. Snyder

RESPONSE TO REQUEST NO. 1

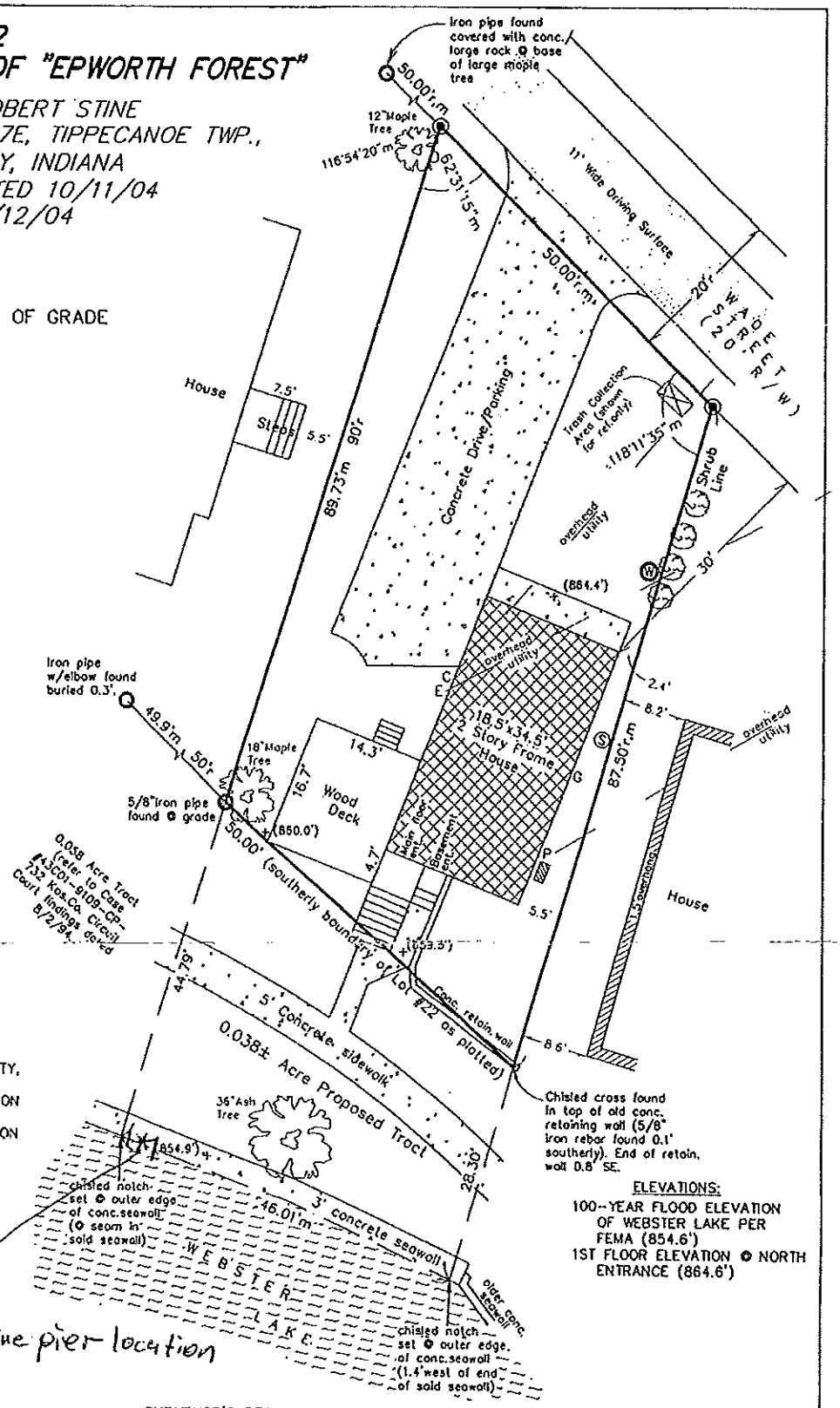
LOT #22
IN BLOCK B OF THE PLAT OF "EPWORTH FOREST"

REQUESTED BY: ROBERT STINE
LOCATED IN SEC.11-T33N-R7E, TIPPECANOE TWP.,
KOSCIUSKO COUNTY, INDIANA
FIELD WORK COMPLETED 10/11/04
CERTIFIED 10/12/04

r: RECORD PER PLAT
m: MEASURED
◉ 5/8" REBAR FOUND WITHIN 0.1' OF GRADE
O MONUMENT FOUND AS NOTED
Ⓦ 2" WELL
G: GAS SERVICE
E: ELECTRIC SERVICE
P: PHONE SERVICE
Ⓢ SEPTIC VENT
AIR CONDITIONING UNIT

Graphic Scale
1"=20'
20 0 20

Distances from lot lines to structure do NOT include overhang unless otherwise noted. The 2-story house on the subject lot #22 has a general overhang of 2.4'.



DESCRIPTION

LOT NUMBER 22 IN BLOCK B OF THE PLAT OF EPWORTH FOREST, AS RECORDED IN PLAT BOOK 2 PAGE 258 (2-258B) IN THE OFFICE OF THE RECORDER OF KOSCIUSKO COUNTY, INDIANA. SAID LOT LOCATED IN SECTION 11, TOWNSHIP 33 NORTH, RANGE 7 EAST, TIPPECANOE TOWNSHIP, KOSCIUSKO COUNTY, INDIANA.

DESCRIPTION OF A PROPOSED TRACT OF LAND

A TRACT OF LAND LYING BETWEEN LOT NUMBER 22 IN BLOCK B OF THE PLAT OF EPWORTH FOREST AS RECORDED IN PLAT BOOK 2 PAGE 258 (2-258B) IN THE OFFICE OF THE RECORDER OF KOSCIUSKO COUNTY, INDIANA, AND THE WATERS EDGE OF WEBSTER LAKE. BOUNDED ON THE WEST BY THE SOUTHERLY EXTENTION OF THE WEST LINE OF SAID LOT NUMBER 22 AND BOUNDED ON THE EAST BY THE SOUTHERLY EXTENTION OF THE EAST LINE OF SAID LOT NUMBER 22 AND CONTAINING 0.038 ACRE MORE OR LESS.

ELEVATIONS:

100-YEAR FLOOD ELEVATION OF WEBSTER LAKE PER FEMA (854.6')
1ST FLOOR ELEVATION @ NORTH ENTRANCE (864.6')

SURVEYOR'S REPORT

IN ACCORDANCE WITH INDIANA SURVEY STANDARDS AS DEFINED IN I.A.C.865-1-12, THE FOLLOWING OBSERVATIONS AND OPINIONS WITH REFERENCE TO THE UNCERTAINTIES IN THE LOCATIONS OF THE LINES AND CORNERS ESTABLISHED THIS SURVEY AS A RESULT OF:

A)VARIANCES IN REFERENCE MONUMENTS- THE RECORDED PLAT CALLS FOR IRON PIPES AT ALL CORNERS. THE IRON PIPES FOUND @ THE NORTHERNMOST CORNER OF LOT #22 AND THE NORTHERNMOST CORNER OF LOT #23 ARE BELIEVED TO BE ORIGINAL. ALL OTHER MONUMENTS ARE ASSUMED TO HAVE BEEN SET SUBSEQUENT TO THE PLAT RECORDING.

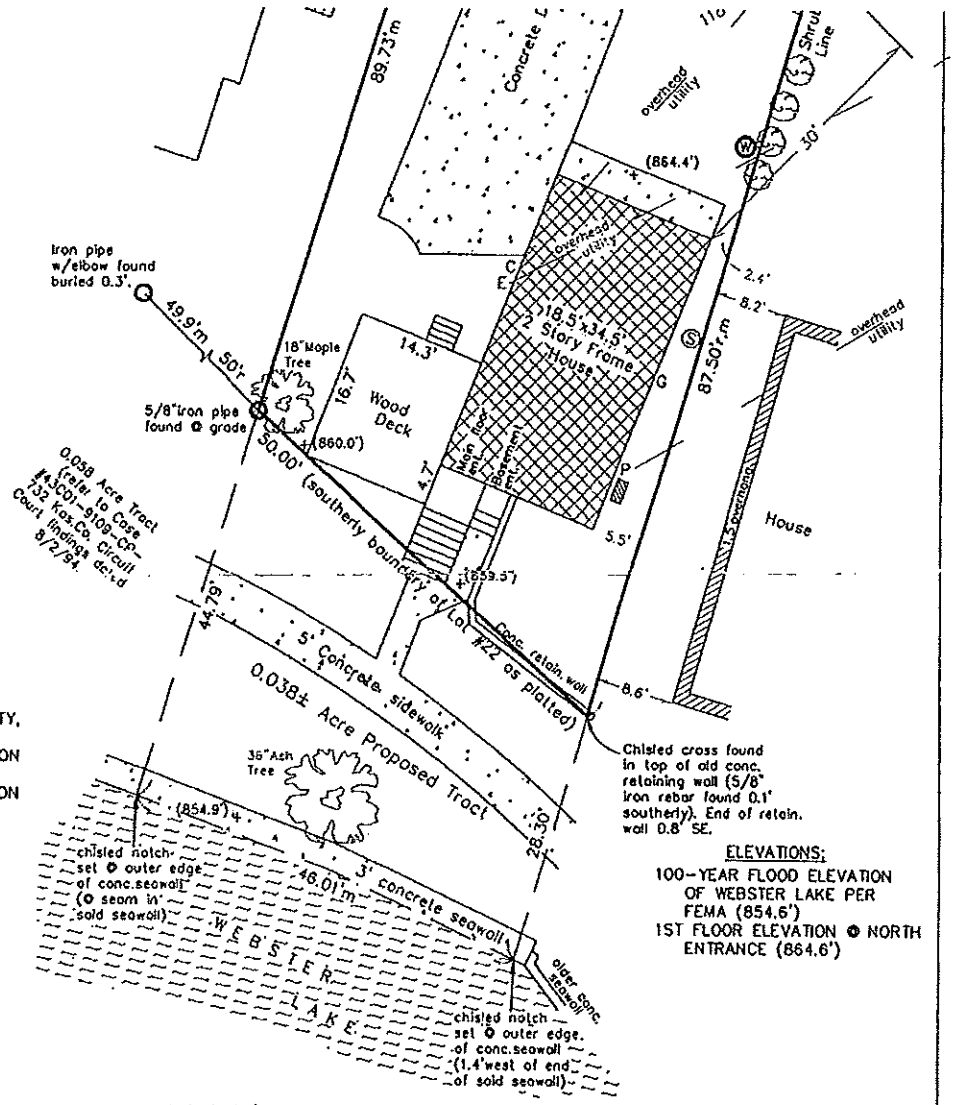
B)DISCREPANCIES IN RECORD DESCRIPTION AND PLATS- THE RECORDED PLAT CONTAINS NO ANGLE OR BEARING INFORMATION ONLY DIMENSIONS ARE NOTED. BECAUSE OF THIS LIMITED INFORMATION, THE LOCATION OF THE EXISTING MONUMENTS COULD NOT BE DISREGARDED AS BEING AT THE ORIGINAL CORNER WITH ANY DEGREE OF CERTAINTY. HOWEVER, THE DIFFERENCES IN RECORD & MEASURED DIMENSIONS DO INTRODUCE AN UNCERTAINTY ALONG THE WEST BOUNDARY OF THE SUBJECT LOT OF 0.27'. EXISTING MONUMENTS FOUND ALONG THE SOUTH LINE OF WADE ST. @ LOT CORNERS DID NOT PRODUCE A LINE WITH A SINGLE BEARING, BUT RATHER MANY DIFFERENT BEARINGS. THE RECORDED PLAT APPEARS TO REPRESENT SAID SOUTH LINE AS A STRAIGHT LINE. OUR FIELD WORK COULD NOT CONFIRM THIS.

C)INCONSISTENCIES IN LINES OF OCCUPATION- A SHORT LINE OF SHRUBS, IF MAINTAINED BY THE OWNER OF LOT #23, ENCROACHES BY 1' OR MORE ALONG

AIR CONDITIONING UNIT

Graphic Scale
1"=20'
20 0 20

Distances from lot lines to structure do NOT include overhang unless otherwise noted. The 2-story house on the subject lot #22 has a general overhang of 2.4'.



DESCRIPTION

LOT NUMBER 22 IN BLOCK B OF THE PLAT OF EPWORTH FOREST, AS RECORDED IN PLAT BOOK 2 PAGE 258 (2-258B) IN THE OFFICE OF THE RECORDER OF KOSCIUSKO COUNTY, INDIANA. SAID LOT LOCATED IN SECTION 11, TOWNSHIP 33 NORTH, RANGE 7 EAST, TIPPECANOE TOWNSHIP, KOSCIUSKO COUNTY, INDIANA.

DESCRIPTION OF A PROPOSED TRACT OF LAND

A TRACT OF LAND LYING BETWEEN LOT NUMBER 22 IN BLOCK B OF THE PLAT OF EPWORTH FOREST AS RECORDED IN PLAT BOOK 2 PAGE 258 (2-258B) IN THE OFFICE OF THE RECORDER OF KOSCIUSKO COUNTY, INDIANA, AND THE WATERS EDGE OF WEBSTER LAKE. BOUNDED ON THE WEST BY THE SOUTHERLY EXTENTION OF THE WEST LINE OF SAID LOT NUMBER 22 AND BOUNDED ON THE EAST BY THE SOUTHERLY EXTENTION OF THE EAST LINE OF SAID LOT NUMBER 22 AND CONTAINING 0.038 ACRE MORE OR LESS.

ELEVATIONS:

100-YEAR FLOOD ELEVATION OF WEBSTER LAKE PER FEMA (854.6')
1ST FLOOR ELEVATION @ NORTH ENTRANCE (864.6')

SURVEYOR'S REPORT

IN ACCORDANCE WITH INDIANA SURVEY STANDARDS AS DEFINED IN I.A.C.865-1-12, THE FOLLOWING OBSERVATIONS AND OPINIONS WITH REFERENCE TO THE UNCERTAINTIES IN THE LOCATIONS OF THE LINES AND CORNERS ESTABLISHED THIS SURVEY AS A RESULT OF:

A) VARIANCES IN REFERENCE MONUMENTS- THE RECORDED PLAT CALLS FOR IRON PIPES AT ALL CORNERS. THE IRON PIPES FOUND @ THE NORTHERNMOST CORNER OF LOT #22 AND THE NORTHERNMOST CORNER OF LOT #23 ARE BELIEVED TO BE ORIGINAL. ALL OTHER MONUMENTS ARE ASSUMED TO HAVE BEEN SET SUBSEQUENT TO THE PLAT RECORDING.

B) DISCREPANCIES IN RECORD DESCRIPTION AND PLATS- THE RECORDED PLAT CONTAINS NO ANGLE OR BEARING INFORMATION. ONLY DIMENSIONS ARE NOTED. BECAUSE OF THIS LIMITED INFORMATION, THE LOCATION OF THE EXISTING MONUMENTS COULD NOT BE DISREGARDED AS BEING AT THE ORIGINAL CORNER WITH ANY DEGREE OF CERTAINTY. HOWEVER, THE DIFFERENCES IN RECORD & MEASURED DIMENSIONS DO INTRODUCE AN UNCERTAINTY ALONG THE WEST BOUNDARY OF THE SUBJECT LOT OF 0.27'. EXISTING MONUMENTS FOUND ALONG THE SOUTH LINE OF WADE ST. @ LOT CORNERS DID NOT PRODUCE A LINE WITH A SINGLE BEARING, BUT RATHER MANY DIFFERENT BEARINGS. THE RECORDED PLAT APPEARS TO REPRESENT SAID SOUTH LINE AS A STRAIGHT LINE. OUR FIELD WORK COULD NOT CONFIRM THIS.

C) INCONSISTENCIES IN LINES OF OCCUPATION- A SHORT LINE OF SHRUBS, IF MAINTAINED BY THE OWNER OF LOT #22, ENCROACHES BY 1'-2' ALONG THE EAST BOUNDARY OF LOT #22. EXISTING CONC. STEPS LEADING TO THE HOUSE ON LOT #22, EXTENDS OVER THE SOUTH LINE OF SAID LOT BY 1.5'+/-.

D) THEORETICAL UNCERTAINTY- THE THEORETICAL UNCERTAINTY DUE TO RANDOM ERRORS IN MEASUREMENT OF THE CORNERS OF THE SUBJECT LOT AS SHOWN ON THIS SURVEY ARE WITHIN THE SPECIFICATIONS OF A "CLASS A SURVEY" (0.10 FOOT) AS DEFINED IN I.A.C.865.

CERTIFICATION

I, THE UNDERSIGNED REGISTERED LAND SURVEYOR, LICENSED IN THE STATE OF INDIANA, DO HEREBY CERTIFY THAT THIS PLAT WAS PREPARED BY ME AND TO THE BEST OF MY KNOWLEDGE AND BELIEF WAS EXECUTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE INDIANA SURVEY STANDARDS AS DEFINED IN TITLE 865, ARTICLE 1, RULE 12, OF THE INDIANA ADMINISTRATIVE CODE.

PREPARED FOR: ROBERT STINE		
PROJ.# 04-1012	SCALE 1"=20'	OCT. 12, 2004
DR BY MK		

RICHARD J. KEMPER
REG. LAND SURVEYOR LIC. #880012

RICHARD J. KEMPER REGISTERED No. 880012 STATE OF INDIANA LAND SURVEYOR

stine-robert.dwg

RESPONSE TO REQUEST NO. 2

EPWORTH FOREST
COMMUNITY
PIER
ASSOCIATION

REF; Pier Location of 56
For Robert Stine

July 14, 2006

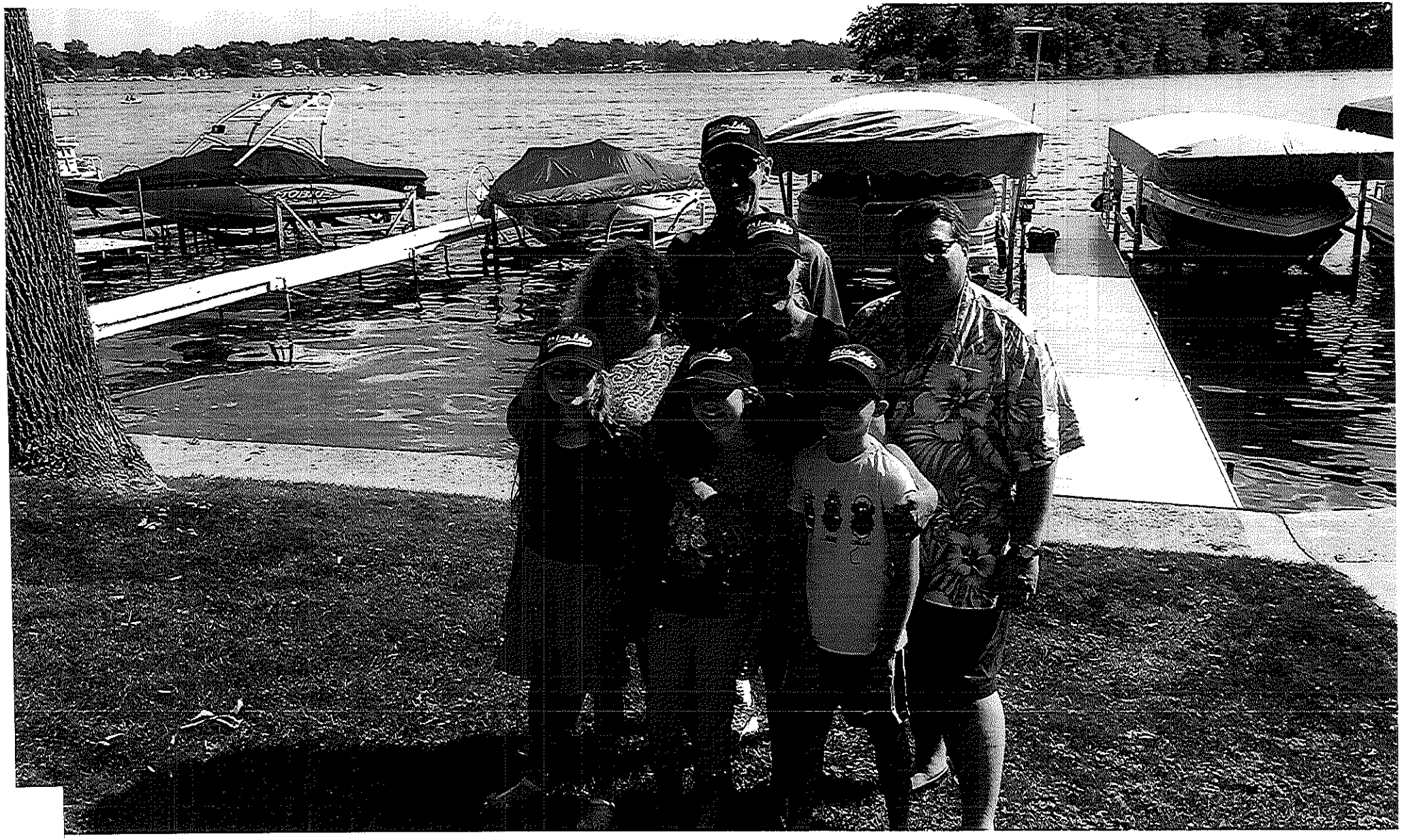
Dear Robert,

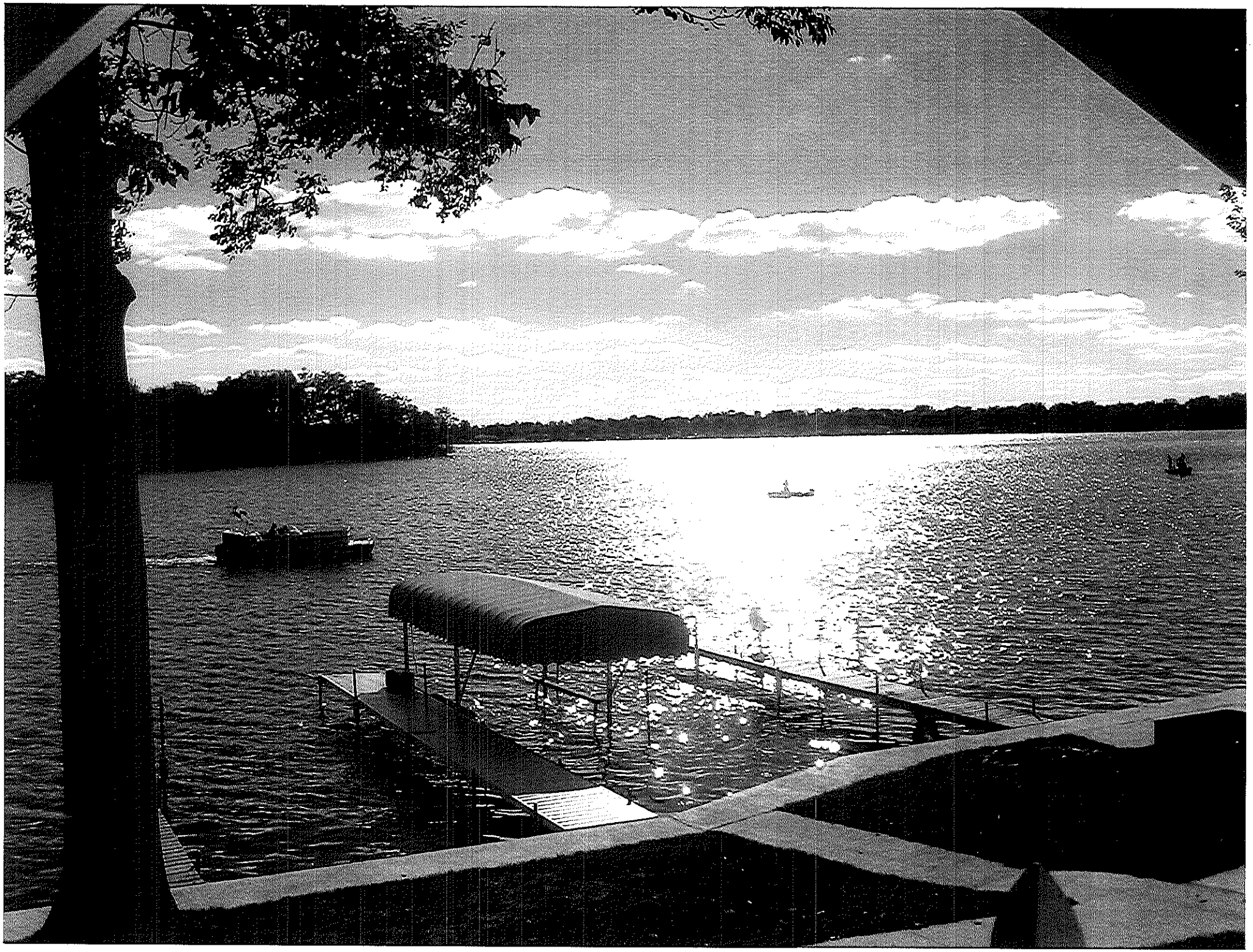
As requested, this letter serves to confirm that your family's pier is in the correct location assigned by the pier committee. This was done by the 1994 Judgment of the Court in forming a new Pier Policy and Pier Committee that was adopted and approved by the North Indiana Methodist Church Trustees and the Kosciusko County Court.

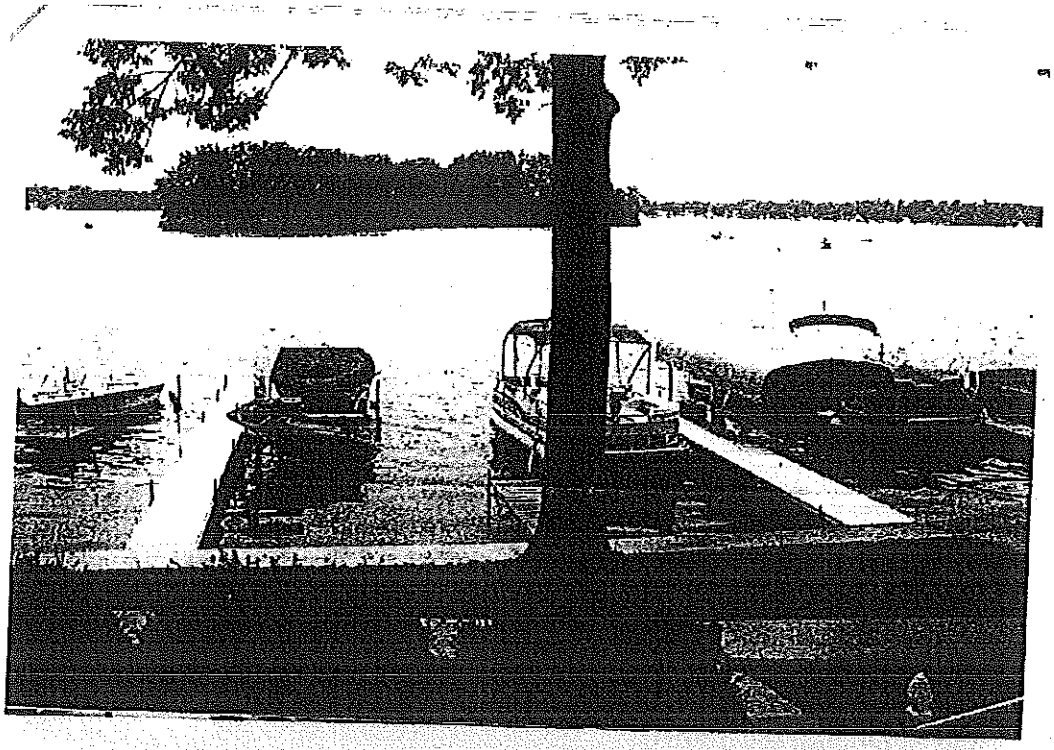
Please let me know if you have further questions.

Sincerely,

Richard Mann, Chairman
34 Northway Dr.
Huntington, Indiana 46750







RESPONSE TO REQUEST NO. 5

BEFORE THE
EPWORTH FOREST ADMINISTRATION COMMITTEE, INC.

IN RE:
GERRY AND PAT POWELL
PIER NO. 34A

MEMORANDUM IN SUPPORT OF APPEAL

At the request of the Epworth Forest Administration Committee, Inc. ("*EFAC*"), Petitioners Gerry and Pat Powell submit their Memorandum in Support of Appeal.

EFAC was established by the North Indiana Annual Conference of the United Methodist Church pursuant to an order of the Kosciusko Circuit Court dated April 15, 2014 in Cause No. 43C01-9109-CP-732. The Order creating EFAC was the culmination of litigation instituted by the Conference asking the Court to relieve it of its obligations to administer pier assignments on the lakefront of the plats of Epworth Forest. The Order makes reference to and incorporates numerous other documents in the litigation, all of which, along with others, have a bearing on the determination made by EFAC to eliminate the Powell Pier No. 34A (previously designated as 35A). That determination was made January 6, 2016 and an appropriate appeal of that decision was taken by Powells.

A history of the use of the Powell pier was presented prior to and during the January 6, 2016 hearing. That evidence indicated the following:

1. The Conference established the pier in 1941 when it was the owner of the Powell property.

2. The Powell pier location was confirmed by the 1994 Judgment.

3. The location of the Powell pier was confirmed by the Conference on August 25, 1995 and confirmed by the Court in 1997 through approval of the Conference policy and requirement for preparation of a map.

4. Bradley Company (contractor administrating pier assignments) and the Pier Committee subsequently confirmed the Powell pier location.

5. The Kosciusko Circuit Court, in its Order of January 21, 2014, confirmed the location of the Powell pier in Exhibit E.

6. EFAC, by request made September 2, 2014 to renumber Pier 35A to Pier 34A, impliedly confirmed its location.

Suetta Johnson, previous owner of the Miller lot, established the location of her 24 feet of pier space on what is now the Miller lot in 1995, at which time the Powell pier was again confirmed as being located on the east 16 feet of what is now the Miller property.

Apparently the basis for the January 6, 2016 EFAC Order was a request by Miller to utilize their 24 feet of lake frontage with their pier located in the middle of that 24 feet. The pier would not move but the 24 foot use area would move to the east, requiring the elimination of the Powell pier.

A review of the various documents which affect EFAC's decision in this matter begins with the 1994 Judgment. That Judgment conclusively established the rights of offshore owners to place a pier on the lakefront of the plats of Epworth Forest, giving the onshore owner the first choice of a location for their pier on their lakefront property, then allowing the assignment of offshore owners spaces which impose the least possible burden on the lakefront properties (see Judgment, paragraphs 3 and 4).

On November 7, 1997, the Court approved the Pier Administration Policy prepared by the Conference which indicates in paragraph 2 under Rules and Regulations that lakefront property owners' selection of their pier spaces took place in the spring and summer of 1995 and states:

> "It is expected that the selection then made is the permanent selection of the lakefront property owner and future pier placement will be in the same location. Since all other available pier spaces are determined as a result of the lakefront property owners' selections, it is unreasonable to allow all lakefront property owners to make new selections each year." (Copy attached).

On January 21, 2014, the Kosciusko Circuit Court, subsequent to hearing, issued another order which at page 5, paragraph 4 states:

> "The Court finds that the new regulations and placements submitted to the Court are reasonable, are not arbitrary nor capricious, and are based on valid considerations, including the need to fairly allocate the burden of the Court's Judgment in a rational fashion considering the rights and obligations of the residents of Epworth Forest as a whole, and which shall be approved by the Court as submitted, except as provided otherwise herein."

The Pier Policy approved by the Court allowed a 24 foot width for onshore owners and 16 feet for offshore owners. Most telling, the policy approved by the Court in Exhibit C to the January 21, 2014 Order contained the following statement as to lakefront property owners in paragraph 3:

> "That lakefront property owner's shoreline pier placement shall be considered permanent unless the lakefront property owner agrees to a change in writing that has been approved by the Committee in writing."

That same regulation states in paragraph 4:

> "Non-lakefront property owners' shoreline pier locations are assigned by the Committee on a first-come, first-served basis. Once the shoreline locations are assigned and approved in writing by the Committee, the locations are intended to be permanent; however, non-compliance may cause the Committee to consider a change."

Exhibit E to that Order assigned Pier Space 34, having a width of 24 feet to Suetta Johnson, the predecessor in title to Miller. Exhibit E also assigned to Gerry and Patricia Powell Pier Space 35A having a width of 16 feet, which space was located lakeward from the Miller lot.

On April 15, 2014, a final order granting the relief sought by the Conference was entered. That Order required the Conference to establish EFAC with bylaws containing specific provisions. In paragraph 14(j) of that Order, the Court stated:

> "Onshore owners' pier assignments will continue from year to year and be presumed permanent. An offshore pier assignment/location, in accordance with the 1994 judgment, may be changed only for substantial change of circumstances making the prior assignment unreasonable under current facts and circumstances."

On June 20, 2014, Articles of Incorporation were filed to establish EFAC and Bylaws were subsequently adopted. In Section 5(c), it is stated that among the powers and duties of the Board of Directors is the following:

> "To ensure that off-shore pier assignment/location, in accordance with the 1994 Judgment, may only be changed, in the sole discretion of the Board of Directors, for a substantial change in circumstances making the prior assignment unreasonable under the facts and circumstances;".

Subsection (d) states:

> "To ensure an on-shore pier assignment/location, in accordance with the 1994 Judgment, may only be changed, upon the request in writing of the on-shore owner and only for substantial change of circumstances making the prior assignment unreasonable under current facts and circumstances."

The totality of the above referenced documents makes it clear that a modification to the area assigned to an on-shore owner can only occur if the existing assignment has become unreasonable under current circumstances. In this particular case, the only reason for the change requested by Miller is to allow Miller to use both sides of their pier for mooring boats without moving the pier. At the January 6, 2016 hearing, Powells specifically indicated they would bear the expense of relocating the Miller pier to allow the use of both sides for the mooring of boats. In fact, the only evidence before EFAC in regard to the Miller space clearly indicates that there is 31.25 feet available to Miller, a space more than adequate to allow mooring boats on both sides of the Miller pier and still creating reasonable setbacks between adjacent piers. It is suggested that the true reason for the Miller request is to obtain a result which eliminates any offshore owner from being able to maintain a pier space lakeward of the Miller lot. This result runs contrary to the original 1994 Judgment and to every document adopted by the Conference and approved by the Court subsequent to the 1994 Judgment.

The request of Miller does not meet the test established by the Court's Orders or the Bylaws of EFAC adopted pursuant to Court Orders. The Miller request should be denied and the Powells' pier space should be preserved, all in accordance with prior Court Orders and the Bylaws of EFAC.

For the convenience of Committee Members, copies of the referenced documents with the cited portions highlighted are attached to this Memorandum.

SNYDER MORGAN LLP

By: _____

Stephen R. Snyder, #413-43
200 West Main Street
Syracuse, Indiana 46567
Telephone: 574/457-3300
srs@snydermorgan.com
Attorneys for Petitioners

11/7/1997

STATE OF INDIANA	)	IN THE KOSCIUSKO CIRCUIT COURT
	) SS:	
COUNTY OF KOSCIUSKO	)	CAUSE NO. 43C01-9109-CP-732

DOROTHY V. BARNES, et al,

Plaintiffs,

v.

NORTH INDIANA ANNUAL CONFERENCE OF THE UNITED METHODIST CHURCH,

v.

NUMEROUS INTERVENING DEFENDANTS,

Defendants.

Nov 7

ORDER

This matter is before the court on the Post-Judgment Petition filed on April 29, 1997. The court is familiar with many of the facts because such facts were part of the trial in this case, has held multiple status conferences and heard the representations of counsel, and has considered the "Pier Administration Policy - Epworth Forest" originally filed with the court on August 29, 1995 as supplemented by the issue submission procedure (jointly, the "Pier Administration Policy") and a map filed with the court on October 8, 1997, showing the approximate location of pier assignments for the summer of 1997. The court now makes the following findings, conclusions, and orders:

1. The North Indiana Conference of the United Methodist Church ("Conference") has enacted reasonable regulations and procedures to carry out the responsibilities assigned to the Conference in this court's judgment dated August 2, 1994. The court has reviewed and approves

D. Arbitrate all disputes.
E. Select a person to be the contact person in regard to pier administration matters.

2. The Pier Administration Committee shall be composed of five persons appointed by the Trustees. Two persons shall be lakefront property owners; two persons shall be non-lakefront property owners, and one person shall be selected by the Trustees to represent the interests of the North Indiana Conference. Each person shall be appointed for three years. At the time of initial appointment, the terms shall be staggered so the term of only one person from lakefront and non-lakefront shall expire in any one year.

Rules and Regulations

The Trustees adopt the following rules and regulations for the administration of piers in Epworth Forest:

1. The desirable guideline for pier placement will be within a space of 16 to 22 feet of shoreline. Where there is a request for exception to these limits, such request shall be presented in writing to the Committee. This request should have the names and signatures of all persons affected by the request, indicating their agreement to the request. The Committee will consider the request and either approve, mediate or reject the request.

2. Lakefront property owners are given the right to select their pier placement first. This selection took place in the spring and summer of 1995. It is expected that the selection then made is the permanent selection of the lakefront property owner and future pier placement will be in the same location. Since all other available pier spaces are determined as a result of the lakefront property owners' selections, it is unreasonable to allow all lakefront property owners to make new selections each year. To do so would greatly increase the activity and administration costs of the Committee. If a change is desired, the lakefront property owner should present such a request to the Committee prior to February 1 of the year in which the change is desired.

3. A system of identification of remaining pier locations will be developed by the Committee. These remaining locations will be made available to non-lakefront property owners. These locations will be assigned on a first-come, first-served basis. Once the locations have been chosen by the non-lakefront property owner and approved, in writing, by the Committee, the locations will be permanent unless there is a change which has been approved by the Committee. Such request for change, if initiated by the non-lakefront property owner, should be sent to the Committee in writing by March 1 of the year in which the change is to be come effective. The

BYLAWS
OF
EPWORTH FOREST ADMINISTRATION COMMITTEE, INC.

ARTICLE I
Name and Principal Office

The name of the corporation is EPWORTH FOREST ADMINISTRATION COMMITTEE, INC. (hereinafter referred to as the "Committee").

The registered office of the Committee shall be located at Indiana Conference United Methodist Church, 301 Pennsylvania Parkway, Suite 300, Indianapolis, Indiana 46280, until and unless changed in accordance with law by the Board of Directors.

ARTICLE II
Definitions

Section 1. "1994 Judgment" means the Kosciusko Circuit Court's August 2, 1994 Record of Submission, Findings of Fact with Opinion and Judgment in *Barnes, et al v. North Indiana Annual Conference of United Methodist Church v. Numerous Intervening Defendants*, Cause Number 43C01-9109-CP-00732 and all subsequent decisions under this cause number. The 1994 Judgment adjudicated a dispute between and among property owners in Epworth Forest community on Lake Webster over ownership rights in the littoral between the lake and platted lots immediately adjacent to the lake. In addition to adjudicating the ownership dispute, the 1994 Judgment also defined the scope of an easement in the littoral and assigned the Conference certain management responsibilities relating to the easement.

Section 2. "2014 Order" means (collectively) the Kosciusko Circuit Court's January 2014 Order and April 15, 2014 Order Granting Relief Pursuant to T.R. 60 Through Modified Judgment in *Barnes, et al v. North Indiana Annual Conference of United Methodist Church v. Numerous Intervening Defendants*, cause number 43C01-9109-CP-00732.

Section 3 "Committee" means and refers to this corporation, which is also referred to as the "Corporation" in the Articles of Incorporation of this corporation.

Section 4. "Conference" means the North Indiana Annual Conference of United Methodist Church.

Section 5. All of the terms as defined and used in the 1994 Judgment and 2014 Order shall have the same meanings in these Bylaws. The 1994 Judgment as altered, amended or modified by subsequent Court Orders shall continue to define the existing rights of the owners in Epworth Forest.

(f) To approve the annual budget, statement of income and expenditures of the Committee and to establish and maintain a reserve fund for capital expenditures;

(g) To employ as a manager, an independent contractor, or such other employees as it deems necessary, and to prescribe their duties, subject to the limitations set forth in the Declaration; and

(h) To do and take all such action as is or may be necessary, desirable or appropriate to perform the duties, obligations and responsibilities of the Board of Directors as required by the 1994 Judgment, the 2014 Order, other provisions of these Bylaws, the Articles of Incorporation, or statute.

Section 6. Duties. The Board of Directors shall have the following duties:

(a) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members;

(b) To ensure on-shore owners' pier assignments continue from year to year and be presumed permanent;

(c) To ensure that off-shore pier assignment/location, in accordance with the 1994 Judgment, may only be changed, in the sole discretion of the Board of Directors, for a substantial change in circumstances making the prior assignment unreasonable under the facts and circumstances;

(d) To ensure an on-shore pier assignment/location, in accordance with the 1994 Judgment, may only be changed, upon the request in writing of the on-shore owner and only for substantial change of circumstances making the prior assignment unreasonable under current facts and circumstances;

(e) To operate under the presumption that one off-shore pier will exist per onshore lot;

(f) To verify each Off-shore owner who requests a pier has adequate liability insurance in such reasonable amounts as determined in the sole discretion of the Board of Directors;

(g) To establish the amount of the assessments against each member for each pier owned, all in accordance with the terms of the 1994 Judgment, 2014 Order and these Bylaws;

(h) To cause that no motor vehicles, except wheelchairs for disabled persons in need of such wheelchairs, are permitted on the Easement (the prohibition against motor vehicles is not intended to prohibit access for necessary things such as tree trimming, utility installation and maintenance, and the like, on a temporary basis);

(i) To develop, establish and maintain community piers where possible;

ORIGINAL POLICY 8/25/95

Pier Administration Policy
Epworth Forest

Background

Over the years, as the use of Epworth Forest has increased, the number of homeowners using boats and other water craft has also increased. The use and demand for pier space has increased as well and has become a source of ongoing friction at Epworth Forest.

This friction led to a lawsuit which was decided by the Circuit Court of Kosciusko County on August 2, 1994. A copy of that judgment is available in the North Indiana Conference Office in Marion, IN. In part, that judgment states that the Conference may establish "reasonable regulations" regarding the placement of piers and the use of the walkway easements, and further provides that the Conference may offset the cost of the administration of these regulations by charging a pier administration fee.

The intent of the regulations is to carry out the court's decision in an organized and efficient manner and to avoid conflict in the hopes that all may enjoy the lake and other natural wonders at Epworth Forest. The cost of administering these regulations will undoubtedly be greatly affected by the cooperation given by the parties affected.

Cooperation is encouraged between lakefront and non-lakefront property owners in the maintenance of the lakeshore where their piers are located.

Method of Administration

The authority and responsibility for the administration of a pier policy lies with the Trustees of the North Indiana Annual Conference of the United Methodist Church, Inc. In the hope of reducing conflict in that administration, the Trustees have delegated part of that task to the below described "Pier Administration Committee". The authority of the committee derives solely by delegation from the Trustees.

1. A "Pier Administration Committee" is hereby designated by the Trustees to administer the rules and regulations adopted by the Trustees. This committee is to be composed of four homeowners within Epworth Forest and one additional member designated by the Trustees. Such committee acts as designee of the Conference. The Trustees will receive suggestions from the Pier Administration Committee as to changes in rules and regulations. The Pier Administration Committee shall:

   A. Record pier locations of lakefront property owners.
   B. Determine available pier locations for non-lakefront property owners.
   C. Record pier locations of non-lakefront property owners.

D. Arbitrate all disputes.
E. Select a person to be the contact person in regard to pier administration matters.

2. The Pier Administration Committee shall be composed of five persons appointed by the Trustees. Two persons shall be lakefront property owners; two persons shall be non-lakefront property owners, and one person shall be selected by the Trustees to represent the interests of the North Indiana Conference. Each person shall be appointed for three years. At the time of initial appointment, the terms shall be staggered so the term of only one person from lakefront and non-lakefront shall expire in any one year.

Rules and Regulations

The Trustees adopt the following rules and regulations for the administration of piers in Epworth Forest.

1. The desirable guideline for pier placement will be within a space of 16 to 22 feet of shoreline. Where there is a request for exception to these limits, such request shall be presented in writing to the Committee. This request should have the names and signatures of all persons affected by the request, indicating their agreement to the request. The Committee will consider the request and either approve, mediate or reject the request.

2. Lakefront property owners are given the right to select their pier placement first. This selection took place in the spring and summer of 1995. It is expected that the selection then made is the permanent selection of the lakefront property owner and future pier placement will be in the same location. Since all other available pier spaces are determined as a result of the lakefront property owners' selections, it is unreasonable to allow all lakefront property owners to make new selections each year. To do so would greatly increase the activity and administration costs of the Committee. If a change is desired, the lakefront property owner should present such a request to the Committee prior to February 1 of the year in which the change is desired.

3. A system of identification of remaining pier locations will be developed by the Committee. These remaining locations will be made available to non-lakefront property owners. These locations will be assigned on a first-come, first-served basis. Once the locations have been chosen by the non-lakefront property owner and approved, in writing, by the Committee, the locations will be permanent unless there is a change which has been approved by the Committee. Such request for change, if initiated by the non-lakefront property owner, should be sent to the Committee in writing by March 1 of the year in which the change is to be come effective. The

STATE OF INDIANA	)	IN THE KOSCIUSKO CIRCUIT COURT
	) SS:	
COUNTY OF KOSCIUSKO	)	WARSAW, INDIANA
DOROTHY V. BARNES,	)	CAUSE NO. 43C01-9109-CP-00732
	)	
Plaintiff,	)	
	)	Honorable Michael Reed
vs.	)	
	)	
NORTH INDIANA ANNUAL CONFERENCE OF THE UNITED METHODIST CHURCH, FRED AND JOYCE PHANEUF, and NUMEROUS INTERVENING DEFENDANTS,	)	
	)	
Defendants.	)	

APR 15 2014
CLERK KOSCIUSKO CIRCUIT COURT

AGREED ORDER GRANTING RELIEF PURSUANT TO T.R. 60 THROUGH MODIFIED JUDGMENT

1. Proceedings were held on the issues arising under T.R. 60 Motion filed by the North Indiana Conference of the United Methodist Church (the "Conference"). This Rule 60 Motion concerns the relative rights of the parties related to an Easement reserved in the plat of Epworth Forest and interpreted by the Kosciusko Circuit Court in its 1994 Judgment. The conference seeks to obtain relief from the 1994 Judgment and the subsequent orders and rulings of this Court (the "'94 Judgment").

2. The Court heard pertinent evidence on January 14-15, 2014 and on March 20, 2014, including the submission of the affidavit of Brent Williams by the Conference and the submission of Agreed Amended Contentions for Hearing on Trial Rule 60 Motion Submitted by the Conference, Certain On-Shore Owners, Certain Off-Shore Owners, et. al. All property owners in Epworth Forest have been duly served and have either appeared, have been defaulted or have indicated their acceptance of this Court's determination and this Order. All property owners in Epworth Forest are bound by this Order.

3. The court having reviewed the evidence, the arguments of those present, and being duly advised in the premises, now FINDS that it is no longer equitable that the Conference be subject to the prospective effect of the '94 Judgment and that pursuant to T.R. 60(D), it would be equitable (both for the Conference and all owners in Epworth Forest) for the Court to "alter, amend [or] modify" the '94 Judgment and, therefore, the Court now GRANTS the requested relief to the Conference and further ORDERS that this Court's prior Judgments and Orders are hereby ALTERED, AMENDED, MODIFIED OR CORRECTED as set out below.

a trust, and the owner / owners shall designate in writing one representative to cast a vote for the parcel;

e. The EFAC will possess the right to collect reasonable attorney fees if it prevails in an enforcement action for failure to timely pay duly assessed pier fees, failure to comply with a pier assignment, or other material failure to comply with any duly enacted Court Order or rule or regulation; however, there shall be no right of the EFAC to collect attorney's fees incurred in connection with the Easement Termination Litigation, to the extent it is refiled, or in connection with any refusal to comply with a pier assignment by an Easement Termination Plaintiff during the pendency of the Easement Termination Litigation if such litigation is refiled.

f. All past-due fines or penalties relating to pier fees are waived if the underlying pier fees are fully paid by May 1, 2014;

g. The EFAC will possess the authority to levy reasonable fines for violations of policies and pier assignments and to levy reasonable late fees for failure to pay pier fees all consistent with the Court's January 21, 2014 Order;

h. The EFAC will possess the authority to place a lien on any lot in Epworth Forest to secure payment of any assessed fee and to secure a judgment obtained against a lot owner;

i. The by-laws of the EFAC will ensure that onshore owners will not be overburdened, but will also recognize that strict equality in burdening owners is not possible;

j. Onshore owners' pier assignments will continue from year to year and be presumed permanent. An offshore pier assignment / location, in accordance with the 1994 judgment, may be changed only for substantial change of circumstances making the prior assignment unreasonable under current facts and circumstances. An onshore pier assignment may be changed , in accordance with the 1994 Judgment, only upon the request in writing of the onshore owner, however, the request may be denied and then reasonableness decided based upon the current facts and circumstances;

k. Every owner that seeks a pier must show proof to the EFAC of adequate liability insurance in such reasonable amounts as determined by the EFAC;

l. The EFAC will establish a fair, timely appeal process for pier disputes that conforms with the January 21, 2014 Order part 7(g);

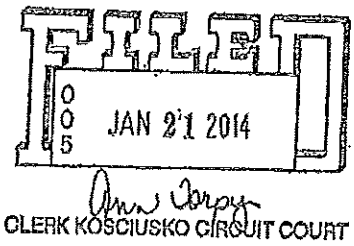
m. Offshore owners are required to access pier locations over rights of way;

n. No motor vehicles will be allowed on the Easement except as allowed by January 21, 2014 Order;

o. A presumption will exist of one off-shore pier per onshore lot;

IN THE KOSCIUSKO CIRCUIT COURT
121 NORTH LAKE STREET
WARSAW, INDIANA 46580

DOROTHY V. BARNES, et al, Plaintiffs, VS. NORTH INDIANA ANNUAL CONFERENCE OF THE UNITED METHODIST CHURCH, VS. NUMEROUS INTERVENING DEFENDANTS, Defendants.	))))))))))))))	CASE NO. 43C01-9109-CP-732



ORDER

Proceedings were held on the issues arising under the Court's Request to Review the "Pier Administration Policy" and the maps showing the assigned pier locations for 2014 on January 14 and January 15, 2014. Those in appearance were as follows: certain on-shore owners by Richard K. Helm; certain off-shore owners by Stephen R. Snyder and Randall L. Morgan; certain on-shore owners by James S. Butts; certain fee simple lakefront owners by Jason M. Kuchmay; North Indiana Annual Conference of the United Methodist Church by Edward A. Sullivan and Larry E. LaTarte; Richard D. Presser by Michael M. Yoder; William and Sue Kerley by Rachel Y. Osting; and Robert Turner, in person and pro se. Evidence was submitted and argument heard and the Court took the issues under advisement.

The Court having reviewed the evidence, the argument of those present, and being duly advised in the premises, now makes the following Findings and Order:

heard only if the party alleging the violation has complied with the issue submission procedure included in the Pier Administration Policy. The action or decision of the Conference will not be reversed unless such action or decision is arbitrary, unreasonable or capricious.

The Court **FURTHER FINDS** and **ORDERS** as follows:

1. That the duty to establish reasonable regulations imposed on the Conference in the Judgment included the duty to modify or change these regulations when appropriate, with the Conference always being mindful that stability and predictability are important considerations when considering any such changes.

2. The Conference utilized the regulations approved by this Court in the Order for quite some time until, due to changes of the circumstances in Epworth Forest over time, including the need to identify more acceptable on-shore pier spots and to alleviate over-crowding on some areas of the lakeshore, the Conference adopted new regulations known as the Epworth Forest Pier Administration Policy revised April 15, 2011, the Epworth Forest Pier Administration Policy Pier Violation Enforcement Policy approved February, 2010, and a map or list showing pier placements for 2014 developed pursuant to these policies, copies of which are attached hereto and made a part hereof as Exhibits "C", "D" and "E".

3. The Court's Judgment does not expressly require the regulations adopted by the Conference to be approved by the Court in order for the regulations, including the fees to be assessed, to be binding and effective; however, the Court approved prior regulations in its Order and has approved the new regulations as provided hereafter to resolve any possible issue in this regard.

4. The Court finds that the new regulations and placements submitted to the Court are reasonable, are not arbitrary nor capricious, and are based on valid considerations, including the need to fairly allocate the burden of the Court's Judgment in a rational fashion considering the rights and obligations of the residents of Epworth Forest as a whole, and which shall be approved by the Court as submitted, except as provided otherwise herein.

The Committee shall:

A. Administer the rules and regulations adopted by the Trustees of the Conference.
B. Record pier locations of lakefront property owners.
C. Determine and record available pier locations for non-lakefront property owners.
D. Arbitrate disputes related to pier administration.
E. Designate an individual or entity to be the contact in regard to pier administration matters.

RULES AND REGULATIONS

The Trustees of the Conference adopt the following rules and regulations for the administration of piers in Epworth Forest. These Rules and Regulations are not intended to be all encompassing and are in addition to any codes or laws enacted by government agencies. These rules apply to all property owners. Cooperation between all who own property within Epworth Forest is essential in fostering a sense of community in Epworth Forest.

1. PIER ASSIGNMENT ELIGIBILITY

   Lot owners located in Epworth Forest with a residence located on them, or that own a lot that is buildable as a residence by Kosciusko County building standards, are eligible to apply for a pier assignment.

2. ALLOWABLE WIDTH

   The maximum allowable width* for a shoreline pier space assigned to a lakefront property owner is 24 feet. Lakefront owners who own at least 24 feet or more of shoreline frontage shall be allotted a pier assignment up to 24 feet. Lakefront owners owning less than 24 feet of shoreline frontage shall be allotted a pier assignment up to the limited frontage owned (i.e. if 22 feet is owned the lakefront assignment shall be up to 22 feet wide.) If a lakefront owner owns less than 16 feet of shoreline, that lakefront owner shall be allotted at least 16 feet for their pier assignment. The maximum allowable width for a shoreline pier space assigned to a non-lakefront property owner is 16 feet. Piers shall be placed a safe and reasonable distance apart from each other with a minimum distance between pier assignments of two feet.

   *Width refers to space used by an assigned owner for pier sections, watercraft, or any other personal property that takes up space in the water or along the shoreline. Measurement is the total width taken from the far left item to the far right item (for example, pier, boat, jet ski, securing pole/auger, etc.).

3. LAKEFRONT PROPERTY OWNERS

   Lakefront property owners were given the right to select their shoreline pier placement first. This selection took place in the spring and summer of 1995. That lakefront property owner's shoreline pier placement shall be considered permanent unless the lakefront property owner agrees to a change in writing that has been approved by the Committee in writing. The lakefront owners shall allow the Conference and the non-lakefront owners to establish piers at reasonable intervals along the shoreline.

4. NON-LAKEFRONT PROPERTY OWNERS

   Non-lakefront property owners' shoreline pier locations are assigned by the Committee on a first-come, first-served basis. Once the shoreline locations are assigned and approved in writing by the Committee, the locations are intended to be permanent; however, non-compliance may cause the Committee to consider a change.

Epworth Forest Shoreline
Revised 6.17.13

5 FT OPEN SHORELINE
[illegible] 8106 East Wade Lane WOULD HELP IF SHIFT 2 FT TO THE RIGHT NEXT YR
3 FT OPEN SHORELINE
23 24 Curt Daggel 8103 East Wade Lane Owns 50 ft of shoreline NOT IN YET. NEW OWNER
4 FT OPEN SHORELINE
[illegible] 8130 East Wade Lane WOULD HELP IF SHIFT 2 FT TO THE LEFT NEXT YR
4 FT OPEN SHORELINE
24 24 Edie Sreerald 8113 East Wade Lane Owns 37 ft of shoreline
4 FT OPEN SHORELINE
[illegible] 8136 East Wesley Lane LISTS 25A ADVISE 2 FT SHIFT 2 FT RIGHT AS MARKED DEWEY [illegible]
3 FT OPEN SHORELINE
25 20 Paul & Lois Johnson 8123 East Wade Avenue Owns 20 ft of shoreline
17 FT OPEN SHORELINE
26 24 Edward & Suzanne Montovani 8139 East Wade Lane Owns 38 ft of shoreline
20 FT OPEN SHORELINE - SHORE CURVE (APPROX 10FT AT END OF PIERS)
27 24 Robert Myers 8149 East Wade Lane Owns 53 ft of shoreline
6 FT OPEN SHORELINE
28 24 Steve Kanney 8155 East Wade Lane Owns 50 ft of shoreline
9 FT OPEN SHORELINE
29 A 16 Alice & Todd Hardy 8170 East Wade Lane
6 FT OPEN SHORELINE
29 24 Norma Jean & Fred David 8165 East Wade Lane Owns 50 ft of shoreline
5 FT OPEN SHORELINE
30 B 16 James & Jennifer Crosley 8162 East Wesley Lane ADJUST DOWN 1 FT IF MOVES 1 FT TO OTHER SIDE
5 FT OPEN SHORELINE
30 24 William Kaster 8165 East Wade Lane Owns 50 ft of shoreline
10 FT OPEN SHORELINE
[illegible] 16 [illegible] EMERSON HERE IS LEGAL [illegible] SHIFT 2 FT [illegible]
7 FT OPEN SHORELINE
[illegible]
[illegible]
[illegible]
Emerson has put in illegally not allowing Hoscher their second pier.
5 FT OPEN SHORELINE
32 A 16 Ron & Mary Erb 8186 East Wade Lane
6 FT OPEN SHORELINE
32 24 Mr. John McKenna 8207 East Wade Lane Owns 29 ft of shoreline
3 FT OPEN SHORELINE
33 A 16 George & Patsy Scott 8267 East Wesley Lane
4 FT OPEN SHORELINE
[illegible] 16 [illegible] East Wade Lane Owns 50 ft of shoreline ADJUST DOWN 4 FT
10 FT OPEN SHORELINE
34 24 Suefis Johnson 8213 East Wade Lane Owns 50 ft of shoreline
4 FT OPEN SHORELINE
35 A 16 Gerry & Patricia Powell 8227 East Wesley Lane
4 FT OPEN SHORELINE
35 24 Mike Nelson / Mike Rogers 8235 East Wade Lane Owns 50 ft of shoreline
4 FT OPEN SHORELINE
[illegible]
4 FT OPEN SHORELINE
Rogers not allowing 35B - Physically removed his pier from the water.
36 A 24 Ref Schrader 8214 East Wade Lane Owns 50 ft ONLY USING 38 FT DUE TO 06 A LIFT
2 FT OPEN SHORELINE
36 A 16 Steve Dimpledge 8248 East Wade Lane MOVE 1 FT FROM [illegible] SHIFT 1 FT RT FOR SCHRADER
3 FT OPEN SHORELINE
37 24 Alan & Diana Kado 8251 East Wade Lane Owns 50 ft of shoreline
2 FT OPEN SHORELINE
37 A 16 Alan & Diana Kado 8251 East Wade Lane
2 FT OPEN SHORELINE
37 C 16 Alan & Diana Kado 8251 East Wade Lane
2 FT OPEN SHORELINE
38 24 Alan & Diana Kado 8251 East Wade Lane Owns 50 ft of shoreline
2 FT OPEN SHORELINE
39 B 16 Randy & Mary K. Johnson 8348 East Asbury Lane
2 FT OPEN SHORELINE
39 24 Mildred H. Gard 8271 East Wade Lane Owns 50 ft of shoreline
8 FT OPEN SHORELINE
40 B 16 Terry & Leo Schur 8290 East Wesley Lane MOVE 12 FT TO THE RIGHT (IN SOCKETS)
8 FT OPEN SHORELINE
40 24 Karen Noel 8283 East Wade Lane Owns 60 ft of shoreline
11 FT OPEN SHORELINE
[illegible] 24 Jackie Moorman 8199 East Wade Lane MOVE 99 FT [illegible] FROM PROPERTY LINE
[illegible] OPEN SHORELINE [illegible] NORMAN AND MOORMAN SWITCH SPACES
[illegible] 16 Henry & Catherine Norman 8282 East Wade Lane MOVE 39 FT RIGHT [illegible] ENTERED IN FIRE LANE
[illegible] OPEN SHORELINE [illegible] CUPP NEEDS TO COME OUT FIRST
Paid - Cupp purchased items (T. Schlegenhauf) and should be in 72A
43 A 16 Marc A. Lusby 8281 East Wesley Lane
2 FT OPEN SHORELINE
43 B 16 Jay & Denise Bryant 8306 East Wade Lane ADJUST DOWN 1 FT REMOVE OF RELOCATE JETS
3 FT OPEN SHORELINE
[illegible] 16 Bradley & Julie Belz 8309 East Wade Lane JETS KISSON RT ADJUST DOWN 1 FT
4 FT OPEN SHORELINE
[illegible] 16 Tom Ross 8319 East Wade Drive Owns 1 FT JETS KISSON RT ADJUST DOWN 5 FT
4 FT OPEN SHORELINE
[illegible] 16 Devon Cobb 8319 East Wade Lane Owns 5 FT ADJUST DOWN 1 FT
9 FT OPEN SHORELINE