

## BOYLE COUNTY FISCAL COURT

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**Harold W. McKinney**  
*County Judge/Executive*

### MAGISTRATES

First District  
*Mickey Harmon*

Second District  
*Donnie Coffman*

Third District  
*Phil Sammons*

Fourth District  
*W. Brent Woodrum*

Fifth District  
*John Davis*

Sixth District  
*John Hudson*

Kandi Adkinson  
T40 Capitol Annex  
702 Capitol Avenue  
Frankfort, KY 40601

March 2, 2010

Please find enclosed a certified copy of a judgment in case # 85-CI-00161 which case was filed in the Boyle Circuit Court.

I am requesting that you record this as the final adjudication of a portion of the boundary line between Boyle County and Lincoln County.

Thank you and let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Harold McKinney", is written over a circular stamp or seal.

Harold McKinney  
Boyle County Judge Executive

Cc: Bill Demrow, Lincoln County Judge Executive

RECEIVED AND FILED  
DATE March 2, 2010

TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY Kandi Adkinson

*McClure*

**ENTERED**

COMMONWEALTH OF KENTUCKY  
50TH JUDICIAL CIRCUIT  
BOYLE CIRCUIT COURT

SEP 30 1993

**CLERK, BOYLE CIRCUIT COURT**

CIVIL ACTION NO. 85-CI-00161

THE COUNTY OF BOYLE

VS.

FINAL JUDGMENT

THE COUNTY OF LINCOLN

\* \* \* \* \*

The above-styled matter came on for hearing on September 1, 1993, before the Honorable James S. Chenault, Special Judge of the Boyle Circuit Court; present were Hon. Paul Long, representing the County of Lincoln, and Hon. George McClure, representing the County of Boyle.

After some discussion of the relative merits of the parties, it was agreed by and between Counsel that the survey performed by Lindon Estes (R.L.S. 1880), Estes Engineering and Surveying, Inc., under date of February 28, 1993, would be adopted and confirmed as the official line between Lincoln and Boyle Counties; It was therefore: ORDERED, ADJUDGED AND DECREED that:

1. The attached survey prepared by Lindon Estes, R.L.S. 1880, is hereby adopted, confirmed, and ratified by the Court, as the official line between the two counties;
2. The same is ordered filed as part of this record in the Circuit Clerk's office in both Counties, and filed of record in the County Court Clerk's office in both Counties;
3. A certified copy of this Judgment is also to be filed in the Circuit Clerk's office of both Counties and in the County Clerk's office of both Counties;

A TRUE COPY  
ATTEST: Tony Wilder, Clerk  
BY: Gene A. Perry D.C.

4. Lindon Estes is directed to set appropriate "Markers" at each logical juncture, road crossing, or other definable landmark so that the line may be perceived and easily detectable by all concerned;
5. The PVA's of the respective Counties are also instructed and directed to work out in property assessments or conflicts which may arise as a result of this decision in the most appropriate, feasible, and uncomplicated manner.
6. Attached hereto and made a part hereof by reference is a metes and bounds description also prepared by Lindon Estes which is made a part of this Judgment, as if fully set forth verbatim herein;
7. Each County shall give newspaper advertising in conformity with KRS 424 advising the public of the changes in the County line;
8. Each County Fiscal Court shall be responsible for one-half (½) of all Costs attendant upon or arising out of this litigation;

This settles all issues raised in the lawsuit as presented, fully resolves all conflicts apparent or real, and is a final and appealable Judgment, this 22<sup>nd</sup> day of September, 1993, and there ~~is~~ *no just cause for delay in entry of same.*

*James S. Chenaull*  
 JAMES S. CHENAULT, SPECIAL JUDGE  
 BOYLE CIRCUIT COURT

HAVE SEEN & NOTICE  
 OF ENTRY WAIVED:

*George M. McClure, III*  
 George M. McClure, III  
 Boyle County Attorney

*Paul Long*  
 Paul Long  
 Lincoln County Attorney

STATE OF KENTUCKY  
 COUNTY OF BOYLE) SCT,  
 I, Joni H. Terry, CLERK OF THE BOYLE CIRCUIT COURT, do hereby certify that the foregoing is a true and correct copy of the Final Judgment entered of record in my said office.  
 IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said Court at Danville, Kentucky, on this the 1<sup>st</sup> day of March 2010.  
 Joni H. Terry, CLERK  
 BOYLE CIRCUIT COURT  
 By: *Joni H. Terry* D.C.

COMMONWEALTH OF KENTUCKY  
50TH JUDICIAL CIRCUIT  
BOYLE CIRCUIT COURT

CA # \_\_\_\_\_

THE SOVEREIGN COUNTY OF BOYLE  
acting by and through the  
BOYLE COUNTY FISCAL COURT

PETITIONER

VS

PETITION FOR DECLARATORY JUDGMENT -  
ESTABLISHMENT OF COUNTY LINE

THE SOVEREIGN COUNTY OF LINCOLN  
acting by and through the  
LINCOLN COUNTY FISCAL COURT

RESPONDENT

SERVE: Lincoln County Judge/Executive  
Hon. Earl Butcher, Courthouse  
Stanford, KY

\* \* \* \* \*

1. This Action is brought on behalf of one sovereign entity, the COUNTY OF BOYLE, against another sovereign entity, the COUNTY OF LINCOLN, to establish or re-establish the correct, legal, surveyed boundary line between the two adjoining Counties.

2. This Action is grounded in the Kentucky Declaratory Judgment Act found in K.R.S. Chapter 418 et seq.; venue is determined by K.R.S. 452.400 and the case of Richfield Coal Co. vs. Bennett, 310 Ky. 552, 221 SW 2d. 91 (1949).

3. Notice to the Attorney General of Kentucky is given at the time of commencement by delivery of these pleadings to his office in conformity with the statutes made and provided for.

4. A genuine controversy exists between the two sovereign entities over the exact location of the boundary line separating the two counties on the southern and southeastern border of Boyle County.

5. Boyle County was created by the Kentucky Legislature by enactments found in SHEPARDS KENTUCKY ACTS, Chapter 189, page 39,

(1841-1842), a photostatic copy of which is attached hereto and made a part hereof as Exhibit A.

6. Diligent research does not reveal that that enactment was ever changed or modified by the Legislature.

7. Pursuant to that legislative enactment, the newly formed government of Boyle County, acting by and thru its duly appointed "Constables" directed the Surveyor of Garrard County to draw and establish the Boyle County line, and his report with "calls" is contained in "County Court Order Book 1, at page 43". No actual map accompanies that description nor is one recorded in the Office of the Clerk of the Boyle County Court. The date of that entry is March 28, 1842. Said Order is attached hereto marked Exhibit B.

8. Over the ensuing 143 years various agencies, County Governments, State mapping agencies, Department of Highway officials, and others have attempted to establish the exact location of the line between the two counties and a more or less general agreement has been reached as to where it lies, particularly with reference to locations where State highways intersect said line. The "Official Map", prepared by the U.S. Department of the Interior Geological Survey in 1952, and photorevised in 1979, is attached hereto marked Exhibit E.

9. However, in late 1984 and early 1985, a small dispute arose in the Boyle District Court wherein a property owner contested the jurisdiction of the Boyle County Planning Commission and the Boyle District Court by asserting that certain property he owned was in fact in Lincoln County, not Boyle County. In order to meet that jurisdictional challenge, the Boyle

County Attorney secured the services of a Registered Licensed Surveyor, Joseph B. Curlis, Jr., R.L.S. # 2292, who took the old calls as contained in the aforesaid Order Book, and with sophisticated equipment, laid out the line as it appears to be on the document styled "County Line Survey", dated October 29, 1984. Juxtaposed on that survey is an "old County line" with the notation that: "The approximate county line was taken from the county and government maps available to the public." Said "County Line Survey" is attached hereto marked Exhibit D.

10. The new line appears on that survey running from a point in the vicinity of the intersection of U.S. Highway 127 and KY. Highway 300, and follows a course N 71 deg. 49 min. E 7,260 feet to a point; N 71 deg. 49 min. E 10,296 feet to a point; N 53 deg. 24 min. E 11,715 feet to a point on the Hanging Fork which intersects the Garrard County line.

11. Using that "new" line as a reference, there appears to be a considerable slice of real property which accrues to and is a part of Boyle County from the line's inception at the West to its intersection with KY Highway 150; and a triangle of property which would inure to and be a part of Lincoln County in the vicinity of Highway 150.

12. The establishment of this new and correct line would benefit the citizens of both Counties in the following particulars:

- (a) the new line where it intersects both Federal and State Highways would give clear indications to law enforcement officials as to where their respective jurisdictions begin and end;
- (b) the inclusion or exclusion of certain properties would give a clearer indication to Property Evaluation

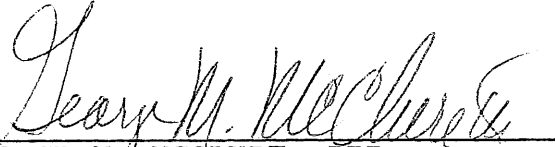
Administrators where their respective taxing authorities lie;

(c) the inclusion or exclusion of said properties would give clear import as to the jurisdiction of various governmental agencies and bodies such as Planning and Zoning, School Districts, Health Boards, Highway Maintenance, Water and Sewer Services, Police Services, Franchises and the like.

WHEREFORE, the Petitioner moves this Honorable Court to review the factual statements contained herein, the documents affixed hereto, and any Answer or disputation filed by the Respondent or any other interested party, and to enter Judgment decreeing and establishing the official boundary line between these two sovereign entities according to law.

RESPECTFULLY SUBMITTED

BOYLE COUNTY FISCAL COURT  
by



GEORGE M. MCCLURE, III  
JACK M. SMITH  
P.O. Box 214, Courthouse  
Danville, KY 40422  
606 + 236-3052

ATTORNEYS FOR PETITIONER

BOYLE CIRCUIT COURT

CA NO. \_\_\_\_\_

BOYLE COUNTY ET AL

PETITIONER

VS.

OFFER OF PROOF

LINCOLN COUNTY ET AL

RESPONDENT

\* \* \* \* \*

IN SUPPORT OF its position herein, Boyle County States:

(1) Because of size and difficulty of re-copying, EXHIBITS C & D, being surveys are not furnished with copies of the Petition, but are on file with the Boyle Circuit Court as part of the original complaint.

(2) If required Boyle County will call:

(a) John B. Nichols, Boyle County Court Clerk, to testify as to the authenticity of the original orders in Order Book 1 at page 43, records in the said Clerk's office;

(b) Joseph B. Curlis, RLS #2292, Danville, Ky who prepared the new survey referred to in paragraph 9 of Petition;

(c) Wesley Gilmer, State Law Librarian, concerning the authenticity and accuracy of the State Acts referred to in paragraph 5 of the Petition; and the reproduction of the U.S. Geological Survey referred to in paragraph 8 of the Petition;

(d) A representative from the U.S. Geographical Survey unit who prepared said survey;

(e) The respective Sheriffs of both counties to ascertain how they perceive the boundaries;

(f) The respective PVA's of both counties to ascertain how they apportioned disputed property;



(g) any other witness deemed material, relevant, and necessary as determined by the Court;

(3) Exhibit E is an explanatory letter written to Judge Darren W. Peckler in connection with the prosecution which originated this controversy.

RESPECTFULLY SUBMITTED

  
ATTORNEYS FOR THE PETITIONER

GEORGE M. MCCLURE III  
JACK M. SMITH  
P.O. Box 214, Courthouse  
Danville, KY 40422  
606 + 236-3052

LINCOLN - BOYLE LINE

A DESCRIPTION OF A PORTION OF THE LINCOLN - BOYLE COUNTY LINE, AS PER THE 1993 SURVEY, AS ORDERED BY JUDGE CHENAULT.

BEGINNING AT A HEWN LIMESTONE ROCK (FOUND) {TOP MARKED 1904, SIDE MARKED BOYLE L, SIDE MARKED C & L CORNER}, LOCATED NEAR DYE HOLLOW ROAD, SAID LIMESTONE ROCK HAVING THE STATE PLANE CO-ORDINATES OF Y=443,458.9658 X= 2,261,680.3989 (POINT NO. 2 ON 1993 SURVEY);

THENCE, N55°25'00"E, A DISTANCE OF 21,209.54 FEET TO A POINT (POINT NO. 108 ON 1993 SURVEY) AT WHICH "OLD SHELBY MEETING HOUSE" WAS CALLED FOR IN THE 1905 SURVEY, CROSSING PHILLIPS LANE, SOUTHERN RAILROAD, NEW US 127, OLD US 127, SAID POINT HAVING THE STATE PLANE CO-ORDINATES OF Y=454,050.6406 X=2,280,055.9487; PASSING A LIMESTONE SET STONE (FOUND) (TRIANGLE SHAPED) (POINT NO. 6 ON 1993 SURVEY) LOCATED ON THE NORTH WEST CREST OF A HIGH KNOB ON PROPERTY CURRENTLY (1993) OWNED BY MRS. EDNA BURTON (DB 105-452), SAID TRIANGLE SHAPED ROCK HAVING THE STATE PLANE CO-ORDINATES OF Y=448,341.0939 X=2,270,150.4474;

THENCE, N67°25'00"E, A DISTANCE OF 11,059.29 FEET TO A POINT (POINT NO. 116 ON 1993 SURVEY) (CROSSING AIRPORT ROAD AT 5922.36 FEET) AT THE INTERSECTION OF THE LINCOLN-BOYLE LINE WITH THE ENTRANCE TO THE OLD PETER DEPAW FARM (1905 SURVEY), SAID POINT INTERSECTION HAVING THE STATE PLANE CO-ORDINATES OF Y=457,460.6416 X=2,290,576.3949;

THENCE, AROUND THE OLD PETER DEPAW FARM (1905 SURVEY) CURRENTLY (1993) OWNED BY HUGH HELM (LC DB 164-162), MRS. WILLIE SHARP WHITE (BC DB 156-356), AND A PORTION OF THE HICKORY ESTATE LIMITED (BC DB 233-491) FOR THE FOLLOWING CALLS,

N41°44'53"W, A DISTANCE OF 292.10 FEET TO AN IRON PIN (SET);  
N64°32'10"W, A DISTANCE OF 1677.83 FEET TO AN IRON PIN (SET);  
S81°15'59"W, A DISTANCE OF 1154.57 FEET TO AN IRON PIN (SET);  
N01°37'41"E, A DISTANCE OF 1370.93 FEET TO AN IRON PIN (SET);  
S84°42'13"E, A DISTANCE OF 379.21 FEET TO AN IRON PIN (SET);  
N20°02'19"E, A DISTANCE OF 669.87 FEET TO AN IRON PIN (SET);  
N29°10'06"W, A DISTANCE OF 1014.88 FEET TO A PK NAIL & WASHER (SET);

N73°07'41"E, A DISTANCE OF 2739.00 FEET TO AN IRON PIN (SET);  
S87°22'19"E, A DISTANCE OF 573.53 FEET TO AN IRON PIN (SET);  
S13°26'58"W, A DISTANCE OF 1178.92 FEET TO AN IRON PIN (SET);  
S77°01'57"E, A DISTANCE OF 311.59 FEET TO AN IRON PIN (SET);  
S13°41'59"W, A DISTANCE OF 2921.89 FEET TO A POINT;  
S41°44'53"E, A DISTANCE OF 389.00 FEET TO A POINT;

THENCE, N67°25'00"E, A DISTANCE OF 7,064.18 FEET PASSING THROUGH THE KENLY CEMETERY AND CROSSING AIRPORT ROAD (KY 1273) AND US 150 TO A POINT (POINT NO 109 IN 1993 SURVEY) AT WHICH THE "FIVE MILE TREE" WAS CALLED FOR IN THE 1905 SURVEY SAID POINT HAVING THE STATE PLANE CO-ORDINATES OF Y=459,669.3240 X=2,297,390.5640;

THENCE, N47°44'06"E, A DISTANCE OF 10,023.42 FEET TO A POINT (POINT NO. 22 IN 1993 SURVEY) AT THE INTERSECTION OF THE LINCOLN BOYLE LINE WITH HANGING FORK CREEK AT SHEETS BRANCH, SAID POINT HAVING THE STATE PLANE CO-ORDINATES OF Y=465,790.7009 X=2,305,327.6719;

THE ABOVE BEARINGS ARE REFERRED TO THE 1842 SURVEY OF BOYLE  
COUNTY AND RETRACED WITH ALLOWANCE FOR DECLINATION IN 1905

THE ABOVE BEARINGS ARE REFERENCED TO GRID NORTH AS FOLLOWS:

POINT NO. 2 TO 108    N60°02'27"E, A DISTANCE OF 21,209.54 FEET;  
POINT NO. 108 TO 109    N72°02'27"E, A DISTANCE OF 18,222.47 FEET;  
POINT NO. 109 TO 22    N52°21'34"E, A DISTANCE OF 10,023.42 FEET.

OVERSIZE MAP INCLUDED WITH  
SUBMISSION.

To research the map, contact the  
Office of Secretary of State  
or the County Clerk.