



West Virginia E-Filing Notice

CC-02-2025-P-423

Judge: Steven Redding

To: Jefferson County Prosecuting Attorney
jeffersonprosecutor.efile@jcpawv.org

NOTICE OF FILING

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA

The County Commission of Jefferson County, West Virginia v. The County Commission of Berkeley
County, West Virginia
CC-02-2025-P-423

The following order - case - final was FILED on 10/31/2025 2:55:29 PM

Notice Date: 10/31/2025 2:55:29 PM

Michelle R. Schoppert
CLERK OF THE CIRCUIT COURT
Berkeley County
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MARTINSBURG, WV 25401

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**IN THE CIRCUIT COURT OF
BERKELEY COUNTY, WEST VIRGINIA**

**THE COUNTY COMMISSION OF
JEFFERSON COUNTY, WEST VIRGINIA**
Petitioner,

v.

Petition No 25-P-423

**THE COUNTY COMMISSION OF
BERKELEY COUNTY, WEST VIRGINIA**
Respondent.

**AGREED ORDER SETTING COUNTY BOUNDARY
UNDER WEST VIRGINIA CODE §7-2-1**

On this 24th day of October, 2025, came the County Commission of Jefferson County, West Virginia ("Petitioner") with the Respondent, the County Commission of Berkeley County, West Virginia ("Respondent") with an agreed Order to conclusively determine the boundary between the two counties pursuant to the authority granted this Court under West Virginia Code §7-2-1.

The Court finds the Pleadings, the exhibits attached thereto including the Joint Resolution of the County Commissions of the respective parties persuasive, and for Good Cause shown, the Court makes the following Finding of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Petitioner is a corporate body created pursuant to Chapter 7 of the West Virginia Code and Article IX of the Constitution of West Virginia with the authority to conduct the local affairs of Jefferson County.

2. The Respondent is a corporate body created pursuant to Chapter 7 of the West Virginia Code and Article IX of the Constitution of West Virginia with the authority to conduct the local affairs of Berkeley County.

3. The Parties share a common boundary line roughly along the western edge of Jefferson County and the Eastern edge of Berkeley County.

4. Due to conflicting locations of county boundary lines in plats prepared by licensed surveyors, several lots are now in dispute as to the location of the county boundary.

Background

5. Historically, the boundary was described by 19th century surveyors and placed upon a hand-drawn map copies of which are displayed in the Jefferson County Courthouse and other public buildings.

6. The 19th century surveyors used traditional landmarks and markers many of which are still known and easily identified, such as the middle of the Opequon Creek near the tavern at the Virginia line and the entry point of Rockymarsh Run into the Potomac River.

7. In the 1970s the legislature directed the State Geologist to create much more accurate official state and county maps. The State Geologist in conjunction with the United States Geological Survey created new official county maps. The State Geologist retains the official county boundary maps of the state.

8. In the 1990s and early 2000s the West Virginia Geographic Information Technical Center digitized the official county maps.

9. Plats submitted by licensed surveyors for both Quail Ridge and Chapel View had a county line that substantially deviated from the State Geologist's official county line.

10. There are no disputes to the ownership or boundaries of any lots or properties, only the county in which they sit.

11. Both the Berkeley County and Jefferson County Planning Commissions approved plats with the county lines that deviated from the official county line resulting in many lots (“disputed lots”) being treated as Jefferson County lots despite lying in Berkeley County on the State’s county boundary map.

12. Since these disputed lots were created, the lots have been treated as Jefferson County properties with taxes and fees paid to Jefferson County and Jefferson County Schools. Public Services have been provided by Jefferson County, other than water which is provided by the Berkeley County Public Service Water District. After the 2020 decennial voting district realignment the West Virginia Secretary of State brought to the attention of both counties that a precinct unlawfully crossed over a county line, and House of Delegates district line and that the Disputed Lots should be in a Berkeley County precinct.

13. Berkeley and Jefferson Counties corrected the precinct lines at the direction of the Secretary of State.

14. While most of the boundary line is undisputed and clearly defined, a significant portion has been unclear and/or disputed for some time. This unclear and/or disputed portion is roughly in the middle portion of the Boundary which is defined as a line between an imaginary point in “the middle of Opequon Creen near Wallingsford Tavern” and “Wynkoop Spring.” This portion is the only portion of the line that is in dispute and affected by this action.

15. The heart of the issue is a loss of one point identified on historic survey and description (the imaginary point in “the middle of Opequon Creen near Wallingsford Tavern”) and confusion about which pool of water is “Wynkoop Spring.” The unclear and/or disputed portion of the boundary line is approximately five miles in length.

16. Wallingsford Tavern was believed to be destroyed by fire long ago and a search for foundations in the general area of its historic location found nothing to help locate the spot where the tavern once stood. Thus, the precise location the imaginary point in the middle of the Creek “near Wallingsford Tavern” became mere guesswork.

17. As it stands, the residents of the Disputed Lots are Berkeley County voters, but treated in all other respects as Jefferson County residents effectively disenfranchising these voters and barring them from seeking public office in the county which they have always thought they lived in. It also could cause children of the residents to involuntarily change from current Jefferson County schools to Berkeley County schools.

18. To move from Jefferson County to Berkeley County all land records from the Disputed Lots, reassign addresses, public services, would be an administrative nightmare and unnecessarily create great hardship on residents through no fault of their own.

19. Upon information and belief, all homeowners of the Disputed Lots who relied in good faith upon the land surveyors and county land use officials when buying their homes in Jefferson County and wish to remain residents of Jefferson County.

20. Petitioner recognizes the good-faith reliance of the homeowners and seeks to resolve this dispute in a manner which maintains the status quo as to existing homeowners identified by exhibits attached hereto but clearly create a clearly marked and unambiguous county boundary upon which both county’s residents may rely upon going forward.

21. For all of the reasons stated above, the Jefferson County Commission contests the county line on the State Geologist’s map as to the disputed lots.

22. Based on the uncertainty of the end points of the disputed line, the challenges in producing a survey when end points are lost (or at least at serious dispute) and the great anticipated

expense and delay caused by requiring a survey, the Petition does NOT seek an Order requiring a survey be conducted. Rather the Petitioner seeks to adopt the agreed county boundary as described by GPS/GIS attached hereto (*see* Joint Resolution of The Berkeley County Commission and The Jefferson County Commission as Exhibit 1).

23. As demonstrated by the attached Joint Resolution signed by each governing body, the parties wish to formalize the past practice of their respective land use authorities and establish a county line based upon the agreed GIS map attached hereto (*see* Exhibit 1).

24. To accomplish the goals of the Joint Resolution, the counsel of each body have signed this proposed Agreed Order detailing the agreement and the proposed boundary line.

25. Thus, the proposed agreed boundary, once accepted by this Court by Order, will become the boundary for all purposes, satisfying the concerns of the Secretary of State and returning the homeowners in the small area fully as lawful voters and property owners of Jefferson County without dispute. To avoid further doubt, Wallingsford Tavern and Wynkoop Spring would expressly no longer define the official border. The border shall hereinafter be the agreed GPS coordinates.

26. The President of each body has signed the Joint Resolution detailing the agreement and the proposed boundary line attached to the Petition as Exhibit 1.

II. CONCLUSIONS OF LAW

Legal Standard and Authority

27. The Legislature enacted a specific provision of the West Virginia Code which gives a Petitioner a cause of action before a Circuit Court in either County in which a county boundary

line issue may arise. This Court has the authority to decide the lawful boundary between the Counties. W.V. Code §7-2-1 provides the remedy and jurisdiction as follows:

“Whenever a doubt shall exist, or a dispute arise as to the boundary line between any two counties in this State, the county court of either of such counties may file its suit in equity against the county court of the other county involved, in the circuit court of either county, which is hereby given jurisdiction to hear and determine the matter in such suit. The case shall be proceeded in as other equity cases, and the court may order a survey made under its decree, and shall ascertain and determine the true boundary line, and enter its decree accordingly, and shall direct a certified copy thereof to be recorded in the county clerk’s office of each county involved, and said line to be permanently designated by proper markers. The action of the circuit court shall be subject to review by the supreme court of appeals, as in other cases.”

28. West Virginia Code §7-2-6 provides that a county boundary established by an Order of the Court shall become the official county boundary both locally and at the State-GIS level.

“All county boundary lines which are or may be established . . . pursuant to section one [7-2-1] of this article shall constitute an official change in such boundary line or lines and the director and state geologist of the West Virginia geological and economic survey shall promptly locate, plat and delineate such change upon the applicable map or maps and certify and file such change as aforesaid.”

29. As demonstrated by the attached Joint Resolution, the parties wish to formalize the past practice of their respective land-use authorities and establish a county line based upon the attached map. Respondent, Berkeley County Commission does not oppose a judicial determination as the county boundary line, and has offered the proposed boundary line which conclusively places all of the Disputed Lots in Jefferson County (*see* attached Exhibit 1).

WHEREFORE, based upon the foregoing and for Good Cause it is hereby ORDERED:

The proposed agreed boundary is accepted by this Court, Pursuant to West Virginia Code §7-2-1 is now and shall be going forward the official county boundary for all lawful purposes.

a. The new boundary established herein shall be the official county boundary line and the former boundary defined as a line between imaginary point in “the middle of the Opequon Creek near Wallingsford Tavern”) and “Wynkoop Spring” is no longer the boundary and the end points are no longer to in any way define or delineate the county boundary henceforth.

b. The Parties will jointly bear the expense and oversee of a licensed surveyor’s installation of permanent boundary markers based upon the agreed GPS coordinate of the established county boundary line. Based on the attached exhibits, the proposed resolution would require a minimum of 6 points to define the agreed boundary line.

c. The County Clerks of Berkeley and Jefferson Counties shall produce official county maps which include the boundary established hereby and modify as needed all concomitant districts, precincts and other county political designations appurtenant thereto in accordance with the county boundary established here and record them same in the Order Books and Land Records of their Respective Counties.

d. The County Clerks of Berkeley and Jefferson Counties shall record in the Order Books and land records of their respective counties an official copy of the updated county map with the boundary established hereby. Further, said officials shall send a copy of the entered Agreed Order by certified mail to the homeowners of the disputed lots whose status as Jefferson County residents and voters been clarified.

e. The County Clerks of Berkeley and Jefferson Counties shall send official copies of all updated maps required above to appropriate State officials who rely on such maps to update their records accordingly.

f. The Circuit Clerk of Berkeley County shall send certified copies of this Order and exhibits attached hereto to the County Clerks of Berkeley and Jefferson Counties and to the West Virginia State Geologist who shall incorporate the new official boundary into State record as required by West Virginia Code §7-2-6.

g. The Circuit Clerk of Berkeley County shall upon completion of the above strike this matter from the active docket of the Court and place it among the closed matters.

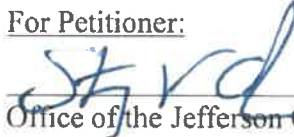
ENTERED: _____

10/31/25


Judge of the Circuit Court
of Berkeley County

SEEN AND AGREED TO PURSUANT TO THE JOINT RESOLUTION SIGNED BY THE PRESIDENT OF THE BERKELEY COUNTY COMMISSION AND THE PRESIDENT OF THE JEFFERSON COUNTY COMMISSION AS AGREED TO BY MAJORITY VOTE AT A DULY CALLED MEETING OF EACH RESPECTIVE COUNTY:

For Petitioner:


Office of the Jefferson County
Prosecuting Attorney
Stephen Groh, Prosecuting Attorney
West Virginia State Bar Number 6831
Post Office Box 729
Charles Town, West Virginia 25414
304-728-3346 Telephone
304-728-3353 Facsimile

For Respondent:

//s//Anthony J. Delligatti
Berkeley County Commission
Anthony J. Delligatti, Legal Director
West Virginia State Bar Number 12345
400 W. Stephen Street #201
Martinsburg, West Virginia 25414
304-264-1923 Ext: 8 Telephone
304-267-5049 Facsimile

***Joint Resolution
of
The Berkeley County Commission
and
The Jefferson County Commission***

WHEREAS, the Berkeley County Commission and the Jefferson County Commission (“Parties”) recognize they share a common boundary line roughly along the western edge of Jefferson County and the Eastern edge of Berkeley County, and

WHEREAS, historically, the boundary was described by 19th century surveyors and placed upon a hand-drawn map, copies of which are displayed in the Jefferson County Courthouse and other public buildings, and

WHEREAS, the 19th century surveyors used traditional landmarks and markers to describe the county boundary, many of which are still known and easily identified, such as the middle of the Opequon Creek at the Virginia line and the entry point of Rockymarsh Run into the Potomac River, and

WHEREAS, a significant portion roughly in the middle of the common boundary is defined “as a line between imaginary point in “the middle of the Opequon Creek near Wallingsford Tavern” and “Wynkoop Spring,” and

WHEREAS, Wallingsford Tavern was destroyed by fire long ago and precise historical position is subject to dispute. Similarly, the precise location of the spring has been disputed, and

WHEREAS, in the mid-2000s two residential subdivisions were developed along the Berkeley and Jefferson County line called Chapel View and Quail Ridge. The plats prepared by licensed surveyors for both subdivisions showed the lot locations in Jefferson County, and

WHEREAS, in the 1970s the legislature directed the State Geologist to create official state and county maps and the State Geologist retains the official county boundary maps of the state, and

WHEREAS, the Quail Ridge and Chapel View plats showed a county line based upon the surveyors judgment as to the county line which when later examined substantially deviated from the State Geologist’s official county line, and

WHEREAS, both the Berkeley County and Jefferson County Planning Commissions approved plats with the county lines that deviated from the State Geologist’s official county line resulting in many lots being treated as Jefferson County lots despite lying in Berkeley County on the State’s county boundary map, and

WHEREAS, since these disputed lots were created, the lots at issue have been treated, in all respects, as part of Jefferson County, and

WHEREAS, residents of the lots relied upon the recorded plats showing they resided in Jefferson County, and

WHEREAS, the West Virginia Secretary of State, in reliance on the State Geologist's map, recently caused the voting location of the disputed lots to be changed to Berkeley County, and

WHEREAS, as it stands, these residents are Berkeley County voters, but treated in all other respects as Jefferson County residents effectively disenfranchising these voters and barring them from seeking public office in the county in which they have always thought they lived, and

WHEREAS, the Parties recognize the good-faith reliance of the homeowners and seek to resolve this dispute in a manner which maintains the status quo as to existing homeowners and also clearly established an unambiguous county boundary upon which each county may rely going forward, and

WHEREAS, the Parties have agreed on a series of points clearly defined by GPS coordinates to define the portion of the county boundary and do not employ the historical but disputed location of Wallingsford Tavern or Wynkoop Spring. The new boundary points are described in Exhibit A attached hereto and incorporated fully herein by reference.

THEREFORE, by properly noticed public meeting, the Parties have agreed to establish a new county line to resolve the disputed lots and, to accomplish this agreement, will jointly seek a determinations from the Circuit Court to Order such change to the official county line pursuant to its authority under West Virginia Code §7-2-1.

The Parties further agree to jointly share the cost of installing permanent markers memorializing the new permanent county boundary as shown in the agreed Exhibit.


The County Clerk of each Party is directed to place the seal below the signature of their President and records a certified copy of this Resolution into the County Order Book forthwith.

BE IT SO RESOLVED:

The Berkeley County Commission, on the 25th day of September, 2025 by

 (seal)
G. Edgar Gochenour, President

The Jefferson County Commission, on the 2nd day of October, 2025 by

 (seal)
Pasha Majdi, President

AGREED COUNTY BOUNDARY LINE MARKER LOCATIONS

Projection:

NAD_1983_2011_StatePlane_West_Virginia_North_FIPS_4701_FtUS
WKID: 6601 Authority: EPSG

Projection: Lambert_Conformal_Conic
False_Easting: 1968500.0
False_Northing: 0.0
Central_Meridian: -79.5
Standard_Parallel_1: 39.0
Standard_Parallel_2: 40.25
Latitude_Of_Origin: 38.5
Linear Unit: Foot_US (0.3048006096012192)

Geographic Coordinate System: GCS_NAD_1983_2011
Angular Unit: Degree (0.0174532925199433)
Prime Meridian: Greenwich (0.0)

Coordinates:

Order	X	Y	Location
1	-77.93092	39.38127	Opequon Creek
2	-77.92992	39.38218	Short Rd
3	-77.92637	39.3847	
4	-77.92665	39.38485	
5	-77.92396	39.38706	Amber Ridge Pl
6	-77.92313	39.38774	
7	-77.92317	39.38775	
8	-77.92303	39.38818	Cumulus Dr
9	-77.9219	39.38885	Cirrus Way
10	-77.92134	39.38918	
11	-77.92149	39.38926	
12	-77.91809	39.39165	
13	-77.91814	39.39194	
14	-77.91733	39.39222	Stratus Dr
15	-77.91546	39.39334	Febrey Rd
16	-77.91383	39.39448	Coast Guard Rd
17	-77.9074	39.3995	Charles Town Rd
18	-77.90118	39.40438	Hospice
19	-77.8928	39.41092	Railroad
20	-77.88522	39.41682	Golf Course Rd
21	-77.87961	39.42117	
22	-77.87289	39.42623	
23	-77.86604	39.43154	
24	-77.86391	39.4336	Persimmon Ln
25	-77.86053	39.43602	Winebrenner Rd
26	-77.85945	39.43683	Rocky Marsh Run

Exhibit

A

Addresses "moved" to Jefferson County:

- 85 Short Rd
- 302 Rusting Leaf Pl
- 309 Rusting Leaf Pl
- 92 Inspiration Dr
- 99 Inspiration Dr
- 21 Amber Ridge Pl
- 36 Amber Ridge Pl
- 115 Glory Ridge Pl
- 121 Glory Ridge Pl
- 23 Cumulus Dr
- 45 Cumulus Dr
- 63 Cumulus Dr
- 21 Cirrus Way
- 385 Stratus Dr
- 400 Stratus Dr

Photos show altered line and structures "moved" to Jefferson County. The rest of the line delineated above general follow the current Berkeley County line.





