

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Citizens Against Clear Cutting, et al.)	
)	
Complainants,)	
)	
v.)	Case No. 17-2344-EL-CSS
)	
Duke Energy Ohio, Inc.,)	
)	
Respondent)	

**DIRECT TESTIMONY OF JIM HAID
ON BEHALF OF
COMPLAINANTS**

October 26, 2018

1 **Q. Please state your name and address.**

2 A. My name is Jim Haid. I live in Symmes Township. Specifically, I reside at
3 11994 Paulmeadows Drive, Cincinnati, Ohio 45249.

4 **Q. Please describe your educational background.**

5 A. I have a Bachelor's degree in business from Bucknell University and a Master's
6 degree in business from the University of Connecticut.

7 **Q. Are you currently employed?**

8 A. Yes. I own a small business called The Goddard School. Previously, I spent 25
9 years working in the corporate world.

10 **Q. When did you purchase your home?**

11 A. My wife, Laura, and I purchased the property in 2008.

12 **Q. When you purchased your home, were you aware that Duke Energy Ohio,**
13 **Inc.'s (Duke) transmission lines were located near the property?**

14
15 A. Yes. At the time, however, I was not aware that Duke had an easement on the
16 property. I now know that Duke does have an easement on our property, which is
17 attached to my testimony as Attachment A.

18 **Q. When you purchased your home, were you aware that Duke would need to**
19 **perform vegetation management on your trees as a result of the presence of**
20 **the transmission lines?**

21
22 A. Although I was not aware of Duke's specific easement at the time, I generally
23 understood that Duke would need to conduct trimming and pruning on our
24 property in order to ensure that trees or other vegetation would not come into
25 contact with the transmission lines.

26

27

1 **Q. Did you have any reason to expect that Duke would need to completely**
2 **remove trees or other vegetation on your property when conducting its**
3 **vegetation management?**

4
5 A. No, of course not. The trees are mature on our property and in our neighborhood
6
7 so I had no reason to believe that Duke would begin removing or clear cutting
8 along its transmission lines instead of trimming and pruning. Over the years, I
9 have seen Duke trim other trees in the neighborhood every few years. On our
10 property, Duke has not even done any trimming of trees or other vegetation for
11 the 10 years that we have owned the property.

12 **Q. Since you have resided at the property, have trees or other vegetation on**
13 **your property come into direct contact with the transmission wires near your**
14 **property?**

15 A. Not that I know of.

16 **Q. To your knowledge, has Duke's previous vegetation management on or near**
17 **your property effectively prevented trees and other vegetation from causing**
18 **outages or otherwise impacting electric service?**

19
20 A. As I mentioned before, Duke has not conducted vegetation management on our
21 property in the past ten years, but to my knowledge, no trees on our property have
22 ever contacted a transmission wire directly and caused an outage or impacted
23 electric service in any way.

24 **Q. Are you aware of any outages that have occurred or other concerns with the**
25 **provision of electric service as a result of the trees and other vegetation on**
26 **your property?**

27
28 A. No. Since we have owned our property, I am not aware of any outages or other
29 concerns being raised by Duke or anyone else regarding trees or other vegetation
30 on our property affecting the safety and reliability of Duke's electric system.
31 Given that Duke has trimmed our neighbors' trees several times since we have

1 owned the property, but has not trimmed our trees even once, I believe it is fair to
2 assume that Duke was not concerned with the trees on our property causing
3 problems with its electric system.

4 **Q. How did you become involved in this case?**

5
6 A. During the summer of 2017, I received a door hanger from Duke. This door
7 hanger is attached to my testimony as Attachment B. Included with that door
8 hanger were documents stating Duke's purported policies for vegetation
9 management. I contacted Duke to discuss.

10 **Q. Were you able to speak with anyone from Duke about the documents that**
11 **you received?**

12
13 A. Yes, Steve Holton came to our property to discuss my concerns with me.

14 **Q. What did you learn from your meeting with Mr. Holton?**

15 A. He explained to me that it was Duke's intention to raze all the trees and bushes in
16 a 100-foot path along their easement. He also said that they would be applying
17 herbicides to make sure that nothing grew back. Throughout this conversation, he
18 displayed an overly arrogant attitude. I was shocked that Duke would so
19 aggressively try to bully their customers. He became incredibly difficult to deal
20 with, so I asked him who were the decision-makers on the implementation of
21 these new policies and practices, so that I could contact them to discuss.

22 **Q. How did Mr. Holton respond?**

23 A. He told me that he was the decision-maker.

24

25

1 **Q. What trees on your property would be impacted if Duke is able to implement**
2 **its plan as it was explained to you by Mr. Holton?**

3
4 A. I prepared a diagram of our property showing the three affected trees. That
5 diagram is attached to my testimony as Attachment C. The diagram shows our
6 three trees—one ash tree, one plum tree, and one shorter pear tree. I estimate that
7 the two trees in the “wire zone” are 20 feet tall or less. Even though they have not
8 caused any issues in the past, I would be willing to have them trimmed if doing so
9 was necessary to maintain an appropriate clearance from the transmission lines.
10 The third tree is taller, but is barely within the easement at all, so I believe that it
11 poses no threat of contacting the wires, even if it were to fall. The Ash tree is the
12 tallest, and is barely within the easement. The pear tree is helping to contain
13 erosion on the lake’s edge. I have attached photographs of these trees to my
14 testimony as Attachment D.

15 **Q. To your knowledge, did Steve Holton or any other Duke employee or**
16 **representative conduct an analysis or assessment on your property to**
17 **determine whether your trees currently come into direct contact with the**
18 **transmission lines or are anticipated to come in contact with the transmission**
19 **lines within the next six years?**

20
21 A. No, not that I am aware. To my knowledge, there was no assessment done as to
22 what the clearance was between each tree or bush and the transmission lines.
23 Steve Holton stated that Duke’s policies had changed and that Duke was clear
24 cutting all vegetation within Duke’s 100-foot easement. Additionally, it is my
25 understanding that Duke responded to discovery, stating that it has not conducted
26 individual assessments on the Complainants’ properties.

27

1 **Q. To your knowledge, did Steve Holton or any other Duke employee or**
2 **representative conduct an analysis or assessment on your property to**
3 **determine whether the removal of your trees and other vegetation is**
4 **necessary for the safe and reliable provision of electric service?**
5

6 A. No. Again, Steve Holton stated that Duke's policies had changed and that Duke
7 was clear cutting all vegetation within Duke's 100-foot easement. Therefore, I do
8 not believe that there was any assessment or analysis completed to determine
9 whether the removal of vegetation on our property was actually necessary to
10 provide safe and reliable electric service. Additionally, it is my understanding
11 that Duke responded to discovery, stating that it has not conducted individual
12 assessments on the Complainants' properties.

13 **Q. Did you file a complaint against Duke?**
14

15 A. Yes, I filed an individual complaint against Duke on October 23, 2017. I have
16 since joined the Citizens Against Clear Cutting (CACC) customer group. I am a
17 named Complainant who filed and participated in the Second Amended
18 Complaint against Duke, which included allegations regarding the unjust and
19 unreasonable vegetation management practices and policies of Duke; the unjust,
20 unreasonable, and unlawful implementation of Duke's vegetation management
21 practices, policies, and plan, which includes the clear cutting of trees and
22 vegetation on customers' properties and the use of dangerous herbicides to
23 remove or destroy trees and vegetation; the adequacy and lawfulness of Duke's
24 vegetation management plan; and defects in how Duke's vegetation management
25 plan was modified, including deceptive and misleading statements and filings by
26 Duke.

1 **Q.** If it were determined that Duke needed to maintain a certain amount of
2 clearance between trees and other vegetation and the transmission wires,
3 would you object to Duke or its contractors trimming your trees and/or other
4 vegetation to attain the clearance determined to be necessary to ensure safe
5 and reliable transmission of electric power?
6

7 **A.** No. I would not object. A practice of trimming trees and vegetation to attain an
8 appropriate clearance would be a reasonable practice. I believe that this was
9 Duke's practice prior to 2017. What I oppose, however, is Duke's choice to
10 pursue these unreasonable, draconian measures of clear-cutting and the use of
11 herbicides to remove vegetation as part of their vegetation management plan.

12 **Q.** Does this conclude your testimony?

13 **A.** Yes.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing testimony was served on October 26, 2018 by electronic mail upon the parties listed below.


Brian W. Dressel

Rocco O. D'Ascenzo (0077651)
Deputy General Counsel
Elizabeth H. Watts (0031092)
Associate General Counsel
DUKE ENERGY OHIO, INC.
139 East Fourth Street
1303-Main
P.O. Box 960
Cincinnati, Ohio 45202
Telephone: (513) 287-4320
Rocco.D'Ascenzo@duke-energy.com
Elizabeth.Watts@duke-energy.com

Robert A. McMahon (0064319)
Eberly McMahon Copetas LLC
2321 Kemper Lane, Suite 100
Cincinnati, Ohio 45206
Telephone: (513) 533-3441
Fax: (513) 533-3554
bcmahon@emclawyers.com

Counsel for Duke Energy Ohio, Inc.

Terry L. Etter
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215
Telephone: (614) 466-7964
terry.etter@occ.ohio.gov

Counsel for the Office of the Ohio Consumers' Counsel

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GRANT OF EASEMENT

DEC-14-50

95449

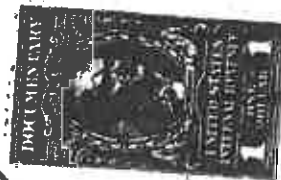
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FOR AND IN CONSIDERATION OF One Dollar and other good and valuable considerations, the receipt whereof is hereby acknowledged, hereby grant unto The Cincinnati Gas & Electric Company, its successors and assigns, a right of way and easement one hundred (100) feet in width, to construct, erect, operate, maintain, repair, replace and remove towers and all necessary and incidental wires, cables, anchors, grounding systems, counterpoises, fixtures and equipment for the transmission and distribution of electrical energy, ~~and also for the transmission of gas, in, on, over, through~~ and across the following described real estate situate in Section 31, T. 4, E. R. 2, Symmes Township, Hamilton County, State of Ohio and being a tract of 45.11 acres, more or less, being Lot 1 of Samuel Arbuckle's Estate and being the same property conveyed to the grantor by deed dated April 27, 1899 and recorded in Deed Book 832, page 191, Hamilton County Recorder's Office.

The center line of the said 100 foot right of way and easement is described as follows:

Beginning at a point in the southeast corner of the above described property; thence in a westerly direction along the south boundary line of said property 203.0 feet to a point and the real place of beginning of the easement herein conveyed; thence from said real place of beginning in a northerly direction turning an angle of 90 degrees 36 minutes to the right 479.25 feet to a point; thence continuing in a northerly direction turning an angle of 3 degrees 17 minutes to the right 705.49 feet to a point; thence continuing in a northerly direction turning an angle of 2 degrees 6 minutes to the left 195.10 feet to a point in the center line of Fields-Ertel Road said point being 155.7 feet west of the northeast corner of said property measured along the center line of Fields-Ertel Road.



together with the right to cut, trim or remove any trees, overhanging branches or other obstructions both within and without the limits of the above described right of way and easement which in the opinion of the grantor's engineers may endanger the safety of or interfere with the construction, operation or maintenance of said system, the right to pile dirt, material and equipment on the surface during periods of construction and maintenance, and the right of ingress and egress over the above described property for the purpose of exercising the rights herein granted.

Said Company, its successors and assigns, shall pay all damages to growing crops, buildings and fences, caused by its employees, agents, licensees, teams or trucks in exercising the rights herein granted.

No buildings or other structures shall be erected within the limits of the above described right of way and easement by the grantor, his heirs or assigns. Grantor, his heirs or assigns, shall have the right to cultivate the land within the limits of said right of way and easement in any manner not inconsistent with the rights herein conveyed to the grantee.

If the rights herein granted are not used, at least in part, within twenty-five years from the date of this instrument the same shall become void and shall revert to the then owners of the above described property.

Grantor, by this instrument, gives full power to convey said right of way and easement and warrant and will defend the same against all claims of all persons.

WITNESS my hand this 12 day of October, 1950

Signed and acknowledged in the presence of:

Charles J. Gallace
Harry Kasfir

Ella M. Rempler

Notarially appeared before me, a Notary Public in and for said County,

do acknowledged the signing of the foregoing instrument to be her voluntary act and deed for the uses and purposes therein set forth. IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal this 12th day of October, 1950.

DEED 141350
RECORDED: DEC 14 1950
My Com. Exp. Oct. 4, 1953
Hamilton County, Ohio
Harry Kasfir
My Com. Exp. Oct. 4, 1953

☐ Distribution ☒ Transmission

Dear Customer and/or Property Owner:

At Duke Energy, we're committed to the proper maintenance of trees and vegetation to help provide safe and reliable electricity for you and your neighbors. We were here today to notify you of the following:

- ☒ See information letter enclosed.
- ☐ A Duke Energy contract tree crew will soon be performing power line vegetation management in your area.
- ☐ To prevent an electrical outage or hazardous situation, trees in the right of way on your property need to be pruned or taken down. Duke Energy will perform this work at no cost to you.
- ☐ The trees that you reported were inspected. Since no immediate danger is present, this work will be performed during our regularly scheduled vegetation management. Duke Energy will perform this work at no cost to you.
- ☐ Duke Energy does not need to perform the work you requested because the trees do not cause safety or reliability concerns.
- ☐ Hazard tree(s) marked with paint or ribbon should be taken down. Should any of these tree(s) fall and come in contact with the power line, a safety hazard could be created or your electric service interrupted.
- ☐ Duke Energy has performed emergency outage restoration work caused by an act of nature. This work required trees to be trimmed or cut down. Duke Energy is not responsible for cleanup of wood and debris when this occurs.
- ☐ Duke Energy has identified vegetation that needs to be controlled by herbicide. Duke Energy's contract crews will be in the area in the near future applying approved herbicides.
- ☐ To ensure safe and reliable electric and gas service for you and your neighbors, a Duke Energy contract mowing crew will soon be mowing right-of-way corridors in your area.
- ☐ Other: _____

Thank you.

If you have specific questions, your primary contact is the person identified on the attached business card. For additional questions please call Duke Energy Vegetation Management at 866.385.3675. For information about our Integrated Vegetation Management program please visit us online at duke-energy.com/safety/right-of-way-management.asp.

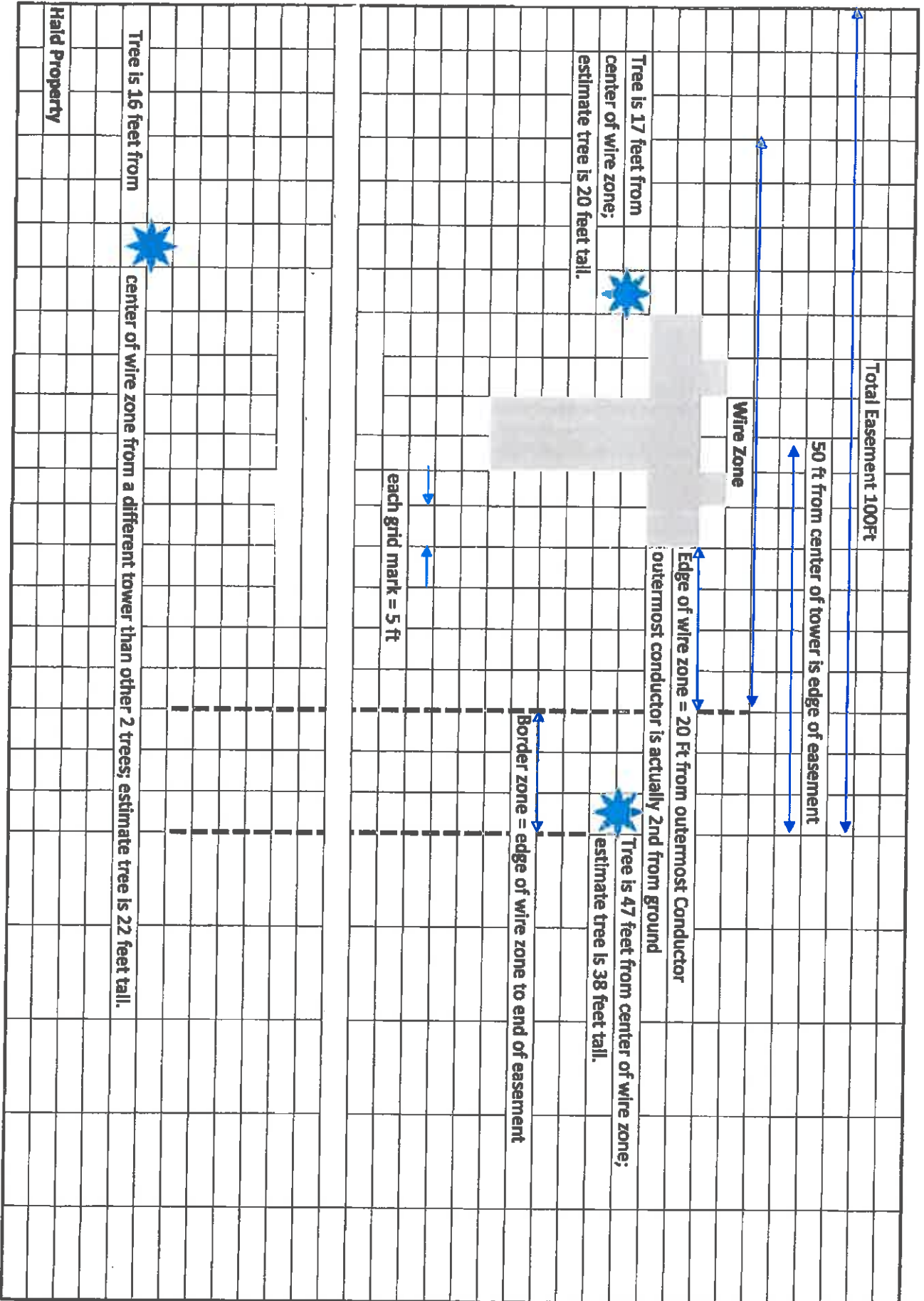
Job number: 3881- Haid 11994 Paul Meadows Dr.

Date: _____

Time: _____

Steven Holton, CSSBB
Transmission Forester
(513)802-4524
Steven.Holton@Duke-Energy.co





Haid Backyard
11994 Paulmeadows
Drive

Red Arrow = Small
Pear tree to be cut
down by Duke. This
tree is on the bank of
an inlet to a lake and
helping to prevent
erosion.

Green Arrow =
Eroding spot in yard
above culvert pipe
leading into lake
(separate area from
sink hole in previous
photo).



Haid Backyard
11994 Paulmeadows
Drive

Red Arrow = Small
Plum Tree to be cut
down by Duke.

Green Arrow = Sink
hole discovered in
summer of 2017.
Deteriorated tree
roots found in sink
hole.



Haid Backyard
11994 Paulmeadows
Drive

Red Arrow = Ash
tree to be cut down
by Duke. We have
been treating this
tree since 2012 to
keep it from getting
Ash Borer disease.

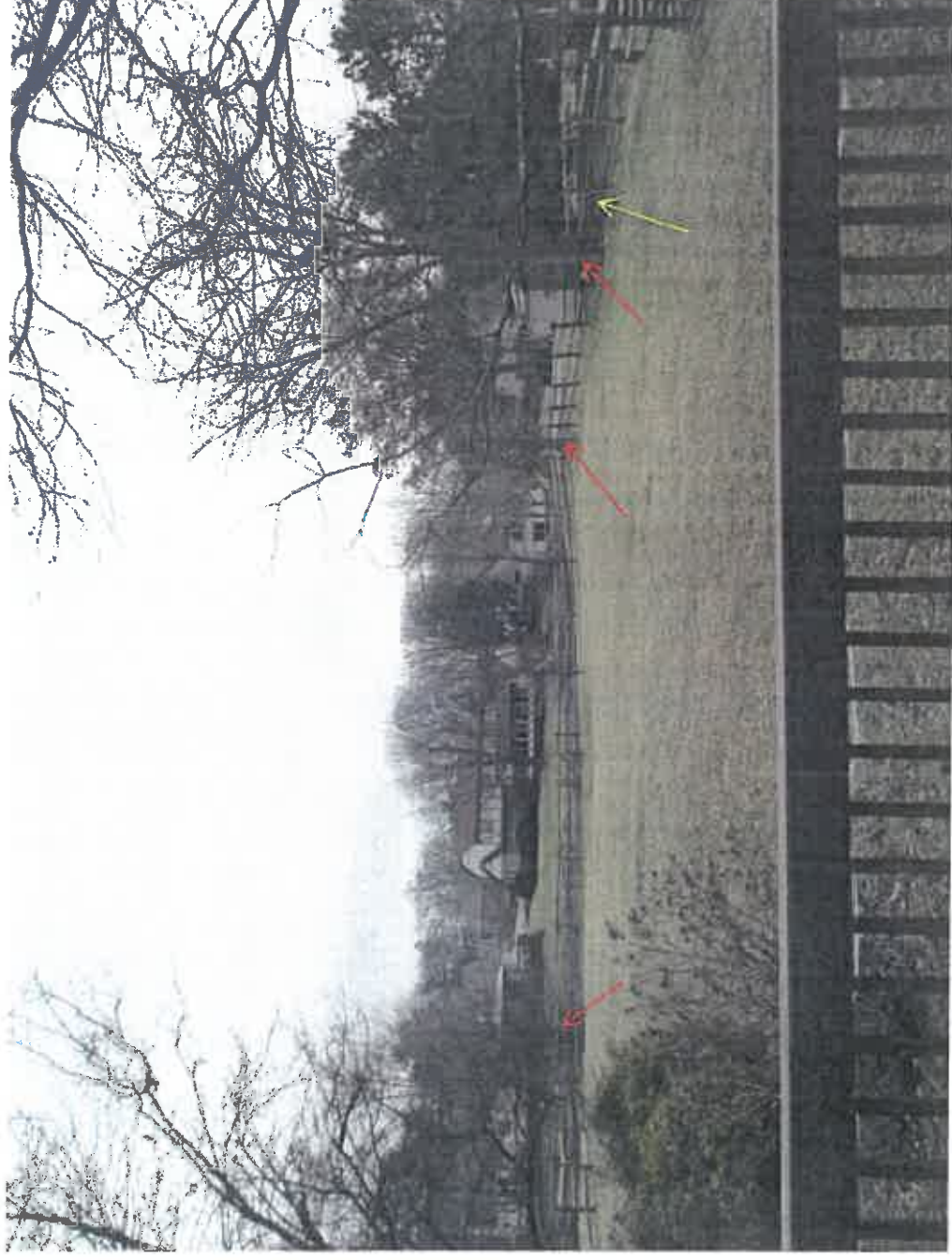
Yellow arrow =
Duke's marker



Haid Backyard
11994 Paulmeadows
Drive

Red Arrows = Three
trees to be cut down
according to Duke.

Yellow Arrow =
Duke's marker



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in

Case No(s). 17-2344-EL-CSS

Summary: Testimony Direct Testimony Of Jim Haid On Behalf Of Complainants electronically filed by Mrs. Kimberly W. Bojko on behalf of Complainants