

CA 365-00 Forrest, Sonny  
VAR 2655

MSA-S-1829-96Z

Scutter  
7/26/00

Judge John C. North, II  
Chairman



Ren Serey  
Executive Director

**STATE OF MARYLAND**  
**CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401  
(410) 260-3460 Fax: (410) 974-5338

July 26, 2000

Ms. Roxana Whitt  
Calvert County Planning & Zoning  
150 Main Street  
Prince Frederick, MD 20678

RE: Variance Case No. 00-2655, Mr. & Mrs. Louis Forrest, Jr.

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance from the 100-foot Buffer requirements to construct a deck on a residence currently under construction. The property is designated LDA.

This office reviewed previous subdivision and variance applications on this property. In 1998, the parcel was subdivided into two lots and both had existing dwellings on them. Also in 1998, a variance was requested (Case No. 98-2471) for the construction of a new dwelling on Lot 1 (to replace an existing mobile home). On the site plan for the subdivision as well as the previous variance, Lot 2 is shown with an existing dwelling approximately 59 feet from the water. Now it appears that a new dwelling is being built on Lot 2, though this office did not receive any information prior to this request. The concrete slab shown on the most recent site plan is located 54 feet from the water with a slightly different footprint than the previous dwelling. Why was a variance not required for redevelopment of Lot 2? It appears that there is space outside of the Buffer that could have accommodated any house expansion. Also, please note, previous site plans show substantially more trees on Lot 2 than are shown on the most recent plan. What happened to the existing vegetation, especially within the Buffer?

Notwithstanding the above, this office often does not oppose decks of reasonable size provided that impacts are minimized. The previously existing dwelling had a modest deck. We would recommend that the proposed deck be similar to that previously existing. Also, we recommend that any approval be conditioned on mitigation for disturbance within the Buffer, included the trees that are no longer present. All trees removed (on the entire property) should be replaced on at least a 1:1 ratio.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this variance request. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler  
Natural Resources Planner

cc: CA365-00

Branch Office: 31 Creamery Lane, Easton, MD 21601  
(410) 822-9047 Fax: (410) 820-5093

CHESAPEAKE BAY CRITICAL AREA COMMISSION  
45 CALVERT STREET, 2ND FLOOR  
ANNAPOLIS, MD 21401

CA 365-00  
7/28

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: Calvert Date: 7/12/00

Name of Project (site name, subdivision name, or other): CONSTRUCT A DECK

Local case number: 00-2655 (Forrest, Jr.)

Project location/Address: \_\_\_\_\_

Tax map# 44 Block# 665 Lot# 2 Parcel# \_\_\_\_\_  
ID# 01-027018

Type of application:  
(Select all applicable)

- SUBDIVISION
- SITE PLAN
- VARIANCE:  
Buffer \_\_\_ Slope \_\_\_  
Imp.Surf. \_\_\_ Other \_\_\_
- SPECIAL EXCEPTION
- CONDITIONAL USE
- REZONING
- GRADING PERMIT
- BLDG PERMIT
- INTRAFAMILY
- GROWTH ALLOCATION
- OTHERS \_\_\_\_\_

Type of Project:  
(Select all applicable)

- RESIDENTIAL
- COMMERCIAL
- WATER DEPENDENT  
FACILITY/PIER/MARINA
- INDUSTRIAL
- MIXED USE
- REDEVELOPMENT
- SHORE EROSION PROTEC.
- AGRICULTURE
- OTHERS \_\_\_\_\_  
e.g. PUD

Current Use:  
(Select all applicable)

- COMMERCIAL
- RESIDENTIAL
- AGRICULTURE
- FOREST/BUFFER/WOODLAND
- INDUSTRIAL
- INSTITUTIONAL
- OPEN SPACE/RECRE.
- SURFACE MINING
- VACANT
- WATER DEPENDENT  
FACILITY/PIER/MARINA
- OTHERS \_\_\_\_\_

Describe Proposed use of project site: 100' WATERFRONT  
BUFFER VARIANCE

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: 17,933 s.f.

IDA ACRES	_____	AREA DISTURBED:	_____
LDA ACRES	<u>17,933 s.f.</u>	# LOTS CREATED:	_____
RCA ACRES	_____	# DWELLING UNITS:	_____

AGRICULTURAL LAND: \_\_\_\_\_

EXISTING FOREST/WOODLAND/TREES: \_\_\_\_\_ FOREST/WOODLAND/TREES REMOVED: \_\_\_\_\_

FOREST/WOODLAND/TREES CREATED: \_\_\_\_\_

EXISTING IMPERVIOUS SURFACE: \_\_\_\_\_ PROPOSED IMPERVIOUS SURFACE: \_\_\_\_\_

TOTAL IMPERVIOUS SURFACE: \_\_\_\_\_

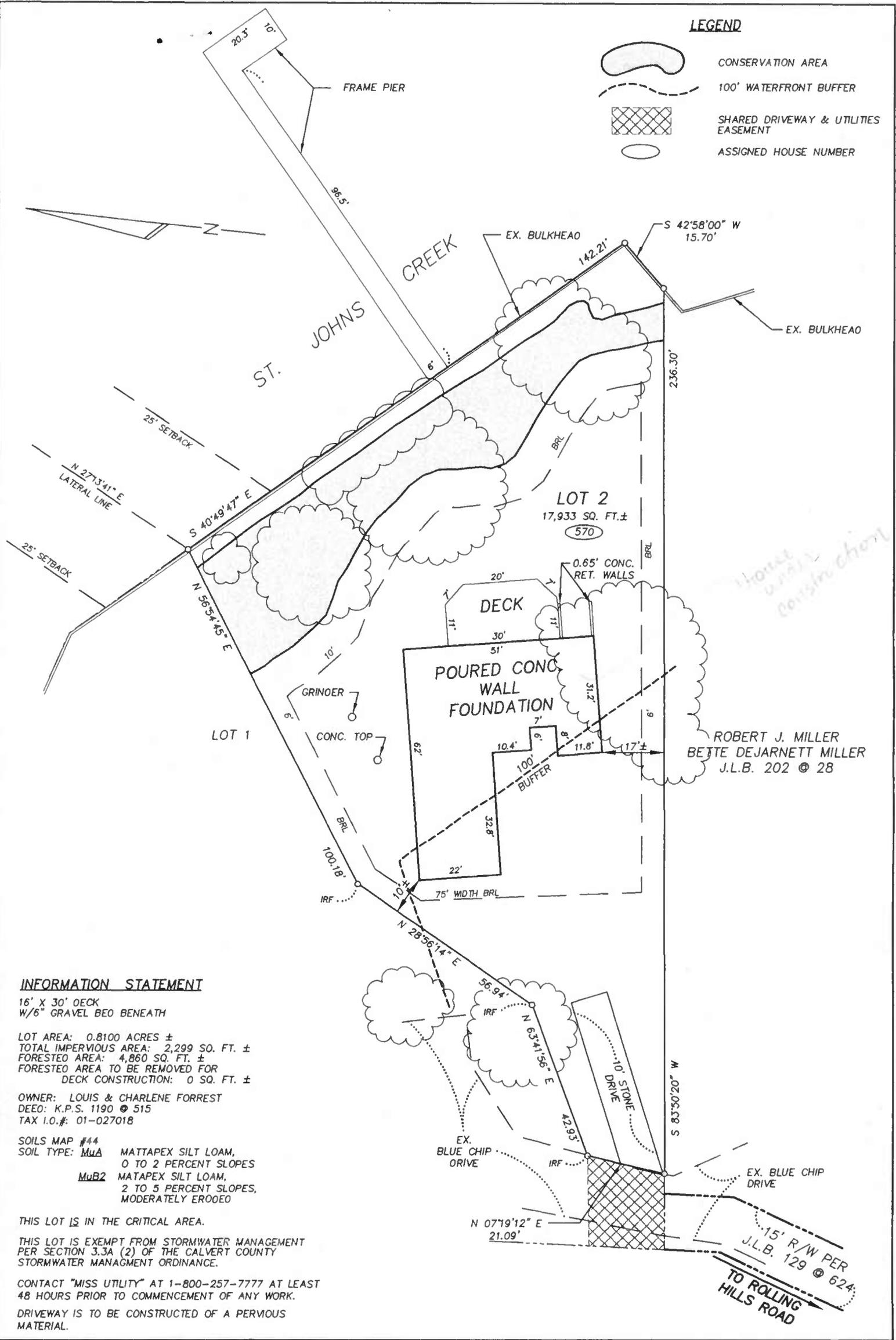
GROWTH ALLOCATION DEDUCTED: \_\_\_\_\_

RCA to LDA: \_\_\_\_\_ RCA to IDA: \_\_\_\_\_ LDA to IDA: \_\_\_\_\_

Local Jurisdiction Contact person: Roxana L. Whitt  
Telephone number: 410-535-1600 Ext. 335  
Response from Commission required by: 7/28/00 Hearing Date: 8/3/00

**LEGEND**

-  CONSERVATION AREA
-  100' WATERFRONT BUFFER
-  SHARED DRIVEWAY & UTILITIES EASEMENT
-  ASSIGNED HOUSE NUMBER



**INFORMATION STATEMENT**

16' X 30' DECK  
W/6" GRAVEL BEO BENEATH

LOT AREA: 0.8100 ACRES ±  
TOTAL IMPERVIOUS AREA: 2,299 SQ. FT. ±  
FORESTED AREA: 4,860 SQ. FT. ±  
FORESTED AREA TO BE REMOVED FOR  
DECK CONSTRUCTION: 0 SQ. FT. ±

OWNER: LOUIS & CHARLENE FORREST  
DEEO: K.P.S. 1190 @ 515  
TAX I.O.#: 01-027018

SOILS MAP #44  
SOIL TYPE: **MuA** MATAPEX SILT LOAM,  
0 TO 2 PERCENT SLOPES  
**MuB2** MATAPEX SILT LOAM,  
2 TO 5 PERCENT SLOPES,  
MODERATELY ERODED

THIS LOT IS IN THE CRITICAL AREA.

THIS LOT IS EXEMPT FROM STORMWATER MANAGEMENT PER SECTION 3.3A (2) OF THE CALVERT COUNTY STORMWATER MANAGEMENT ORDINANCE.

CONTACT "MISS UTILITY" AT 1-800-257-7777 AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF ANY WORK.

DRIVEWAY IS TO BE CONSTRUCTED OF A PVIOUS MATERIAL.

BOARD OF APPEALS PLAT - LOT 2
PROPERTY OF JOHN L. WILKINS & JOYCE L. STINSON
FIRST DISTRICT, CALVERT COUNTY, MD.
FOR: SONNY & CHARLENE FORREST

**COA** COLLINSON, OLFF & ASSOCIATES, INC.  
Surveyors • Engineers  
Land Planners  
288 MERRIMAC COURT  
PRINCE FREDERICK, MARYLAND 20678  
301-855-1599 • 410-535-3101 • FAX 410-535-3103

DRAWN BY	RCJ
SCALE	1" = 30'
DATE	7-6-00
JOB NO.	1-4697
FOLDER	TM 44, G 17 II

365-10 (Sonny)

Case No. 00-2655

Public Hearing  
August 3, 2000

Mr. and Mrs. Louis K. Forrest, Jr. have applied to the Board of Appeals for a variance in the 100' waterfront buffer requirements to construct a deck on a residence currently under construction. The subject property is known as Lot 2 of the John L. Wilkens and Joyce L. Stinson property, is located on a private lane at the end of Rolling Hills Road adjacent to St. Johns Creek, and is zoned R-1 Residential.

The matter was presented August 3, 2000 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. John Smith, Vice-Chairman, and Mr. H. Wilson Dowell. Mr. and Mrs. Louis Forrest, Jr. were present at the hearing and were represented by Mr. Jeff Tewell of COA, Inc. The plat which was submitted with the application was marked Applicants' Exhibit No. 1, dated, and entered into the record. A letter from Mr. and Mrs. John Wilkins, in support of the Applicants' request, was read into the record at the hearing, dated and marked Exhibit No. 2. A staff report and photographs taken on-site were also entered into the record.

#### FINDINGS OF FACT

Through testimony and evidence presented at the hearing, the Board found the following facts to be true:

1. The subject property contains .81 acres.
2. The development site is level and is located within the buffer adjacent to St. John's Creek.
3. A house is currently being built on the subject property and replaces a previous dwelling which had a deck. The replacement house was approved by the Department of Planning and Zoning. Impervious surfaces and distance to the shoreline are nearly identical, although the overall footprint is somewhat different.

**RECEIVED**

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CHESAPEAKE BAY  
CRITICAL AREA COMMISSION

4. The Applicants are requesting a variance in the 100' waterfront buffer requirements to construct an approximately 480 square foot deck onto the residence currently under construction.
5. A variance request for a deck on the adjoining lot (Lot 1) was applied for in 1998 and approved.
6. Comments dated July 26, 2000 were received from the Chesapeake Bay Critical Area Commission indicating no objection to the Applicants' request provided the impacts are minimized.
7. Comments dated July 28, 2000 were received from the Engineering Bureau indicating a 6" washed gravel bed should be placed under the deck to provide stabilization.
8. Comments dated July 25, 2000 were received from the Calvert Soil Conservation District indicating there is no erosion and sediment control plan to review. If the amount of cut and fill material is below 100 cubic yards, and the disturbed area is less than 5,000 square feet then a grading exemption can be issued. But if either of the amounts is more, a grading permit will be required and erosion and sediment control will need to be placed on the downhill side of the disturbed area. All the supporting information for a grading permit must be provided. Approval would also be required from Planning and Zoning and the Department of Public Works.
9. The Applicants' representative indicated by testimony that disturbances within the buffer will be mitigated and a washed bed of gravel will be placed under the deck to control runoff.
10. A letter dated July 30, 2000 from Mr. and Mrs. John Wilkins, adjoining property owners, supporting the Applicants' request was read into the record at the hearing.
11. There was no one present at the hearing who objected to the Applicants' request.

### CONCLUSIONS

Based on the above findings of fact, the Board came to the following conclusions

(in accordance with Section 7-3.01B of the Calvert County Zoning Ordinance):

1. Strict application of the waterfront buffer requirements would impose peculiar and unusual practical difficulties and undue hardship upon the owners of the property as the owners only seek to add a small deck onto a house, which has already received Department of Planning Zoning approval, and is under construction.

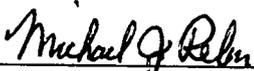
2. Granting the variance would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan as a deck was part of the house previously located on the property. Impervious surfaces and distance to the shoreline are nearly identical, although the overall footprint is somewhat different.
3. Findings were made which demonstrate that special conditions or circumstances exist that are peculiar to the land and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship.
4. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the Applicants of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County as approval has previously been granted to an adjacent property owner for a deck within the Critical Area. In addition, the adjoining property owner submitted a letter into the record supporting the Applicants' request.
5. The granting of a variance will not confer upon the Applicants special privileges that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area. The Department of Planning and Zoning approved the placement of the house on the property and the deck will be part of that house.
6. The variance request is not based upon conditions or circumstances which are the result of actions by the Applicants, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property.
7. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law.
8. The application for a variance was made in writing to the Board of Appeals with a copy provided to the Critical Areas Commission.

## ORDER

It is hereby ordered, by a unanimous decision, that the variance in the waterfront buffer requirements as requested by Mr. and Mrs. Louis Forrest, Jr., be granted based on the above findings of fact and conclusions, subject to the condition that a 6" washed gravel bed be placed under the deck to provide stabilization.

In accordance with Section 7-3.02 of the Calvert County Zoning Ordinance, "any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals...may appeal the same to the Circuit Court of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200 within 30 days. If any application for a variance is denied by a final order of the Board, or if appealed, by a final order of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order."

Entered: ~~August~~ <sup>SEPTEMBER</sup> 7, 2000  
Pamela P. Helie, Clerk

  
\_\_\_\_\_  
Michael J. Reber, Chairman