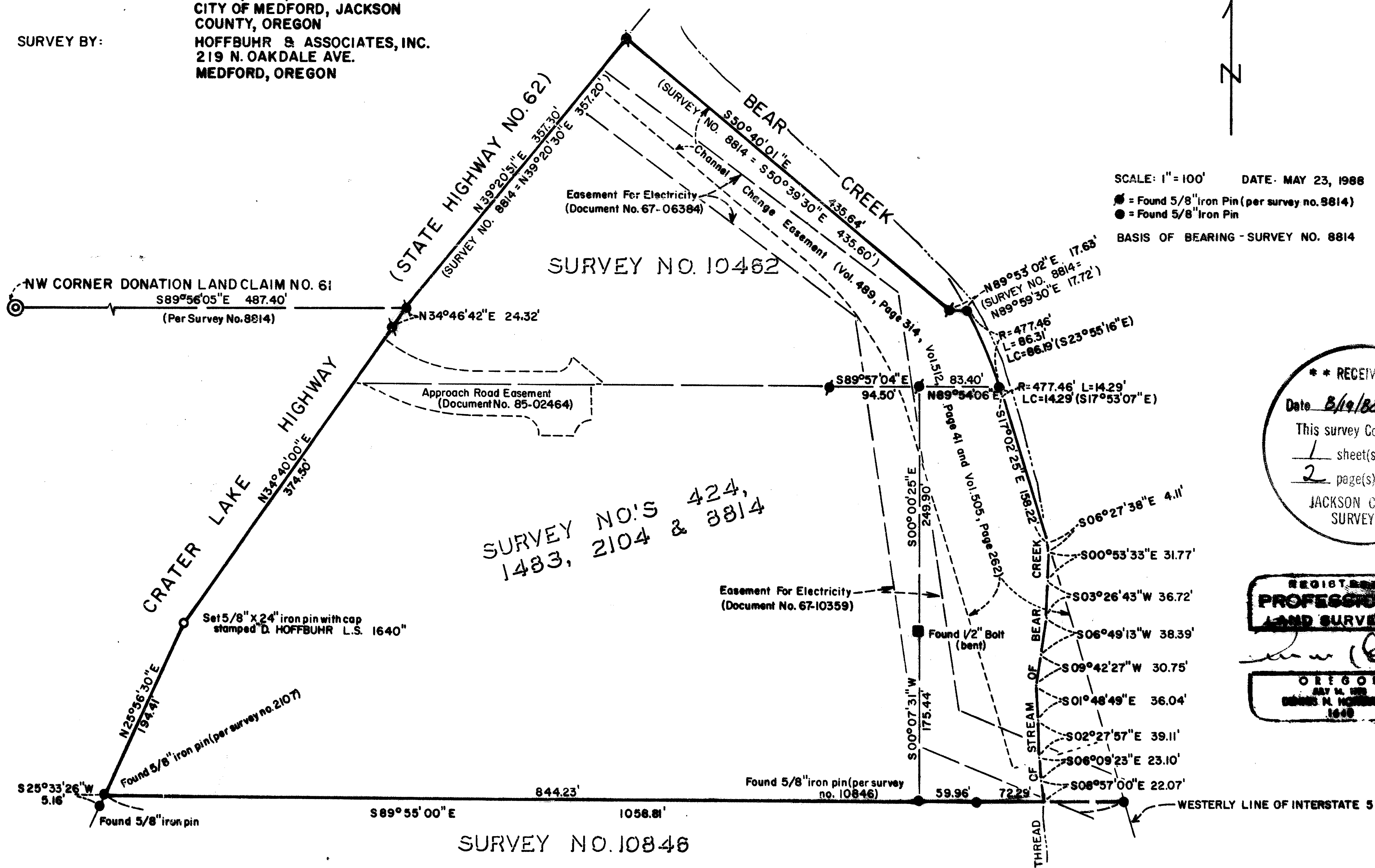


11281

MAP OF SURVEY FOR: JAMES S. GRIFFIN CO.  
3600 PORT OF TACOMA RD. SUITE 509  
TACOMA, WASHINGTON

LOCATED IN: T.37S., R.2W., W.M. SEC 13DD  
CITY OF MEDFORD, JACKSON  
COUNTY, OREGON

SURVEY BY: HOFFBUHR & ASSOCIATES, INC.  
219 N. OAKDALE AVE.  
MEDFORD, OREGON



SCALE: 1" = 100' DATE: MAY 23, 1988

● = Found 5/8" iron pin (per survey no. 8814)  
● = Found 5/8" iron pin

BASIS OF BEARING - SURVEY NO. 8814

SURVEY NO'S 424,  
1483, 2104 & 8814

**\*\* RECEIVED \*\***

Date 5/19/88 By SK

This survey consists of:  
1 sheet(s) Map  
2 page(s) Narrative

JACKSON COUNTY  
SURVEYOR

REGISTERED  
**PROFESSIONAL**  
LAND SURVEYOR

*[Signature]*

OREGON  
JULY 14, 1859  
EDWARD H. HOFFBUHR  
1883

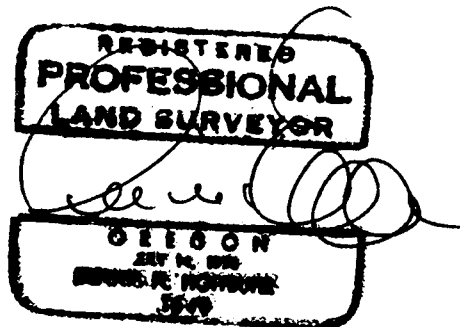
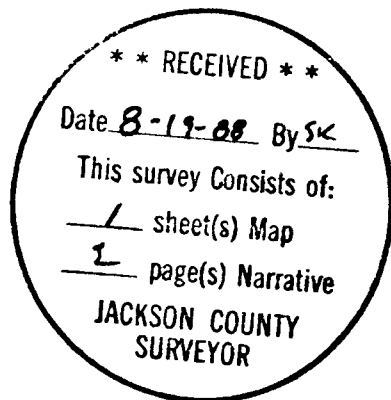
T.L. 100, 101 & 500 SEC 13DD T37S R2W

11281

The above referenced case clearly establishes that a call to the bank of a stream is synonymous with a call to the stream. In other words, a call to the "bank" of a non-navigable stream will convey ownership to the "thread" of the stream. I could find no evidence that Bear Creek has ever been considered anything but a non-navigable stream. There has been considerable disagreement over the navigable or non-navigable status of the Rogue River but Bear Creek has always been considered non-navigable. I would conclude, based on my research, that the Griffin ownership carries to the "thread" of the stream of Bear Creek as illustrated by the attached map of survey.

Basis of Bearing: Survey No. 8814

May 23, 1988



Dennis N. Hoffbuhr  
Hoffbuhr & Associates, Inc.  
219 North Oakdale  
Medford, Oregon 97501

SURVEY NARRATIVE TO COMPLY WITH PARAGRAPH 209.250  
OREGON REVISED STATUTES

SURVEY FOR: James S. Griffin Co.  
3600 Port of Tacoma Road, Suite 509  
Tacoma, Washington

LOCATION: Southeast one-quarter of Section 13,  
Township 37 South, Range 2 West, Willamette Meridian, Jackson County, Oregon

PURPOSE: To survey the exterior boundaries of Tax  
Lots 100, 101 and 500, Section 13DD, Township  
37 South, Range 2 West, Willamette Meridian,  
Jackson County, Oregon

PROCEDURE: The parcels listed above had been previously surveyed by Boyden Surveyors, Medford, Oregon and a map was filed with the Jackson County Surveyor's Office on May 7, 1981 as Survey No. 8814. The research and field work performed by Hoffbuhr and Associates compares quite favorably with Survey No. 8814 with the exception of the easterly boundary of Tax Lot 500. Tax Lot 500 was originally conveyed from Josephine M. Jones to H.A. and Margaret Krause (Vol. 360, pg. 497 and Vol. 365, pg. 197). The Deeds call to the "west bank of Bear Creek and thence along said west bank." These calls appear to indicate an intent by the Grantors to convey the property with Bear Creek as riparian boundary.

A boundary survey by Hugh C. Ingle, Civil Engineer, filed with Jackson County as Survey No. 1483, established artificial monuments at the corners of the subject property which were set using bearings and distances which correspond to the metes and bounds descriptions used in the Deeds of Conveyance. However, neither the map of survey nor the artificial monuments are called for or referenced in the deeds. Survey No. 1483 also shows the east boundary as the top of bank of Bear Creek with the creek abutting the property on the east.

Survey No. 8814 contends that the best evidence of the intent of the original conveyance are the monuments which were set by the "original surveyor" in the course of completing Survey No. 1483. I disagree with this conclusion because the call to the bank of Bear Creek in the original deeds is paramount and establishes the original intent of the parties involved. The fact that the location of the creek does not match the distances and artificial monuments is irrelevant because the call to the bank of Bear Creek establishes the bank as a natural monument and as such takes precedent over artificial monuments and distances. These conclusions are supported by the 1975 Oregon case of Belmont et ux v. Umpqua Sand and Gravel, Inc., 542 P2d 884. This case represents a very similar situation where a call in the legal description to the bank of a river was inconsistent with a distance contained in the description. It was held that in accordance with O.R.S. 93.310 the call to the bank was superior to that of the distance.

Additionally, the intent to convey to the creek is evidenced by Mr. Ingles' map of survey which shows the creek abutting the surveyed property. There appears to be no intent by Josephine Jones to retain land between the subject property and Bear Creek.