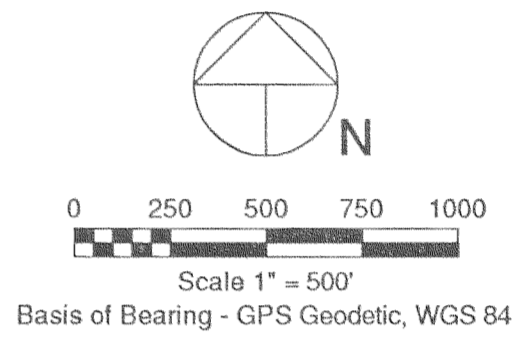


MAP OF SURVEY
 FOR
 MR. AND MRS. GARY AND LINDA HALL
 2391 TERRI DRIVE
 MEDFORD, OR 97504
 SITUATED IN
 SECTION 36, T.37S., R.1W., W.M.
 JACKSON COUNTY, OREGON
 JUNE 20, 2006



- LEGEND**
- Found Jackson County Surveyor Monument and Accessories
 - Set 1" Diameter, 30" Long Galvanized Iron Post With 1-1/2" Diameter Metal Cap Marked: "CENTER + LS 1071"
 - △ Computed Point, No Monument Set
 - SN Filed Survey Reference Number
 - () Denotes GLO/DLC Survey Record
 - [] SN 5243, SN 5461 Record
 - Denotes Fence Line

SURVEY NARRATIVE ATTACHED

****RECEIVED****
 Date 7-10-06 By BB
 This Survey consists of:
7 sheet(s) Map
1 page(s) Narrative
 JACKSON COUNTY
 SURVEYOR

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

 OREGON
 JULY 30, 1978
 HAROLD L. CENTER
 1071
 Renewal 12/31/07

SURVEYOR
 HAROLD L. CENTER
 2604 David Lane
 Medford, OR 97504
 Phone 541-535-6108
 Oregon Certificate No. 1071
 Certificate Renewal Date: 12/31/07

SURVEY NARRATIVE TO COMPLY WITH PARAGRAPH 209.250
OREGON REVISED STATUTES

Survey For:
Gary D. and Linda C. Hall
2391 Terri Drive
Medford, OR. 97504

Location: Southwest one-quarter of Section 36, Township 37 South, Range 1 West, Willamette Meridian, Jackson County, Oregon

Purpose: To monument the corner points and post the boundary of the South half of the Southeast one-quarter of the Southwest one-quarter of Section 36, Township 37 South, Range 1 West, Willamette Meridian as directed by my client. The controlling document for this property is 2005-001216.

Procedure: I began this survey with the recovery of monuments required for the subdivision of Section 36. All original corners had been recovered and perpetuated by the Jackson County Surveyor with the exception of the one quarter common to Sections 35 and 36 (west one-quarter corner of Section 36).

Survey No. 5234-A performed by Charles H. Hurst, PLS 483, indicated Hurst had recovered evidence of the original witness tree for the one-quarter corner to Sections 35 and 36 and established a $\frac{3}{4}$ inch diameter iron pin at record bearing and distance from the recovered tree. The Hurst survey did not provide sufficient documentation to allow verification of the corner evidence or provide measurements to the adjacent sections corners. Other surveys on file with the Jackson County Surveyor utilized the Hurst corner point with no verification of the evidence or dependent measurement ties to the adjacent section corners.

The Jackson County Surveyor Corner record provided a Corner Report Record where personnel had reviewed the evidence recovered by Hurst in 1983 and could not verify the evidence as being original. Jackson County Surveyor personnel contacted Hurst on June 29, 1983 and Hurst stated he "found old axe work and did not measure related mile". Hurst provided no additional information to support the position he perpetuated.

I performed an inspection of the evidence and came to the same conclusion as the County Surveyor Personnel in 1983. I recovered no evidence to link the tree to the original record and concluded the tree was not of sufficient age to be an original accessory to the corner point.

I then retraced the section line tying the Southeast Corner of DLC 55 and topographic features referenced within the original section and DLC surveys. I computed a proportional position for the subject one-quarter corner and requested Jackson County Surveyor personnel to perform a search for the one-quarter corner, Northeast corner of DLC 55 and to re-evaluate the Hurst corner point/evidence. No evidence was recovered for either the one-quarter corner, Northeast DLC corner and the same conclusion was reached for the Hurst corner.. A copy of the Jackson County Corner Report for the one-quarter corner is attached and made part of this narrative.

I submitted a request to the Bureau of Land Management, Oregon State Office, Cadastral Surveys for opinion and procedural review advisory of the subject corner point. The response is attached and made a part of this narrative report.

Unable to positively identify original scribing or suitable evidence to corroborate the evidence recovered by Hurst I established the corner point by proportional measurement.

I evaluated the use of the Southeast Corner of DLC 55 to control the position of the one-quarter corner and concluded that the DLC corner would not be utilized for control in placement of the one-quarter corner. The original DLC survey does not provide a tie from the Northeast corner of the DLC to the section corner to the north and the Southeast DLC corner is of sufficient distance east of the line connecting the section corners that the Southeast corner was not utilized in placing the one-quarter corner.

I then proceeded to subdivide Section 36 as shown on the attached map of survey. Boundary lines along the North, East and West lines of the South Half of the Southeast one-quarter of the Southeast one-quarter were posted with metal fence posts and plastic survey flagging at variable intervals along said lines.

Corners Established this Survey:

The One-Quarter Corner to Sections 35 and 36, Township 37 South, Range 1 West. At the corner point I set a 1-inch diameter iron post with 1½ inch diameter metal cap 24 inches in the ground in a collar of stone with metal cap marked:

CENTER
+
LS1071

And the following references:

A 10-inch diameter white oak bears S. 86° 05' E. 73.40 feet distance, scribed 1/4S36 BT.

A 7-inch diameter white oak bears S. 24° 48' E. 101.74 feet distance, scribed X BT.

An 8-inch diameter white oak bears S. 42° 30' W. 48.46 feet distance, scribed X BT.

A 10-inch diameter white oak bears N. 54° 40' E. 58.08 feet distance, scribed 1/4S35 BT.

A 3/4 inch diameter iron pin bears N. 13° 59' E. 5.86 feet distance, Reference S.N. 5234A

Corner is situated 62 feet north of an intermittent creek and 2.50 feet east of a north-south Fence line.

The West one-sixteenth corner to Section 36, Township 37 South, Range 1 West and Section 1, Township 38 South, Range 1 West, at the corner point I set a 1-inch diameter iron post with 1½ inch diameter metal cap 22 inches in the ground in a collar of stone with metal cap marked:

CENTER
+
LS1071

And the following references:

A 12 inch diameter black oak bears S. 80° 24' E. 49.37 feet scribed W1/16 BT.

A MAG nail and washer in the North side of the most easterly power pole (set of three) No. 4/6 bears S.33° 15' W. 52.98 feet.

Corner is situated 3.00 feet north of an east-west fence Line.

The Center-South-South one-sixty-fourth Corner to Section 36, Township 37 South Range 1 West. At the corner point I set a 1-inch diameter iron post with 1½ inch diameter metal cap 26 inches in the ground in a collar of stone with metal cap marked:

CENTER
+
LS1071

And the following references:

A 16 inch diameter (double fork) white oak bears N. 17° 23' E. 20.18 feet distance, scribed CSS1/64 BT.

An 8 inch diameter black oak bears S.24° 21' E. 69.92 feet distance, scribed CSS1/64 BT.

The Center-South-Southwest One-sixty-fourth Corner to Section 36, Township 37 South Range 1 West. At the corner point I set a 1-inch diameter iron post with 1½ inch diameter metal cap 26 inches in the ground in a collar of stone with metal cap marked:

CENTER
+
LS1071

And the following references:

In the top of a rock outcrop, 5 feet high, a MAG nail and washer bears S.80° 12' E. 62.81 feet distance.

An 8 inch diameter black oak bears S. 56° 10' W. 38.34 feet distance, scribed X BT.

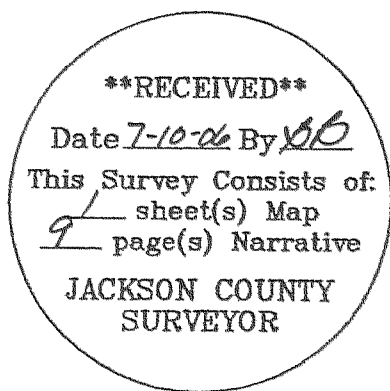
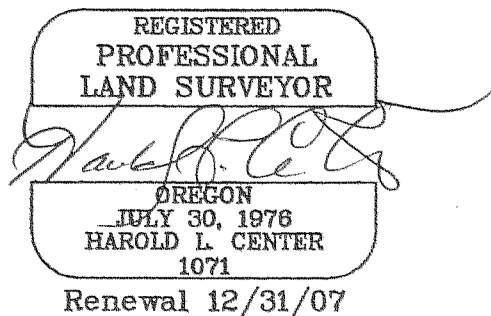
19253

Basis of Bearing: GPS Geodetic , WGS -84

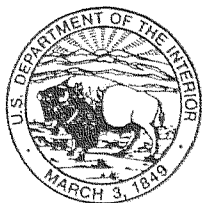
Equipment utilized in this survey: Nikon DTM 420 Electronic Total Station, Sokkia Stratus GPS and related equipment.

Date of Survey: June 20, 2006

Surveyor:
HAROLD L. CENTER, P.L.S.
Oregon Certificate No. 1071
Certificate Renewal Date: 12/31/07
2604 David Lane
Medford, OR. 97504
541-535-6108



11.20



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Oregon State Office
P.O. Box 2965
Portland, Oregon 97208

IN REPLY REFER TO:

9631 (OR-957)

JUN 14 2006

Harold L. Center, PLS
2604 David Lane
Medford, OR 97504

Dear Mr. Center:

This response is in reply to your letter of May 30, 2006, and a phone conversation with Mike Harbin of my staff. In your letter you ask for an review and evaluation by this office for the one-quarter section corner common to sections 35 and 36, T. 37 S., R. 1 W., W.M., Jackson County, Oregon, and a procedural review of what would be the proper limits of control to re-establish this corner.

Along with your cover letter, you supplied:

- CS 5234-A by Charles H. Hurst, PLS 483 filed May 31, 1973
- CS 5461 by Mark E. Boyden, PLS 281, filed November 29, 1973
- Jackson County Surveyor Corner Reports for the sec. cor. common to secs. 25, 26, 35, and 36, SE. cor. of DLC 55, and the sec. cor. common to secs. 1, 2, 35, and 36, from 1983 to 2006

Since there is no cognitive federal interest present, the following dialogue should not be construed as instructions to you, but should be considered advisory in nature.

Overview: From the information you have submitted it is apparent that the subject bearing tree can not be positively linked to the original survey or any other acceptable record dating back to the original survey and would be rejected by the Bureau of Land Management (BLM) Cadastral Survey if we were performing a dependent resurvey and encountered similar conditions. It is also apparent that Map 5243-A or 5461 did not generate sufficient control to re-establish this corner. The recovered SE corner of Donation Land Claim (DLC) No. 55, said to be originally on the section line, will control the DLC boundaries but may or may not control the section line.

History of Official Surveys:

South boundary and subdivisional lines were surveyed by Butler Ives and G.W. Hyde; survey approved January 16, 1855.

Survey of DLC No. 55 by Sewall Truax; survey approved November 22, 1856.

Evaluating the one-quarter sec. cor. common to secs. 35 and 36:

If we were conducting a dependent resurvey of the public lands, we would be guided by the Manual of Surveying Instructions, 1973 (Manual) and relevant legal decisions such as those handed down by the Federal court system and administrative decisions handed down by the Interior Board of Land Appeals (IBLA).

Sec. 5-5 of the Manual goes to the crux of the matter and is quoted below:

"5-5. An existent corner is one whose position can be identified by verifying the evidence of the monument or its accessories, by reference to the description in the field notes, or located by an acceptable supplemental survey record, some physical evidence, or testimony."

Additional guidance has also been returned in the landmark IBLA case Longview Fibre Co., 135 IBLA 170 (1996). Following are pertinent excerpts from this decision:

"A corner is properly considered lost where there is no remaining evidence of the original corner (including the monument and its accessories) or other acceptable evidence pointing to its original position. The remains of trees will not be considered the original accessories where there are no identifying marks on them; their size cannot reliably be determined; the bearings and distances from the purported corner position (to the extent they can be determined) are at variance with the record; and there is no corroborative evidence."

and

"This reality is reflected in the rule that the pattern of trees will not alone suffice to identify the location of either of the original corners, in the absence of some evidence corroborating that the trees are the original bearing trees. See O.R. Williams, 60 I.D. 301 (1949)."

and

"Although BLM has generally concluded that, in the absence of the original monument, it is not always necessary to have original scribe marks on bearing trees, a corner will be considered found based on a "pattern of tree remains" only if that evidence is "substantiated by collateral evidence such as original line blazes, topography calls, testimony, other records, etc." United States v. Champion Papers, Inc., 361 F. Supp. 481, 486-87, 490 (S.D. Tex. 1973). The "need for corroborative evidence is * * * in direct proportion to the uncertainty" regarding a monument or its accessories, including whether a particular grouping of trees is in fact the original bearing trees (Survey Manual § 5-6 [**27] at 130).

BLM may identify a bearing tree without any scribing or marks. See Mr. & Mrs. John Koopmans, 70 IBLA 75, 86, 87-88 (1983). As appellant notes, the Survey Manual provides: "The species, size and exact position of the bearing trees are of vital importance, as this data will generally serve to identify a bearing tree without uncovering the marks, or even to identify two or more stumps after all evidence of the marks has disappeared" (Survey Manual § 4-87 at 122-23)."

From the above, we are of the opinion that unless original scribing is positively identified, or other suitable evidence is obtained to corroborate this corner, the purported bearing tree would be rejected by BLM.

Determining the limits of control to restore the one quarter corner common to secs. 35 and 36:

It is the policy of this office when dealing with DLC corners said to be on the section line, that they will definitely control the DLC boundaries, but may or may not control the section line. Instances where we feel DLC corners would control the section line can be shown through:

1. The DLC surveyor retraced the section line in both directions when establishing a claim corner on the section line. In this case, referencing the record, it is clear that Truax intended to be on the section line for the south one-half of the east boundary of section 35, but did not tie through to the section corner common to secs. 25, 26, 35, and 36.
2. A claim corner is originally said to be established on a section line a short Distance, (5 chains) from a regular PLSS corner. The validity or reliability of these ties is deemed to degrade as a function of the distance of the tie. Many permutations exist for this scenario, however, consideration must be given to the vintage of the survey that was performed, including instrumentation. In this case, the DLC survey was approved one year after the rectangular or township survey was approved, which may have relevancy on how to treat the SE DLC corner.
3. A claim corner is originally said to be established anywhere on a section line and is found to be only a slight distance off the section line. CS-5243A and 5461 do not purport to retrace the entire east boundary of section 35, therefore we are not in a position to fully assess this relationship. Your retracement may indicate a close relationship of the SE cor. DLC 55 to the section line, persuasive enough to consider it an angle point. Be mindful of those situations that represent a slight technical difference based on refined modern measuring techniques that are trivial in nature.

Additional considerations:

- a) In terms of a claim corner controlling a section line, there could be a case made if the DLC survey precedes the patenting of adjoining legal subdivisions, and all of the land involved is still in federal ownership at the time of the second survey, that the DLC and rectangular corners may control equally.
- b) In the event its determined that a DLC corner does not control a section line, there is the possibility that a hiatus could exist, and the area encompassed by such a gap would be federal land subject to survey and disposal.

In this case, sec. 36 is a school section and passed to the State of Oregon through an inchoate right dating back to February 14, 1859. We do not have the title information for the DLC, but if Date of Entry and Notification preceded date of Statehood this could be significant in examining this relationship.

Summing, it is quite possible that the SE cor. of DLC 55 may not control fully for proportion but could control alignment and become an angle point on the senior line after its full relationship was understood. Considerable caution must be exercised in attempting to combine the separate rectangular and DLC records, since the monuments set under these styles of survey control the patents made there from in accordance with U.S. Code Title 43, Sec. 752.

For further reading, we suggest *A Casebook of Oregon Donation Land Claims*, by C. Albert White, available through the Professional Land Surveyors of Oregon.

We have based the preceding on information you have provided and our interpretation of the official record. Additional information, either from an office or field retracement, could influence these deliberations along with evidence of occupation and usage.

We hope the above dialogue has been helpful. If you have additional questions, please contact Mike Harbin at 503-808-6147.

Sincerely,



Mary J.M. Hartel
Chief, Branch of Geographic Sciences

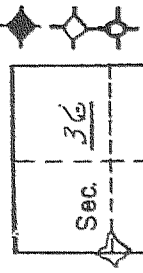
cc: Karen Schank, Medford District Land Surveyor

JACKSON COUNTY CORNER REPORT

3-f

No.

T. 37s R. 1W



Reported by FROST
 Official corner found
 Probable corner found
 Corner searched for, not found
 Date * 6-29-83
 * H. D. JARVIS
MIKE ~~FRIST~~
5-22-06
 * AGREE W/ FROST'S
ASSESSMENT
8
 Corner common to Sections 35 36

INFORMATION

Fd 3/4" d rebar set for the corner on Survey 524
 See Jackson County 1983
 field notes, page 5B.

(over)

19253

SRW
 35/36 fd pro' 6" 3/4" rebar
 set on July 4 5243 dtd 1973
 The w.o. noted as orig seen
 BT is now 10" d (recorded in
 1854 as 8".) The Nly side of
 tree is completely sawed out.
 It appears this tree was axed
 into prior to the chain saw
 work. It is located on
 S side of stream (spring br.)
 noted in orig notes.
 There are no trees in
 vic old enough to have
 stood in 1854. Sawed into
 black oak eastly of fd rebar.
 This oak is + 70 years old.
 Rebar is located + 2' E
 of old N-S fence.
 Callert C. Hester 6-29-83... He said
 he fd old ax. wk in oak he called OBT
 did not measure related mile.