

July 8, 1969

**MACK BROWN REPORT:**

This is a report regarding the east boundary of the Mack Brown Park and its relationship to the east boundary of section 21, Township 25 South, Range 7 West, W. M.

Douglas County acquired the property for park purposes in 1950, as recorded in Volume 182, Page 111 and Volume 185, Page 290, Deed Records. The deed description in Volume 185, Page 290, in part reads, "To the east line of section 21 as surveyed by Percy Armstrong". The survey referred to was made in 1950 and is recorded in this office under County Surveyor's File No. 40/260. It shows an axle shaft set or found on the north bank of the Umpqua River and on the east boundary of section 21. Also the survey shows a pipe set for the northeast corner of section 21.

A survey was made and recorded in this office in County Surveyor's File No. 31/21 by Arthur Boyer for James Mortensen in 1943. This survey of a 23 acre tract is in section 22. The west boundary is described as being on the west line of section 22, so both surveyors call for a common line. Boyer surveyed the Mortensen property to the east and Armstrong surveyed the Mack Brown property to the west. Boyer does not show or state what he used for control to establish the section line as the  $\frac{1}{4}$  corner he ties to fell in the river and was not set by the original surveyor in 1856. The meander corners and section corner common to sections 15, 16, 21, 22 have never been found according to our records.

Armstrong, in the course of a survey made prior to the 1950 survey, set a pipe for said section corner by measuring 5280 feet west from the section corner common to 14, 15, 22, 23. This survey, made in 1949, is recorded in County Surveyor's File No. 40/227. The pipe was used for control in 1950 for the survey of the park property.

It seems to me that neither Boyer nor Armstrong had good control to establish the section boundary in question, and I believe Armstrong was aware of that fact by the statement in Volume 185, Page 290, Deed Records, quote, "The east line of 21 as surveyed by Percy Armstrong".

I made a field check of this area at this time and find Armstrong's axle on the right bank of the river and at the south end of an old wire fence which extends north to County Road No. 33. This is the same fence shown on the plans for the 1963 realignment of County Road No. 33. The plans show the fence as the west boundary of the Gann property and on the section line common to sections 21 and 22.

I also find a brass cap set by government surveyors in 1968, approximately 60 feet west of said fence. This cap is marked to be on the section line common to sections 21 and 22. This survey was made to control government property boundaries and not intended to upset old surveys establishing boundaries of private lands.

The government surveyor in 1968 searched for but could not find the original corner of sections 15, 16, 21, 22, so reestablished it by proration and then setting the brass cap on the right bank of the river on line with a found section corner a mile south.

To sum it all up, the brass cap Mrs. Gann is considering lacks any legal status until the 1968 survey has been approved, which will probably not be before 1971. Even then, I don't believe it will control the property line in question.

The county's deed from Brown is good even though Armstrong's survey was weak. The county road department, in effect, used that survey and Mrs. Gann must have thought the fence was her west boundary at that time, so there does not seem to be much merit to her claim.

James W. Byron  
County Surveyor

CS FILE FOLDER

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