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JAN 4 1983

COUNTY SURVEYOR  
DOUGLAS COUNTY, ORE

November 22, 1982

Mr. Les Roberts  
Roberts Surveying, Inc.  
29 W. 29th St., Suite 2A  
Eugene, Oregon 97405

Dear Mr. Roberts:

This letter is in response to your inquiry of November 16, 1982, regarding the corner positioning and proportions of section 2, T. 23 S., R. 8 W., Willamette Meridian, Oregon, as shown on the plat submitted by you. The problem to be addressed is somewhat complex due to the chain of original surveys, retracements, and/or resurveys in this area.

The east three miles of the Fifth Standard Parallel South, through range 8 west, and the "offset" corners for T. 22 S., R. 8 W., were surveyed by Charles Gordon and Harvey Gardner, in 1855, as shown on the official plat of T. 22 S., R. 8 W., approved February 20, 1856.

In 1857, Dennis Hathorn surveyed the east boundary, the east 63.67 chains of the south boundary of section 2, and other subdivisional lines, as shown on the plat approved April 24, 1858. After surveying the subdivisional lines, Hathorn surveyed Donation Land Claims in sections 1, 2, 11, and 12 as shown on the plat approved August 1, 1860. The Hathorn plat(s) protract all of section 2 as surveyed, using a total length of 80 chains for the north, south, and west boundaries of the section, and 79.10 chains for the east boundary. The boundaries of section 2, and the lots and areas within the section were fixed by the Hathorn plat(s) and they fully control the patents within the section.

In 1894, Williams Whipple completed the survey of the subdivisional lines within T. 23 S., R. 8 W., as shown on the plat approved June 27, 1895. Whipple surveyed the east boundary of section 3 and established the east  $\frac{1}{4}$  section corner of that section but did not monument the west  $\frac{1}{4}$  section corner of section 2. He also retraced the south boundary of section 2 west to the "witness corner" established by Hathorn, and completed the survey of the south boundary, establishing a closing corner of sections 2 and 11, on the east line of section 3. Whipple found the line between sections 2 and 11 to be a total of 80.01 chains in length. His plat protracts the north and south center line of section 11 to a midpoint position for the north  $\frac{1}{4}$  section corner of that section and returns areas accordingly. Whipple did not establish, nor call for, a north  $\frac{1}{4}$  section corner of section 11, so the plat is the controlling factor.

The Whipple plat did not show lots around D.L.C. No. 40, within section 11. A supplemental plat, showing lots 1, 5, 6, 7, and 8 in section 11, was approved January 30, 1897. The areas of those lots are based on a midpoint position of the north  $\frac{1}{2}$  section corner of section 11.

In 1963-65, Floyd Brooks and James Jelley executed a dependent resurvey of a portion of the exterior boundaries and subdivisional lines of T. 22 S., R. 8 W., as shown on the plat accepted March 24, 1966. Brooks retraced the Fifth Standard Parallel South, along the north boundary of sections 1 and 2, and restored the corner of sections 35 and 36. That section corner was needed to control the proportioning of the corner of sections 25, 26, 35, and 36. Since all of sections 35 and 36 are patented, they did not restore the lost  $\frac{1}{2}$  section corners nor the lost standard corners. (Maybe they should have restored the standard corners of section 1, which does contain federal lands, but the fact is they didn't.)

In 1967-68, Peter A. Peterson, executed a dependent resurvey of sections 3 and 11, and a portion of D.L.C. No. 40, and subdivided section 11, T. 23 S., R. 8 W., as shown on the plat accepted May 20, 1971. A critical examination of the plat and field notes reveals no procedural errors. The one error noted in the field notes is that the point for the north  $\frac{1}{2}$  section corner of section 11 (in the Umpqua River) is referred to as the  $\frac{1}{2}$  section corner of sections 2 and 11, when, in fact, it applies to section 11 only.

To address your "problem" in subdividing section 2, based on the distance returned on your plat, and reestablishing the  $\frac{1}{2}$  section corners and establishing points for the 1/16 section corners, we can make the following comments. (Since there are no public lands in section 2, these comments are expressed as an opinion on how this office would proceed if there were public lands within the section). The opening statement of the narrative on your plat states that you are executing the survey in accordance with the Manual of Surveying Instructions (1973) and these comments are based upon the same instructions.

1. The standard corner of sections 1 and 2 should be restored at single proportionate distance between the corner of sections 35 and 36 (Brooks) and the standard corner of Tps. 23 S., Rs. 7 and 8 W. (remonumented by Brooks). The standard  $\frac{1}{2}$  section corner of section 2 should be restored at single proportionate position, between the corner of sections 35 and 36 and the standard corner of sections 2 and 3. The (Brooks) corner of sections 35 and 36 thus exercises full control, as though it were an original monument, in accordance with Section 6-28 of the Manual.

2. The  $\frac{1}{2}$  section corner of sections 1 and 2 should be restored at single proportionate position, based on the Whipple retracement, between the restored standard corner of sections 1 and 2, and the corner of sections 1, 2, 11, and 12.

3. The 1/16 section corners and west  $\frac{1}{2}$  section corner of section 2 should be established at equal distance positions between the closing corner of sections 2 and 11, and the standard corner of sections 2 and 3, and on the east boundary of section 3, controlled for alignment by the Whipple corners.

4. The point for the south  $\frac{1}{4}$  section corner of section 2 should be restored at single proportionate position between the corner of sections 1, 2, 11, and 12, and the "crossing closing corner" (established by Peterson), at the intersection of the section line and west boundary of D.L.C. No. 40. This procedure is slightly anomalous to the usual practice concerning the control exercised by closing corners, for these reasons:

a. The D.L.C. and section line were both surveyed by Hathorn, in 1857, practically at the same time.

b. The northwest corner of D.L.C. No. 40 was reported by Hathorn to be at a point 5.31 chains west and 1.10 chains north of his point for the  $\frac{1}{4}$  section corner on the south boundary of section 2. This is a relatively short distance. The original northwest corner of the D.L.C. was recovered in 1967, by Peterson.

c. A "blunder" occurred in the measurement between the west boundary of the D.L.C. and the "witness corner" established by Hathorn and recovered by Whipple, but not found by Peterson. The "blunder" was made by either Hathorn or Whipple and it is impossible to determine who made the "blunder". In accordance with the third paragraph of Section 5-22 of the Manual, the blunder can be isolated to the portion of the line between the west boundary of the D.L.C. and the angle point, as restored by Peterson. This portion of the line ascends in excess of 400 feet over an exceptionally steep slope in a distance of about 13 chains, leveling off at or near the angle point. Although a closing corner does not ordinarily control proportions along a line closed upon, the sixth paragraph of Section 5-41 of the Manual does allow such use under special circumstances. Manual Section 6-25 also allows some flexibility in the rules of proportionate measurement to protect bona fide rights. The whole object is to restore the original survey in its original position as nearly as possible within the framework of rules, rather than "gut-feelings" or rigidly applied mathematical calculations.

Lastly, Hathorn is known to have been an excellent surveyor. The distance from the corner of sections 1, 2, 11, and 12 to the closing corner on the west boundary of D.L.C. No. 40 is very nearly the record. There is no reason it shouldn't be because it is over nearly level open land and the Umpqua River. Although that fact isn't a deciding factor, it is supportive of the recommended procedure. The distance from the west boundary of the D.L.C. to the left bank of the Umpqua is also close to the record, allowing for some obvious erosion of the left bank. If the meander corners were not lost, they would, of course, control the position of the south  $\frac{1}{4}$  section corner of section 2, but they are no longer in existence.

We have prepared two sketches of section 2, one showing the parenthetical distances used to determine the areas of section 2, as shown on Hathorn's plat. The other shows the proportionate distances (in feet) based on the data shown on your plat. These distances should not be construed as other than an indication of the proportionate positions discussed above.

One other item is brought to your attention. The fifth paragraph of Section 5-41 of the Manual specifically states that the original closing corner controls proportions along a closing line, not the true point of intersection. Your plat indicates that you used the true point of intersection to control proportioning along the line between sections 2 and 11. That procedure is incorrect.

Also, in 1967, Peterson dug a large hole in the nursery searching for the Oregon State Board of Forestry brass cap at the corner of sections 1, 2, 11, and 12, but did not find it. Peterson set a BLM cap (4 feet deep) by reference to the original bearing tree and the O.S.B.F. bearing trees. Comparison of your bearings and distances to the bearing trees indicates that both brass caps are in very close proximity. Which brass cap have you found, and/or where is the other one? Are there two monuments at that corner?

We are enclosing copies of the original field notes and plats, pertinent to this discussion, for your aid. If we can be of further assistance, please feel free to contact this office.

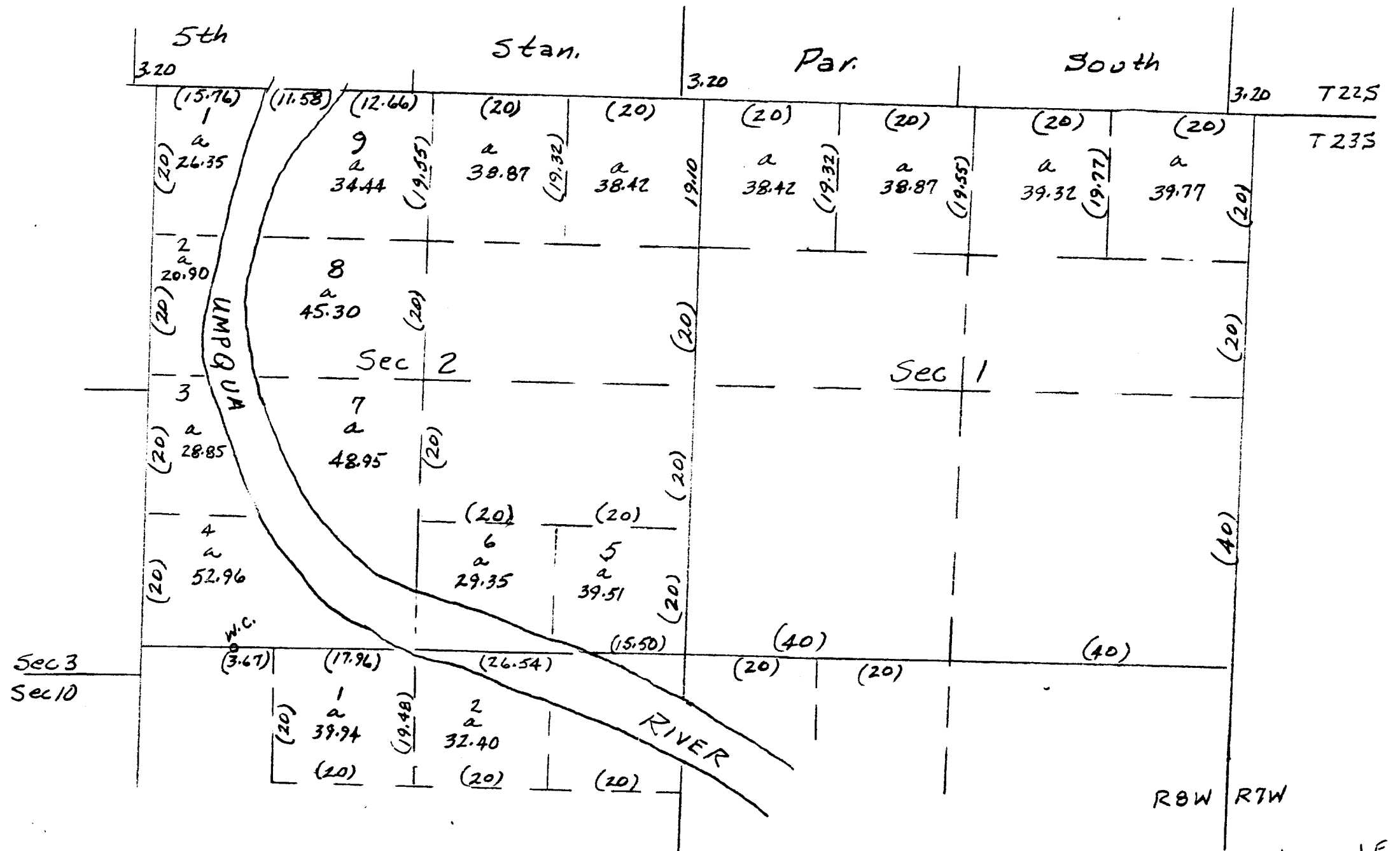
Sincerely,

William W. Glenn

William W. Glenn  
Chief, Branch of Cadastral Survey

Enclosures

✓ cc: Douglas County Surveyor,  
with enclosures



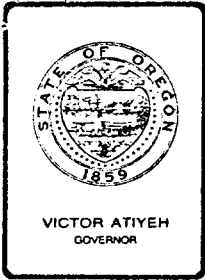
( ) Parenthetical Distances,  
Hathorn Plat

S. File No. 58/280-1E

C.A. White  
11/19/82



M 70-29



Forestry Department

OFFICE OF STATE FORESTER

2600 STATE STREET, SALEM, OREGON 97310 PHONE 378-2560

January 13, 1983

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JAN 17 1983

COUNTY SURVEYOR  
DOUGLAS COUNTY, ORE.

Mr. Les Roberts  
29 West 29th Street  
Eugene, Oregon 97405

Dear Les:

I recently received a copy of your survey plat of Section 2, T23S, R8W. Although your narrative was quite informative, it failed to mention why you used the B.L.M. brass cap at the SE corner of Section 2 instead of the State's. According to your record distance from the only remaining original bearing tree, neither corner pipe fits the original G.L.O. call. This may seem like a minor point, but we have surveys and property in this area based on the State's corner position which can be affected by your survey. We were not aware B.L.M. had set a corner pipe in a different location until we reviewed your survey plat.

We would appreciate if in the future you would notify us if you find differences between your survey and the State Forestry Department's survey so that we have a chance to justify our position before a conflicting survey is filed.

Sincerely,

Richard A. Morris  
Staff Engineer  
Forest Management Division

RAM:cz

cc: Douglas County Surveyor's Office  
Dave Smith, Coos Management Unit

C. S. File No. 58/280-16