

COUNTY SURVEYORS FILE DATA
DO NOT REMOVE FROM OFFICE

FILED

FEB 1 1990

COUNTY SURVEYOR
DOUGLAS COUNTY, ORE

N

RECORD OF SURVEY

IN THE SOUTHEAST 1/4, SECTION 30, T.25S., R.7W., W.M.,
DOUGLAS COUNTY, OREGON

SCALE ONE INCH=200 FEET

SURVEY NARRATIVE

FOR: HIRAM B. GERMOND

BY: KARL W. FERRIER, LS2209
PO BOX 290, Eugene, Oregon 97440
(503)345-2456

DATE: December 1989 - January 1990

PURPOSE: To investigate and evaluate all prior surveys in the SE 1/4, Sec.30, T.25S., R.7W., W.M., existing monumented survey lines, existing fence lines, and any signs of occupation or possession lines, to form an expert opinion as to where the ownership boundary lines of the adjoining landowners, Germond, Roeder, Fisher and Amerson, properties are located, to aid in the litigation pending (Case No. CV89-0112).

BASIS OF BEARINGS: Bearings on my plat, which were used in all my computations, are based on the H.L. Northcraft survey (CS#M102-79). Prior surveys were rotated to this survey so a meaningful relationship between the surveys could be obtained for evaluation. The Oscar Thiel survey (CS# Vol.1, Page83) was rotated 00-30-40 counter-clockwise. The Fritz Ingram survey (CS# File 60/29) was rotated 00-12-32 counter-clockwise. Any ties I made in the field utilized a magnetic compass bearing (Variation 20 East).

FIELD EQUIPMENT USED: Field ties were made with a Lietz 100' tape and Silva Hand Compass.

PROCEDURE: I researched all prior recorded surveys located in the Douglas County Surveyor's office and the pertinent deeds affecting the boundaries in question. Refer to Sheet Two of Two of this record of survey for notes on corners evaluated and the history of surveys in the disputed area. I also went out in the field and examined evidence and made field ties with a compass and tape as further explained in the notes section.

EVALUATION AND OPINION: The land in dispute is located in the SE 1/4 of Sec.30, T.25S., R.7W., W.M., Douglas County, Oregon. This area is a rural, forested area west of Sutherland, Oregon, which was settled in the last 1/2 of the nineteenth century. The bottom land was farmed and fenced and the higher ground was dense forest land, some fenced and some not. Refer to Sheet Two of Two for a complete history of prior recorded surveys in this 1/4 section. Fortunately for any surveyor who may retrace boundary lines in this section, there is a very complete record available. From the record, it appears, that as early as 1883 County Surveyor's were enlisted to locate boundaries in this section (John Littrell, CS# Vol. 1, Page 15) and in 1899 (Oscar Thiel CS# Vol.1, Page83). Though there is now some dispute whether correct procedure was followed there is no doubt the purpose of these surveys was to locate ownership boundaries which were accepted and defended by the adjoining landowners.

Between 1883 and 1979 the boundaries between adjoiners seemed to be accepted. I base this on old fences that exist today, timber cutting lines which are evident and parcel testimony of Ed Fisher, John Roeder and H.B. Germond, parties to this dispute. It would appear that either or both legal doctrines of adverse possession and acquiescence had vested title in each adjoiner during this time period and should apply to any gap, overlap, or hiatus that the subsequent surveys have discovered.

Discontent as to the boundaries in question began in 1979 when County Surveyor Fritz Ingram (CS# File 60/29) re-established the South 1/2 of Sec.30, this re-establishment was accepted and utilized in the subdivision of Sec.30 in 1983 by Champion International, Inc. (CS# M94-31) and further by H.L. Northcraft in 1986 (CS# M102-79) in his subdivision of the Southeast 1/4 of Sec.30. While I have doubts as to Ingram's survey, i.e. the location of the South 1/2, and the perpetuation of said corner by Champion and Northcraft, even if one assumes they are correct, these three surveys do not take in consideration any unwritten rights to the land in question which the adjoiners may enjoy.

It is my opinion that the limits of the ownership boundaries of Mr. Fisher, Mr. Roeder, Mr. Amerson, and Mr. Germond were fixed in place, as mentioned above, many years ago, and that the new existing fence and posts built by Mr. Fisher and Mr. Roeder are not boundary lines at all, but at best, reflect an attempt to locate the aliquot parts of the section which may or may not be based on correct assumptions.

Please refer to the notes and my entire plat for further explanation of the basis for my opinion and location of the limits of ownership boundaries in question.

I, Karl W. Ferrier, a registered land surveyor in the State of Oregon, hereby certify that this plat, both sheets one and two, and the notes hereon are a correct representation of a survey I performed at the request of H.B. Germond in accordance with the statutes of the State of Oregon.

Karl W. Ferrier
Karl W. Ferrier, LS2209

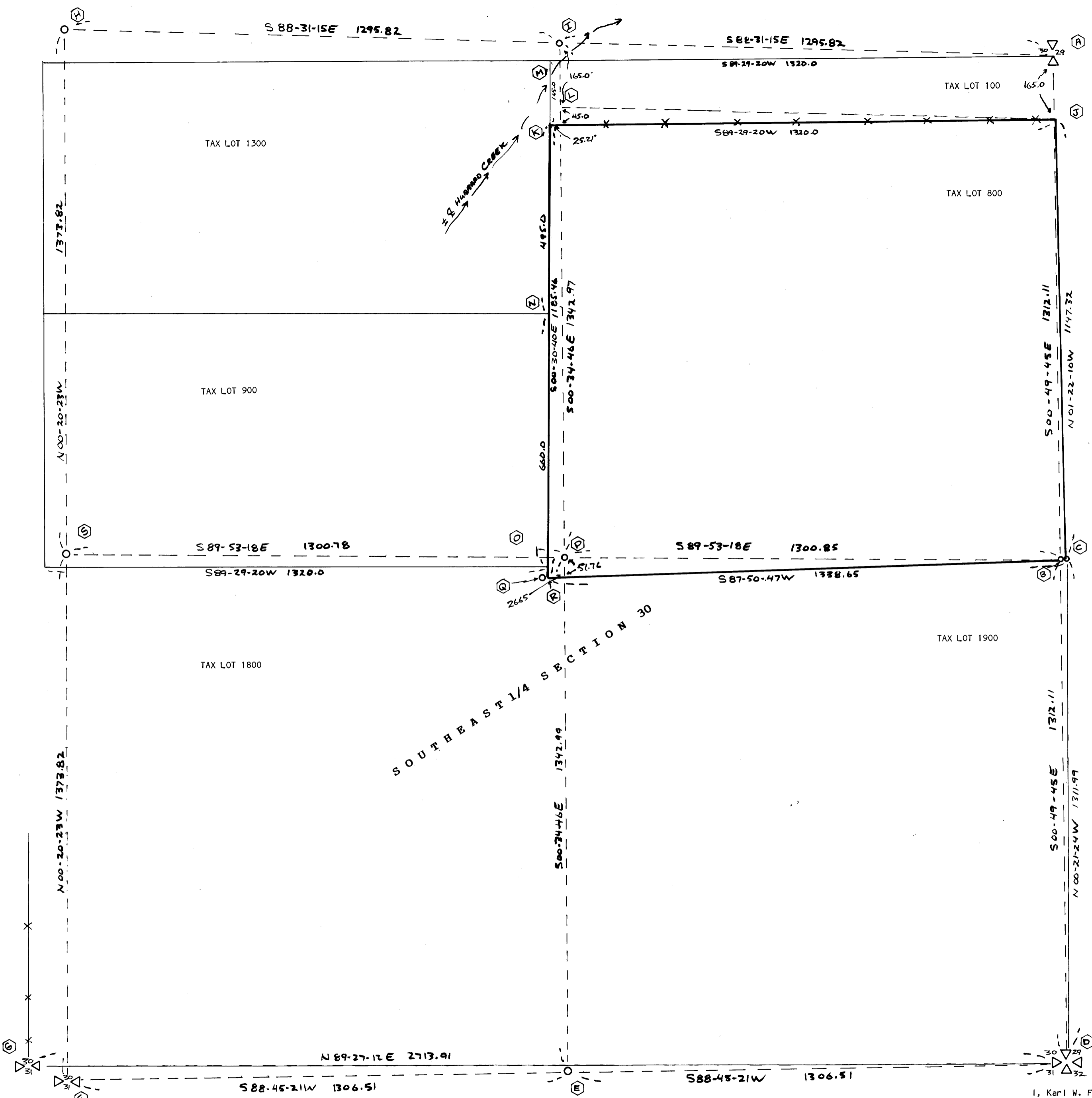
REGISTERED
PROFESSIONAL
LAND SURVEYOR

Karl W. Ferrier

OREGON
JULY 17, 1986
KARL W. FERRIER
2209

LEGEND

- OWNERSHIP BOUNDARY LIMITS OF THE GERMOND PROPERTY
- - - LINES BASED ON THE THIEL SURVEY, AND BOYER SURVEY
- - - LINES BASED ON THE NORTHCRAFT, INGRAM AND CHAMPION SURVEYS
- x INDICATES OLD FENCES
- (A) INDICATES A CORNER EITHER MONUMENTED OR CALCULATED, REFER SHEET TWO



MAP FILE M102-79-5710

MAP FILE M102-79-5710

CORNERS EVALUATED: MONUMENTED OR CALCULATED

NOTES

A. East 1/4 Sec.30, established by US GLO Deputy Surveyor, WH Byars, in 1874; found by Milton Germond prior to 1921, remonumented by G.G. Stewart in 1921 who set an eye-bolt, and was further remonumented with a Brass Cap in 1964 by the Bureau of Land Management. I believe it is beyond a reasonable doubt the original East 1/4; found as reported.

B. S1/16th, Sec.30&29 established by H.L. Northcraft in his survey for John Roeder (CS#M102-79). Mr. Northcraft set a 1 1/2" Iron Pipe with a tee top. He set this monument based on a point midway between Monuments A&D, apparently per the Manual; found as reported.

C. S1/16th, Sec.30&29 established by G.G. Stewart in 1921 during his survey for H.F. Roeder (CS# File 2/23). Mr. Stewart set a 1" Iron Pipe, apparently per the Manual, this monument bears East 10.82' from Monument B and apparently was accepted by the Roeder family from 1921 to 1986 as a boundary corner of their property and that of the Germond's. The effect is there are now in the field two monuments which purport to be said boundary corner; found as reported.

D. The SE Sec. corner of Sec 30, common to Sec. 30,29,31&32 established by US GLO Deputy Surveyor W.H. Byars in 1874, found by J.S. Germond prior to 1921, who piled rocks around original stake. G.G. Stewart renewed this corner with a 1" Iron Pipe in his survey, mentioned above, for H. Roeder. This corner was further renewed by the County Surveyor in 1957, who set a Brass Cap; apparently there is no dispute as to the location of this corner and I believe beyond a reasonable doubt it is the original corner. I did not visit this corner, but evaluated it based on the record.

E. E1/16th Sec.30&31, established by Fritz Ingram, County Surveyor, during his survey in 1979 for Ben Amerson (CS# File 60/29), where he set a Brass Cap. This monument was accepted by Mr. Northcraft in his survey for Mr. Roeder, however Mr. Northcraft did not tie to or occupy this point as the Manual requires; I did not visit this monument, but evaluated it based on the record.

F. S 1/4 Sec.30, a Brass Cap set by Fritz Ingram in his survey mentioned above. The original S 1/4 Sec.30 was set in 1874 by US GLO Deputy Surveyor WH Byars. I have reasonable doubt that the point monumented by Mr. Ingram is, in fact, the point of the original S 1/4 Sec.30. The methods Mr. Ingram utilized is the "last resort" method to re-establish a public land survey corner if the corner is "lost". I believe there is evidence which indicates to the contrary. For instance the placement of the S 1/4 Sec.30 is based on the assumption the GLO surveyor set the corner in exactly the position he said he did, however a retracement of any other line that is beyond a reasonable doubt, a line established by WH Byars, indicates otherwise. For example the East line of Sec.30 is recorded by WH Byars as North (variation 18-30 East), 40.0 chains (2640') to the E 1/4 Sec.30 and continuing on the same bearing North 40.0 chains (2640') to the Sec. corner of 19,20,30&29, however Mr. Northcraft records in his survey it is N00-49-45W 2624.23' to the E 1/4 and N00-17-09E 2671.79' to the section corner, assuming Mr. Northcraft correct, this shows that Mr. Byars set the E 1/4 16.03' South and 50.26' West of where he said he set the 1/4 corner. This is not uncommon and does not effect the validity of his survey, but illustrates what one may find in retracing these section lines. Therefore when re-establishing one of these corners one should consider any and all evidence possible in locating the correct position, rather than utilizing the "last resort" method as Mr. Ingram has. The re-establishment of the S 1/4 Sec.30 by Mr. Ingram was the beginning of the discontent between landowners in this section. I did not visit this monument, but evaluated it based on the record.

G. S 1/4 Sec.30, a 3/4" Iron Pipe set by Arthur Boyer during his survey for Mr. Sullivan (CS# File 41/162) in 1953. This monument was set by Mr. Boyer based on parcel evidence from Charles Germond, and refuted by Fritz Ingram in his survey mentioned above. Mr. Boyer's monument was set at the end of a fence, which headed North and bears N72-52-17W 105.97' from Mr. Ingram's S 1/4 Sec.30. I assume the fence was considered the North-South centerline of Sec.30 from the time it was erected, probably in the 1920's, until 1979 when Mr. Ingram refuted said line and monument. I believe that the original S 1/4 Sec.30 was closer to where Mr. Boyer monumented it than where Mr. Ingram placed it. Regardless of the actual location of the original S 1/4 (which any subsequent subdivision of Sec.30 must be based on) the record indicates there was, at the least, a line of possession and occupation about 100' West of where Mr. Ingram indicates the North-South centerline of Sec.30 is, for many years, possibly from 1920-1979. The effect of this is, that there was evidence of possession lines in existence for many years in the SE 1/4 of Sec.30, which may or may not have agreed with the deed lines, but were not considered in any survey after 1979. I did not visit this point, but evaluated it based on the record.

H. Center 1/4 Sec.30, established by Champion Inc., in 1983 (CS# M94-31), they set an aluminum monument based on Mr. Ingram's S 1/4 and other found 1/4 corners in Sec.30. Their survey was apparently done per the Manual and was relied on by Mr. Northcraft in his survey. However if any 1/4 corner they relied on was not based on an original 1/4 corner their survey would be in error, most specifically the S 1/4 of Mr. Ingram (F above). I did not visit this monument but evaluated it based on the record.

I. CE1/16th Sec.30, established by H.L. Northcraft during his above-mentioned survey. He set a 5/8" Iron Rod, apparently per the Manual, however, here again, this is based on surveys by Champion and Ingram and if their surveys are in error, so would this corner. Mr. John Roeder told me on 12/6/89, that the Northcraft monument is not in the position of the corner which the adjoining landowners, including himself, relied on to build their fences and claim to as their ownership. I found this monument as reported.

J. I found a fence corner which measures 165' South of Corner A which agrees with the pertinent deed (10 rods) and has been accepted by Mr. Roeder and Mr. Germond for many years as a boundary corner of their corresponding lands.

K. A point calculated from an extension of Corner J and along an existing fence line accepted by the adjoiners. This fence measures 210' South of Corner I, if Corner I was to hold, it would, in effect give Mr. Roeder an additional 45' of land. I calculated the position of Corner K based on said fence extension and the Oscar Thiel survey of 1899 (CS# Vol.1 Page 83). Mr. Germond told me this is where he remembers the old fence which was their West boundary to begin and travel South. The point based on the Northcraft survey is denoted as L. on my plat.

HISTORY OF SURVEYS

1874 US General Land Office Deputy Surveyor W.H. Byars, subdivides the Township and sets, among other corners, the southeast section corner of Section 30, and the North, East and South 1/4 corners of Section 30. These are the original corners and are controlling as to any subsequent survey. See Corners, A, D, and F or G.

1883 Elected Douglas County Surveyor John Litterel surveys the East 1/4 of the Southwest 1/4 of Section 30 (CS# Vol. 1, Pg.15). This was not surveyed in the manner required under the MANUAL, however it was the practice of the day. See corners F or G.

1899 Elected Douglas County Surveyor Oscar Thiel surveys for H. Germond (CS# Vol. 1, Pg.83) the North line of the Southeast 1/4, Section 30 and the South 1/4 of the Northwest 1/4 of the Southeast 1/4 of Section 30, now Tax Lots 900 and 1300 (Fisher Parcel). This was not surveyed in the manner required under the MANUAL, however was the practice of the day. See corners, A, M,N, and O.

1921 G.G. Stewart surveys the Southwest 1/4 of the Southwest 1/4 of Section 29 for H.F. Roeder (CS# File 2/23), again not per the MANUAL. He renews the East 1/4 and Southeast section corner of Section 30 based on evidence from J.S. Germond and Milton Germond. See corners A,C, and D.

1953 Arthur Boyer re-establishes the South 1/4 Section 30 (CS# File 41/162) based on information from Charles and Milton Germond. See corner G.

1964 Bureau of Land Management resurveys the Range line and renews the East 1/4 Section 30. See corner A.

1979 Elected Douglas County Surveyor Fritz Ingram rejects Boyer's corner (G) and re-establishes it, see corner F.

1983 Champion International, Inc. subdivides Section 30 (CS# M94-31) relying on, Ingram's 1979 South 1/4 Section 30.

1986 H.L. Northcraft subdivides the Southeast 1/4 of the Southeast 1/4 Section 30, (CS# M102-79) relying on the 1979 and 1983 surveys. See corners F,H,S,I,A,B,D,E, and P.

M.,N.,&O. These points are calculated based on the accepted fence (line J&K) and the Thiel survey mentioned above. I believe that this is the location of the line of possession between the Germond property and the Fisher property. I calculated this by using the distances of the Thiel survey and rotating the bearings, holding the fence line based on Northcraft's basis of bearings. I did this to obtain a meaningful relationship between the Northcraft survey and the Thiel survey, since nearly 90 years have passed and the two surveyors utilized different methods in determining their basis of bearings. It has been reported to me that an old wood fence was erected along this line, however a fire destroyed this fence 40-50 years ago. I believe I have correctly reconstructed this boundary based on what fences that exist today and that have been in existence prior to 1979 and any dispute. The fact that fence (line J-K) does not agree with Mr. Northcraft's findings, and both Mr. Germond and Mr. Roeder told me there was a fence West of where Northcraft has established the line leads me to believe I am correct in my reconstruction. I searched the area 50' on both sides of my line in search of this old fence but found nothing, which is understandable due to the circumstances.

P. The SE1/16th Sec.30, established by Mr. Northcraft during his survey for John Roeder. It is a 1 1/2" Iron pipe with a tee top and is the main area of dispute. As before, this monumentation is only as good as the evidence he based his assumptions on. It may very well be the SE1/16th of Sec.30, but based on my other findings I believe it is not the common ownership boundary corner between Fisher, Roeder, Amerson and Germond. I believe it is at a point denoted as Corner R on my plat.

Q. Found a 3/4"x30" angle Iron which bears South 54' and West 59' from Corner P. I find no record as to who may have set it and has been in the ground no more than 10-15 years. It generally is on an extended line of the old cutting line (line B-R) but is West, about 30' from reconstructed line K-N-O-R.

R. This point is a calculated position of an intersection of line K-N-O (based on the existing fence and the Thiel survey) and an old cutting line which one can retrace in the field and shows up on three different sets of aerial photos taken 1939, 1952, and 1987. The land in dispute was logged at different times and you can see that this cutting line was utilized over the years by each adjoiner, except for a small portion from the Amerson cutting after 1979. I found along this line different kinds of logging, old growth stumps to the North cut by the old hand-saw method (high-stumps with spring-board notches) and stumps to the South cut by power-saws. I also find an old blaze on a old growth fir tree and remnants of an old hand-split cedar fence, destroyed many years ago, but near the old cutting line. I have no doubt that this cutting line represents a line of possession between adjoiners which was considered their line of ownership boundary for many, many years and that my line K-N-O-R represents a line of possession accepted as the boundaries of ownership as well as can be reconstructed under the circumstances.

S. CS1/16th established by Champion during their above-mentioned survey, an aluminum monument, and accepted by Mr. Northcraft in his location of the SE1/16th, here again, it is only as good as the evidence it is based on. It may very well be the correct position for the corner it purports to be. I did not visit this monument, but evaluated it based on the record.

DO NOT REMOVE FROM OFFICE

FILED

FEB 1 1990 TF

COUNTY SURVEYOR DOUGLAS COUNTY, ORE

RECORD OF SURVEY

IN THE SOUTHEAST 1/4, SECTION 30, T.25S.,R.7W.,W.M., DOUGLAS COUNTY, OREGON

BY: Karl W. Ferrier, LS2209
PO Box 290, Eugene, Oregon 97440
(503)345-2456

ABBREVIATIONS USED

GLO	GENERAL LAND OFFICE
MANUAL	MANUAL OF SURVEYING INSTRUCTIONS 1973, US Dept. of Interior
CE	Centerline East
CS	Centerline South
E,W,N,S	EAST, WEST, NORTH, SOUTH
CS#	Recorded Douglas County Survey Number

REGISTERED PROFESSIONAL LAND SURVEYOR

Karl W. Ferrier

OREGON
JULY 17, 1986
KARL W. FERRIER
2209

MAP FILE M102-79-5-28