

MULTNOMAH COUNTY LAND USE  
PLANNING )  
)  
Appeal of Planning Director’s Decision on )  
Lot of Record Verification Application )  
)  
APPLICANT: Patrick Maher )  
Property: 16900 NW Sauvie Island Road, )  
Portland )  
Map, Tax Lots: 2N1W21-01100 & )  
2N1W21-01200 )

CASEFILE No. **T2-2021-14361**  
  
DECLARATION  
OF THOMAS C. HOLMES

STATE OF OREGON            )  
  ) ss.  
County of Multnomah        )

I, Thomas C. Holmes, being first duly sworn, depose and say:

1. I am employed by the law firm of Dunn Carney Allen Higgins and Tongue LLP, (“Dunn Carney, LLP”). I am currently assigned to assist on the Land Use matter referenced above.

2. I am familiar with the documents, exhibits, correspondence and the Planning Director’s Decision in the Land Use proceeding.

3. Attached to this Declaration as Exhibit 1 are pages excerpted from the Bureau of Land Management Manual of Survey Instructions 2009 on meander lines and on water boundaries;

4. Attached to this Declaration as Exhibit 2 is a map from the Oregon Department of State Lands showing the Multnomah Channel in the area of the Subject Property in this application;

5. Attached to this Declaration as Exhibit 3 is a copy of the current tax lot map 2N1W21, marked to show the dimensions of Tax Lot 2N1W21-01200 when the property is extended to the G.L.O. Meander line shown on that map. I prepared this map, and calculated the property dimensions and the area of the parcel using a scale of 1/16” = 20 feet, based on the measurement of the length of lines on the printed map compared to the distances stated on the map;

6. Attached to this Declaration as Exhibit 4 is map downloaded from the website of the U.S. Bureau of Land Management, showing a map from 1862 of the James F. Bybee Donation Land Claim (“Bybee DLC”);

7. Attached to this Declaration as Exhibit 5 is a copy from the Multnomah County Deed records noting the recording of a deed on December 17, 1873 conveying the land in the Bybee DLC (and other property, the Joseph Menzie DLC) from J. F. Bybee et ux. to John Howell and Joseph Howell. This and the following deeds are those listed in Exhibit A.2 in this proceeding, the Title Records Report from Ticor Title;

8. Attached to this Declaration as Exhibit 6 is a copy of from the Multnomah County Deed records, a Warranty Deed Book 211, Page 10, recorded February 7, 1894, conveying the land in the Bybee DLC (and other property, the Joseph Menzie DLC) from Joseph Howell to John Howell;

9. Attached to this Declaration as Exhibit 7 is a copy from the Multnomah County Deed records, receipt number 33519, recorded May 5, 1923, conveying a 1/3 interest in the land in the Bybee DLC (and other property, the Joseph Menzie DLC) from Raymond J. Howell to John Benjamin Howell;

10. Attached to this Declaration as Exhibit 8 is a copy from the Multnomah County Deed records of a Bargain and Sale deed, Book 364, Page 478, recorded November 16, 1936 conveying the land in the Bybee DLC (and other property, the Joseph Menzie DLC) from Mabel A. Lanpher to John Benjamin Howell;

11. Attached to this Declaration as Exhibit 9 is a copy from the Multnomah County Deed records of a Quit Claim deed, Book 724, Page 304, recorded December 18, 1942 conveying the land in the Bybee DLC (and other property, the Joseph Menzie DLC) from John Benjamin Howell and Rose Mabel Howell to the Federal Land Bank of Spokane;

12. Attached to this Declaration as Exhibit 10 is a copy from the Multnomah County Deed records of a Sheriff’s Deed, Book 774, Page 3, recorded August 26, 1943, conveying the

land in the Bybee DLC (and other property, the Joseph Menzie DLC) from the Multnomah County Sheriff to the Federal Land Bank of Spokane as a result of a foreclosure action;

13. Attached to this Declaration as Exhibit 11 is a copy from the Multnomah County Deed records of a Deed, Book 2111, Page 178, recorded April 12, 1962, conveying the land in the Bybee DLC (and other property, the Joseph Menzie DLC) from the Federal Land Bank of Spokane to Rose Mabel Howell.

I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN LEGAL PROCEEDINGS AND IS SUBJECT TO PENALTY FOR PERJURY.

DATED: October 22, 2021

  
\_\_\_\_\_  
Thomas C. Holmes

# Manual of Surveying Instructions

## For the Survey of the Public Lands of the United States



Prepared by the  
United States Department of the Interior  
Bureau of Land Management  
Cadastral Survey

**2009**

case rectangularity will be ensured and corners placed appropriately.

(7) Intersecting lines and random and true lines normally form the boundaries of protracted blocks. Once the protracted corner is established by latitude and longitude from which the intersecting line is to be initiated, the line will be surveyed on the protracted bearing to an intersection with the existing surveyed line, random and true line, or water boundary. In a like manner, random and true lines will be surveyed from the established protracted corner to the existing corner designated on the amended protraction diagram. Where rectangular limits can be achieved in intersecting a corner on the boundary of the protraction block, the intersected corner will control the alinement of the intersecting line (section 3-34). Where there is a large misclosure in the exterior boundary of the protraction, it may be necessary to modify the plan of survey to avoid poorly shaped parcels.

(8) When surveyed, a protracted block will normally become a section containing the regular aliquot parts with the excess or deficiency against the previously surveyed boundary.

(9) When portions of the unsurveyed protracted areas are surveyed, it may not be necessary to create a new amended protraction diagram for the remaining unsurveyed areas. Since there will normally be no changes in the protracted latitude and longitude of other corners in the protraction, an appropriate notation to this effect on the amended protraction diagram is sufficient.

(10) In some cases, local or administrative surveys have been performed within the protracted area, prior to the official survey, to locate and mark lease boundaries, administrative boundaries, the extent of mineral interests, or to segregate meanderable water bodies for acreage chargeability. Positions established by these surveys have no official standing but, at the discretion of the appropriate BLM Chief Cadastral Surveyor, should be accepted as corner positions when they are in substantial conformity with the amended protraction diagram.

## Meandering

**3-158.** This discussion on meandering pertains to original surveys and new meanders. Meandering pertaining to resurveys and associated water boundaries are discussed in chapter VIII.

**3-159.** The traverse that approximates the margin of a permanent natural body of water, e.g., the bank of a stream, lake, or tidewater, is termed a meander line. Numerous decisions in the United States Supreme Court assert the principle that, in original surveys, meander lines are run, not as boundaries of the parcel, but (1) for the purposes of ascertaining the quantity of land remaining after segregation of the bed of the water body from the adjoining upland, (2) for defining the sinuosities of the water body for platting purposes, and (3) for closing the survey to allow for acreage calculations. The ordinary high water mark (OHWM), or line of mean high tide (line of MHT) of the stream, or other body of water, and not the meander line as actually run on the ground, is the actual boundary.

**3-160.** Properly executed meanders create certain riparian rights in the upland parcel. Chief among these rights is that ownership of the upland follows subsequent lateral change in location of the bed through slow and imperceptible processes, such as accretion, erosion, and reliction. When by action of water the bed of the body of water changes, the OHWM changes, and the ownership of adjoining land progresses with it (*Lane v. United States*, 274 F. 290 (5<sup>th</sup> Cir. 1921); *aff'd*. 260 U.S. 662 (1923)).

**3-161.** Meander lines will not be established at the segregation line between upland and swamp or overflowed land, but rather at the OHWM or line of MHT between the swamp or overflowed lands and the water body. Meanders between the swamp or overflowed lands and the upland are a common source of errors in older original surveys (section 3-211).

### Ordinary High Water Mark and Line of Mean High Tide

**3-162.** All lands beneath navigable waters and other important rivers and lakes are to be segregated from the upland. Meanders are run along the OHWM for inland waters, and along the line of MHT for tidewater.

The general rule is that when the Federal Government conveys title to a lot fronting on a navigable body of

water, it conveys title to the water's edge, meaning the OHWM or line of MHT. Such riparian boundaries are ambulatory, not fixed in position. When an exception to the general rule is shown, the consequence is that the meander line becomes fixed and can become a fixed and limiting property boundary. Meander lines may be held fixed because of (1) an avulsive change, (2) gross error or fraud, (3) substantial accretion after survey but before entry, or (4) where the facts and circumstances disclose an intention to limit a grant or conveyance to the actual traverse lines. But the mere fact that an irregular or sinuous line must be run, as in the case of a reservation boundary, does not entitle it to be called a meander line except where it closely follows the bank of a stream, lake or tidewater.

**3-163.** Practically all inland bodies of water pass through an annual cycle of changes and multiyear cycles of drought and wet years. The OHWM is found between these extremes. In regions of broken topography, especially when bodies of water are bounded by sharply sloping lands, the horizontal distance between the margins of the various water elevations is comparatively slight, and the surveyor does not experience much difficulty in determining the horizontal position of the OHWM. However, where the meanderable bodies of water are bordered by relatively flat lands, the horizontal distance between the successive levels can be significant and the proper line difficult to measure.

**3-164.** For inland waters, the OHWM normally used is the line below which the water impresses on the soil by covering it for sufficient periods to deprive it of terrestrial vegetation, and the soil loses its value for agriculture, including grazing of livestock. Terrestrial vegetation is to be distinguished from aquatic and wetland vegetation in that the same vegetation can be found at higher and drier sites. At this level a definite escarpment, and often a change in character in the soil, is generally traceable, at the top of which is the true position for the meander line. A pronounced escarpment, the result of the action of storm and flood waters is often found above the principal water level and is separated from the OHWM by the storm or flood beach.

**3-165.** Some areas of riverbank or lakeshore lack vegetation of any kind or escarpments that can be used to identify the OHWM for use in meandering. In those situations, an identifiable OHWM is identified between sites where vegetation capable of identification exists on either side of the barren area. Reliance on elevations to extend a continuous line projected on the bank that

is parallel in height to the water surface of the river or lake is a common method.

**3-166.** The ordinary low-water mark is the point to which nontidal waters recede, under ordinary conditions, at their lowest stage. It is usually identified by a shelf in the bank. The shore is the space between the margin of the water at the ordinary low water mark and the OHWM (*Alabama v. Georgia*, 64 U.S. 505 (1859)).

### *The Vegetation Examination*

**3-167.** The vegetation examination is conducted in the field to determine whether the grass, tree, shrub, or plant is aquatic or terrestrial vegetation.

Aquatic vegetation is any one of a variety of plants that must grow in water; they are obligated to grow with their roots in water. Many aquatic plants have hollow stems so as to stand upright in still water and others have floats in order to stay on the water surface. If a given plant is not found higher up on the bank, it is probably an aquatic species.

Transitional species, such as buttonwood, water oak, or cypress, are upland or terrestrial species that exist in very wet environments. There have been claims that cypress trees are aquatic plants. A number of court cases have used cypress as an upland indicator of the OHWM, however a mature cypress may no longer be a good indicator of OHWM.

Terrestrial vegetation is distinguished from aquatic vegetation by the location in which it grows. If vegetation type "A" is found along the water's edge—or even in the water—and type "B" is also found growing at sites situated more toward higher, drier ground (upland), then "A" is a terrestrial species. A good rule of thumb is to determine if the plant is part of a self-reproducing stand of woody vegetation and not a seasonal plant that can sprout and mature in the few months when the water is unseasonably low. Trees, shrubs, and other woody-stemmed plants are generally terrestrial.

A small pocket of an aquatic type plant growing in low places not in the riverbed is also not an indicator of the OHWM and does not indicate that the OHWM should be moved toward upland to include that pocket of aquatics. It is the most water-ward location of the terrestrial species that is determinative. A small pocket of terrestrial vegetation at a small area near the water's edge, for example, may be enough to identify that area as being a part of the upland.

Care must be taken with the evaluation of nonnative invasive species, because when introduced they can change or fix the previous natural indicators of the OHWM.

### *The Soils Examination*

**3-168.** The soils examination is the next complementary examination. The leading court opinions regarding OHWM with reference to soils did not rely on or intend the use of laboratory tests of soils for this purpose. Accordingly, when a court decision dated before the 1940s refers to the character of the soil, it usually refers to the presence and shape of banks on rivers, shelving along lake shores, presence of sandbars and gravel bars, and other physical forms or manifestations of soil.

Extended inspection along a river boundary will usually result in some sort of correlation between the types of vegetation and the presence of banks or natural levees. The tests for vegetation and the test for soils can thus become complementary.

It is sometimes difficult to find a defensible OHWM because of conflicting evidence. When that occurs it is necessary to go upstream or downstream to locate another bank or banks where the OHWM is clear and convincing using vegetation and soils and then correlate that height of the OHWM above the surface of the flowing water in the difficult location.

Also a chemical soil test could be used provided that it is definitive. Soils that have been submerged for a long period of time are chemically different from upland soils, so it is important to establish the time period when that soil's particular chemical properties developed. Flooding that created a particular soil formation centuries before the original survey and grant should have no bearing on a present-day OHWM determination.

### *The Litter Examination*

**3-169.** Litter is the rubbish, twigs, and other floatable material found in a rough alinement at the reach of the highest waves that wash up on the shore. Logs and stumps generally do not wash up along the litter line. They are usually stranded below and toward the water from the litter line.

The litter line along a river boundary is mostly parallel and higher in elevation than the OHWM determined by the vegetation and soils test. On a lake shore, particularly, the presence of litter may correlate with the other tests and be useful for OHWM determination. The

presence of litter does not indicate the OHWM directly. Instead, the height of the litter above the water surface may be useful in correlating the OHWMs along the bank or shoreline.

### *The Agricultural Test*

**3-170.** The agricultural test is another complementary test. The items to consider include cattle or sheep raising, mowing of wild hay or collection of wild rice, and the raising of typical crops of the region, including grains or tubers. In essence, the agriculture test is simply a vegetation test that is restricted to valuable crops.

**3-171.** For tidal waters, the shore, also called the tideland, is the space between the line of mean lower low tide and the line of MHT (section 3-204). For tidal water, in the interest of certainty, the line of MHT is the average elevation of all the high tides occurring over a period of 18.6 years. Because it is based on elevations, meanders along the tidelands are run either by reference to tide gages and their reported elevations or by observation of physical conditions abutting the shore. Special instructions will provide guidance in selecting the method to be used.

**3-172.** Individual States may develop their own rules for determination of their own boundaries as against private owners but such State laws cannot generally act to reduce Federally owned areas or otherwise alter the boundaries of Federal land.

See Chapter III Notes for case studies on placement of the OHWM.

### *Meanders*

**3-173.** A meander corner is established at every point where a standard, township, or section line or special survey boundary intersects the OHWM of a navigable stream or other meanderable body of water. For tidal waters, the meander corner is established at the intersection of the surveyed line with the line of MHT. Meander corners are a controlling monument on the surveyed line and shall be treated similarly to other regularly established monuments such as section or quarter-section corners and tract corners for dependent resurvey purposes.

**3-174.** A "special meander corner" (SMC) is established at the intersection of the OHWM or line of MHT with a run and marked subdivision-of-section line. "Auxiliary meander corners" (AMC) are used

where there is no intersection of a surveyed line with the OHWM or line of MHT, as in the case of a meanderable lake found completely within a section not requiring subdivision. Auxiliary meander corners are also established at the intersection of avulsed lands with riparian lands, at the intersection of omitted land parcels with riparian lands, at the intersection between fixed and limiting original meanders and the current meanders, on the meander line of a previously unsurveyed island not intersected by a surveyed line, and at other intersections of riparian boundaries where use of a special meander corner is not appropriate.

**3-175.** No monument should be placed in a position exposed to the beating of waves and the action of ice in severe weather. In such cases a witness corner should be established at a secure point near the true point for the meander corner. The distance across the body of water, from the true point, is ascertained and reported in the survey record.

**3-176.** It is not practicable in public land surveys to meander in such a way as to follow and reproduce all the minute windings of the ordinary high-water mark, even though technology allows for a much more precise location at the time of the survey. The United States Supreme Court has given the principles governing the use and purpose of meandering shores in its decision in a noted case as follows:

Meander lines are run in surveying fractional portions of the public lands bordering upon navigable rivers, not as boundaries of the tract, but for the purpose of defining the sinuosities of the banks of the stream, and as the means of ascertaining the quantity of land in the fraction subject to sale, and which is to be paid for by the purchaser.

In preparing the official plat from the field notes, the meander line is represented as the border line of the stream, and shows, to a demonstration, that the watercourse, and not the meander line, as actually run on the land, is the boundary (*Railroad Co. v. Schurmeier*, 74 U.S. 272 (1868)).

There is no requirement that the meander line very closely approximate the OHWM such that every small indentation and projection is depicted by angle (often called meander) points on the traverse. An excessive number of angle points are not necessary as the true riparian boundary constantly changes through the

processes of accretion and erosion. The intent is to show the general configuration of the water line. As a result, it is expected that when choosing the angle points, the meander courses may cross either water or land during the process to minimize the number of angle points. Effort should be made to balance the amount of water and land crossed to return accurate acreage.

Depending upon the terrain, meander courses may be as short as a chain or as long as twenty chains or longer. Meander lines may be surveyed by any reliable method of measurement that can determine bearing and distance or coordinates that may be mathematically converted to courses. The angle points along the traverse are not normally monumented.

**3-177.** Meanders are reported as a traverse from the beginning meander corner to the ending meander corner. The traverse is comprised of a series of meander courses running between angle points. These meander points are chosen at obvious breaks in the shoreline at the OHWM, line of MHT, or other required riparian line. Whether the angle points are measured by traditional traverse methods or by individual coordinate determination is immaterial.

The surveyor commences at one of the meander corners, follows the OHWM, and determines the length and true bearing of each course, from the beginning to the next meander corner. For tidal waters, the surveyor follows the line of MHT. All meander courses refer to the true meridian and are determined to the accuracy outlined in this Manual or, if more accuracy is necessary, as outlined in the special instructions.

**3-178.** The survey record of meanders shows the corner from which the meanders commenced, the true bearing and horizontal distance of each course, and the corner upon which the last course closed. The meanders may be reported in a separate section of the field notes segregated by section or tract. Meander line field notes may be placed on the plat.

**3-179.** The following items will be noted along the meander line in the field notes or on the plat: (1) all streams flowing into a river, lake, ocean, or meanderable bayou, with the width at their mouths and their course; (2) the position, size, and depth of springs, and whether the water is pure or mineral; (3) the heads and mouths of all bayous; (4) all islands, rapids, and bars, with intersections to the upper and lower ends; (5) the height of the banks of lakes, streams, and tidelands, the



height of falls and cascades, and the length and fall of rapids; and (6) artificial structures and other notables such as improvements in both land and water areas. Except for original survey meander lines, the above items may be noted when administratively necessary.

**3-180.** Where it is impossible or impracticable to measure the meander line along the required riparian line due to physical impossibility, safety or cost, the official survey record will state the true location, noting the offset from the line measured.

**3-181.** Whenever the Secretary surveys lands selected by an Alaska Native, an Alaska Native Corporation, or the State of Alaska pursuant to the ANCSA, the Alaska Statehood Act, or the Alaska National Interest Lands Conservation Act (ANILCA), lakes, rivers, and streams shall be meandered in accordance with the principles in the 1973 edition of the Manual (43 U.S.C. 1631(a)(1)). Navigability investigations in Alaska are described in section 8-56.

### Rivers and Tidewater

**3-182.** Facing downstream, the bank on the left hand is termed the left bank and that on the right hand the right bank. These terms will be universally used to distinguish the two banks of a river or stream.

Navigable rivers and bayous are meandered on both banks, at the ordinary high-water mark, by taking the general courses and distances of their sinuosities for that portion that is navigable. For rivers classed as nonnavigable, when duly authorized, the bed acreage is segregated where the average right-angle width is 3 chains and upwards. This width is chosen as a practical guideline to balance the cost of meandering all rivers against the value of the excluded acreage.

**3-183.** In selected lands in Alaska, by law, all non-navigable inland rivers where the average right-angle width is 3 chains and upwards are meandered on both banks, at the ordinary high-water mark (43 U.S.C. 1631).

**3-184.** Tidewater streams, inlets, and bayous are meandered at the line of MHT up to the point of tidal influence or where they still allow free travel by customary watercraft, whichever is farther downstream. Tidewater inlets and bayous are meandered, when duly authorized, where the average right-angle width is 3 chains and upwards, and they no longer allow free travel by customary watercraft. Oceans, gulfs, bays,

bayous, straits, and other tidally influenced waters are meandered at the line of MHT.

### Lakes

**3-185.** All navigable lakes are meandered. Nonnavigable lakes are not meandered except for lakes of the area of 50 acres and greater when duly authorized. However, in selected lands in Alaska, non-navigable lakes of the area of 50 acres and greater are meandered, but the area of such nonnavigable lakes is nonchargeable area (43 U.S.C. 1631).

**3-186.** Exceptions to the general size rule are shallow or poorly defined “lakes” that are actually pools that collect because of permafrost and lack of drainage or are seasonal. These “lakes” will not be meandered even when larger than 50 acres.

**3-187.** In the case of meanderable lakes that are located entirely within the boundaries of a section, a quarter-section line, if one crosses the lake, is run from opposite quarter-section corners. At intersection with the OHWM, one or more special meander corners are established, and the course and distances recorded.

If a meanderable lake is located entirely within a quarter-section, and if, during the subdivision of the quarter-section, a quarter-quarter section line crosses the lake at intersection(s) of the line with the OHWM, a special meander corner or corners are established and the course and distances recorded.

**3-188.** If a meanderable lake is found to be located entirely within the boundaries of a section and it is impracticable to run a subdivision-of-section line across the lake, an “auxiliary meander corner” is established at some suitable point on the OHWM and a connecting line is run from the monument to a regular corner on the section boundary. The course and length of the direct connecting line are shown on the plat of the survey.

**3-189.** The meander line of a lake lying within a section is initiated at the established special or auxiliary meander corner, as the case may be, and continued around the margin of the lake at its OHWM, to a closing at the point of beginning. All proceedings are fully entered in the official record. When the section is not monumented, a connecting line is run from the auxiliary meander corner to a suitable monumented point within the township. If there are numerous lakes within the township, and showing the connecting lines

will clutter the plat, the lines need not be shown on the plat.

**3-190.** Artificial lakes and reservoirs are not segregated from the Federal interest lands, unless specifically provided for in the special instructions, but the true position and extent of such bodies of water are determined in the field and shown on the plat.

### Islands and Sandbars

**3-191.** For official survey purposes, an island is defined as a body of upland that is completely surrounded by water when the water is at the OHWM for inland waters or at the line of MHT for tidal waters. In those States that recognize the low water mark as the boundary and where State law appropriately serves as the source of law for the question, the water at low water mark may be the height of water defining the body of upland.

**3-192.** A gravel bar or sandbar is a formation of soil on the bed of a lake or river that rise above the OHWM but consists of loose and unconsolidated material considered liable to be washed away during subsequent high water seasons and, most important, is devoid of woody vegetation.

Islands form in rivers by several different processes as follows:

- (1) By deposit of alluvial material onto the bed of the river during high flow events that consolidates and supports terrestrial vegetation;
- (2) By the river cutting across a vegetated point bar;
- (3) By an avulsive change where a new channel is washed out around an existing area of upland;
- (4) By marked scour of the river bed around a submerged area; and/or
- (5) By the result of human activity in the river.

**3-193.** Every island above the OHWM of any meanderable body of inland water or above the line of MHT of tidal water, except islands formed in navigable bodies of water after the date of the admission of a State into the Union, is locatable by survey and should be meandered and shown on the official plat.

**3-194.** All islands will be meandered if practicable. In passing islands not to be meandered, estimated ties to their upper and lower ends will be reported to establish their location. Such islands are to be exhibited on the plat as accurately as practicable.

**3-195.** Even though the United States has parted with its title to the adjoining mainland, an island in a meandered body of water, navigable or nonnavigable, in continuous existence since the date of admission of the State into the Union and omitted from the original survey, remains as unsurveyed public land of the United States. As such, the island is subject to survey. Such islands were not a part of the bed at the date of statehood, and therefore their title remained in the United States, subject to survey and disposal when identified. The right that attaches to the riparian parcels along the meander line of the mainland pertains only to the bed of the water body, to access to the water, and to such islands in nonnavigable water bodies formed within the bed subsequent to the disposal of the title (sections 8-158 through 8-165).

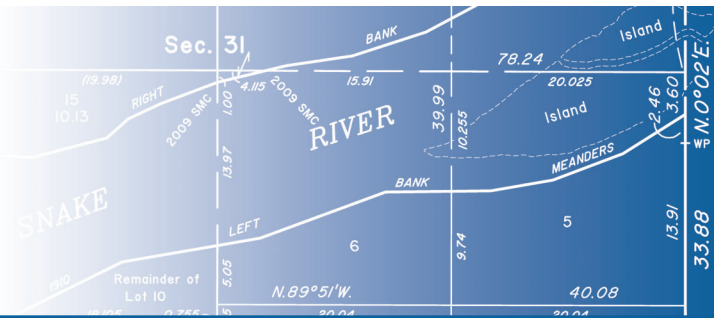
If the patent conveyed these lands to the State we are not concerned with their subsequent disposal, for that is a question of local law. But did the patent include them? This, of course, is a Federal question. *Francis Levee District*, 232 U.S. 186, 196 (1914); *United States v. Oregon*, No. 13, original, 295 U.S. 1, 27 (1935).

Whether an island in a meandered nonnavigable water body is subject to survey after the United States has parted with its title to the adjoining mainland has been subject to inquiry. The U.S. Supreme Court rulings on the subject, however, have consistently held that Federal law governs the intent and whether lands were conveyed or remain Federal, subject to survey.<sup>1</sup>

<sup>1</sup> The Supreme Court in *State of California, ex rel. State Lands Commission v. United States*, 457 U.S. 273 (1982), held that whenever the United States has a claim to unsurveyed lands then Federal law will apply. State law should only apply when the dispute is between private parties see *Oregon ex rel. State Land Board v. Corvallis Sand & Gravel Co.*, 429 U.S. 363 (1977). Without reference to the Supreme Court decision in *State of California, ex rel. State Lands Commission* supra, two circuit courts have reached two different conclusions, first in *Koch v. United States*, 47 F. 3d 1015 (10<sup>th</sup> Cir. 1995) the court held that unsurveyed islands in nonnavigable water passed to the littoral owner under State law as a portion of the bed of the nonnavigable water. In *Wolff v. United States*, 967 F. 2d 222 (6<sup>th</sup> Cir. 1992), the Court held that State law would determine what was intended to be conveyed by the Federal government and if the intent of the Federal grant is unclear then State law will control the title to unsurveyed islands regardless of the navigable character of the water. However, Article IV, Section III, Clause 2 of the United States Constitution provides that Congress will make the rules concerning disposition of Federal lands.

## Chapter VIII

# Resurveys and Water Boundaries



## Introduction

**8-1.** As a class, water boundaries represent some of the most challenging survey problems. In this chapter, water boundaries are divided into several subtopics in order that the elements of each type of problem can be brought out clearly. This chapter addresses the dependent resurvey of the original meanders, issues of navigability, bed ownership and division, accretion, erosion, reliction, avulsion, partition lines for the apportionment of accretions and relictions, accretion after survey but prior to entry, omitted lands, erroneously omitted lands, unsurveyed islands, and beds of nonnavigable rivers and lakes.

Dependent resurveys involving water boundaries usually involve two or more of these elements, requiring an overall analysis to find out which elements are involved. A study of the available historic maps and aerial photographs is made in all but the simplest cases.

## Meanders

**8-2.** Meandering and original surveys is discussed in detail in sections 3-158 through 3-207. In summary, the traverse that approximates the margin of waters is termed a meander line. The original survey of water boundaries described the conditions as they existed at the date of that survey. This process is presumed accurate at the date of the survey as future changes are expected. A meander line is not normally surveyed as a boundary but only as a representation of the actual boundary, which is the ordinary or usual upper limit of the water body. Normally, when the Federal Government conveys title fronting a navigable inland body of water, the intention is that the upland ownership extends to the ordinary high water mark (OHWM). For lands fronting a non-navigable inland body of water, the intention is that the upland ownership extends to the medial line. Finally, for lands fronting tidal water, the intention is that the ownership extends to the line of mean high tide (line of MHT). However, meander lines may become “fixed

and limiting boundaries” under special circumstances described in sections 8-94, 8-169, and 8-179.

**8-3.** The original survey of water boundaries described the conditions as they existed at the date of that survey. They reflect the original surveyor’s effort to follow the OHWM or line of MHT. Unlike upland boundaries, water boundaries are ambulatory. The water boundary is a concept that must be applied by observation of the river, lakeshore, or ocean beach and other tidal water bodies. The actual survey work merely approximates the infinite indentations of riverbanks, channels, or shorelines.

As the work progresses along the boundary under survey, the surveyor must continually assess the terrain and vegetation to compare the variations to the legal concept and establish survey positions that most adequately approximate the actual boundary. Surveys of water boundaries that involve Indian lands, besides enjoying the normal complexities of riparian principles, are highly variable in nature by virtue of the specific language used in the original Treaty, Executive orders, or congressional acts that describe the Indian interest. The surveyor must be cognizant of these differences and should consult appropriate legal counsel to assure the correctness of the survey prior to its completion.

**8-4.** Procedures for the dependent resurvey of water boundaries are separate from the original survey requirements. The resurvey must consider the historic procedures in place at the date of those original surveys. In particular, because of advances in technology plus the differences in value of riparian lands, the surveyor may find that there are substantial differences in the location of the current boundary from the original locations. These differences may exceed the differences that can be explained from normal changes due to accretions, erosion, reliction, and avulsions in the interim.

**8-5.** The concept of following the footsteps of the original surveyor is often not of prime importance in

the resurvey of water boundaries. The dependently resurveyed boundary is a concept established largely by common law that the surveyor shall apply to the conditions that are found along riverbanks, channels, or shorelines. In addition to any physical changes made by water action, State laws regarding water boundaries may be in conflict with the Federal rules and could influence the outcome, particularly where alienated lands are involved.

**8-6.** When important new subjects are encountered in this chapter, a brief definition of terms is provided in the text. If a more complete definition of a term is required, the reader should refer to the Manual supplement, *Glossaries of BLM Surveying and Mapping Terms*.

### Meanders and Meandering— Inland Waters

**8-7.** Inland waters are water bodies not influenced by the daily tides. Survey and resurvey procedures for lands along tidal waters are set out in sections 8-190 through 8-194.

**8-8.** Bodies of water that are meandered and reported on surveys are called meanderable waters and include the following:

A river is defined as a watercourse having banks to contain an ordinary flow of water; although, there may be no flow at various times of the year.

A lake is defined as a quiescent pool of water in a flowing river. A lake with no outlet is defined as a terminal lake, e.g., the Great Salt Lake in Utah.

**8-9.** Meanderable bodies of water include all navigable waters and also nonnavigable rivers that are 3 chains and upwards in average right angle width and nonnavigable lakes 50 acres and upwards in surface area. Nonnavigable rivers of importance, i.e., used as a boundary are meanderable even if less than 3 chains in width. The distinction between navigable and nonnavigable water bodies can be complex and is further detailed beginning in sections 8-21 and 8-32.

### Meandering Along Inland Waters

**8-10.** Meander corners are corners of the survey that are established where township exterior, section, or other

important survey lines intersect the margin of navigable waters or meanderable nonnavigable water. The purpose of meander corner monuments is to preserve the alignment of and the distance along the section line, and to provide a monumented beginning and ending point for the meanders. Where the meander corner location may be subject to erosion, bank caving, ice shoving, or wave action, reference monuments or a witness corner meander corner (WCMC) will be established as near as practicable.

**8-11.** Meander corner monuments are to consist of the regulation posts used for monumentation of the public lands surveys, described in more detail in chapter IV. Corner accessories to meander corners are to be established on the upland side of the meander lines running into or from the corner. Typical markings are found in chapter IV.

**8-12.** Meander corners are established and meander (sometimes called angle) points are located along the banks of meanderable rivers and lakes, and along the banks of islands that were formed in those water bodies before the date of statehood. Meander corners are also established along the banks of islands in meandered nonnavigable rivers and lakes that formed in those water bodies after the date of statehood but prior to alienation of the upland.

**8-13.** Meander lines are only run in front of public domain or other Federal interest lands. When it is necessary to show the sinuosities of a water body in front of alienated lands for platting purposes, medial line computations, establishing zero accretion points, or controlling proportionate corners, an informative traverse is run and may be included on the plat and field notes. An informative traverse is executed similarly to a meander line but neither establishes nor defines riparian rights of any kind in the adjacent upland. The informative traverse merely indicates the topography in front of the entered, claimed, or patented land. In addition, new areas are not returned. The result is represented on the plat as an informative traverse with different line weight or line style from shown meanders.

**8-14.** Remeandering is the process of establishing new meanders in front of previously meandered Federal interest lands. In the event of accretions to or relictions on such lands, the new meander line will be between the margin of the water and the former meander line.

**8-15.** Where it appears that upland was erroneously marked as lying below the original meander line and

thus omitted from survey (omitted lands), the original meander line becomes a fixed and limiting boundary. New meanders are returned and new acreage and lots shown on the plat for the formerly omitted areas.

**8-16.** When sections bordering meandered bodies of water are subsequently subdivided, it is common for the shore line to have materially changed during the intervening years between the date of the subdivision of the township and the date of the subdivisional or allotment survey, through the processes of accretion, erosion, or the recession of the water. If it is desirable to remeander the body of water in order to show the true conditions at the date of the section subdivision, the plat should show new lottings and/or areas for unpatented lands within the invaded sections (section 9-109 and figure 9-9).

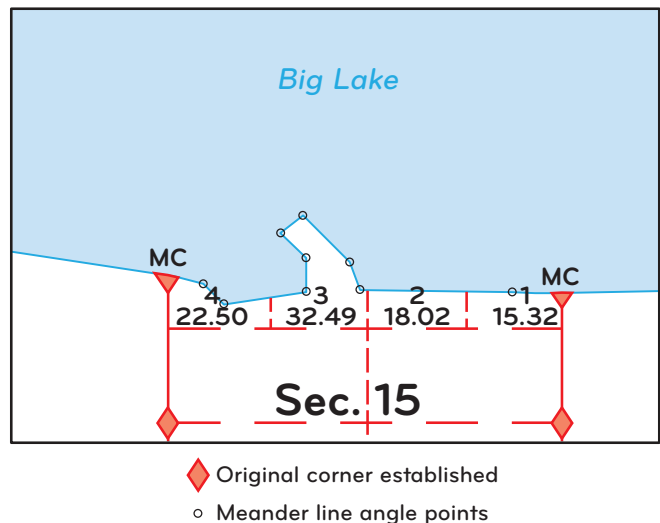
**Restoration of Meander Lines During Resurvey**

**8-17.** Following the perpetuation of obliterated meander corners or reestablishment of lost meander corners, it may be necessary to place the original meander line on the ground. This is done to assist in understanding the processes by which the changes occur, especially in identifying avulsions. Calls for bank heights, sloughs, vegetation, and other physical features in the previous record are compared with current conditions to understand why the changes occurred. The restoration of angle points along meander lines is made using the compass rule adjustment method described in section 7-53.

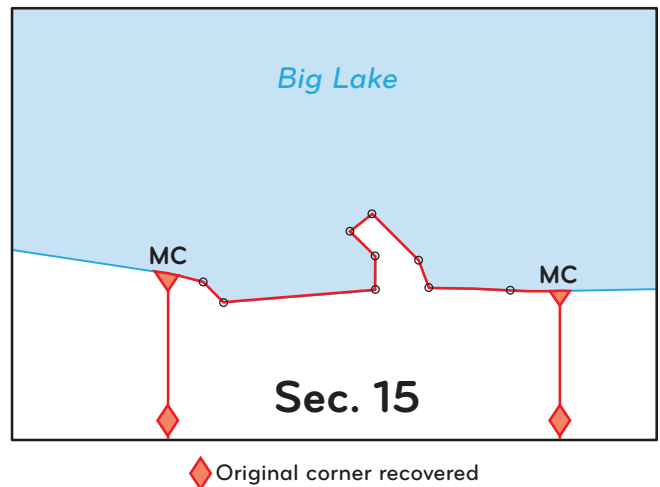
**8-18.** In situations where the record adjusted angle points fall in deep water or other impassible terrain, the restored angle points will be calculated based on the above field procedure and the coordinates of the restored angle points then established by a calculated traverse. A graphical layout of the entire traverse at a suitable scale is recommended for a check on the work.

**8-19.** The existence of a gross error or blunder in the original meander line record is sometimes apparent when a sharp topographic feature is reflected in the original record but is offset at a considerable distance from its restored location, hence the rationale for placing the original meanders on the ground (figures 8-1 through 8-3). Using the principle of placing the blunder where the blunder occurred, the record should be judiciously corrected so that the restored meander line adequately reflects the topography.

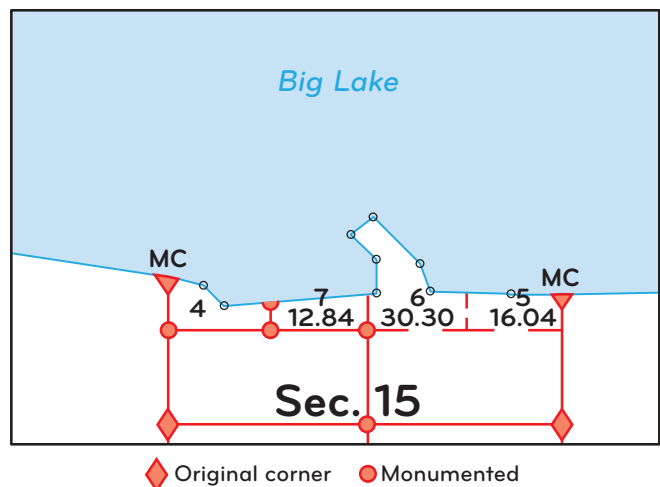
Past record errors have included reversed meander course order, an error in the inversed final course, the original surveyor erroneously following the banks of



**Figure 8-1.** A portion of the 1871 original survey plat showing a lake peninsula.



**Figure 8-2.** A portion of the 2009 retracement showing the same lake peninsula.



**Figure 8-3.** A portion of the 2009 resurvey and the subdivision of section 15.

another water body, e.g., meandering a stream entering the river intended to be meandered, meandering the top of vertical banks some distance back from the water's margin, meandering during flood stage rather than "ordinary high water" (not necessarily error but may explain an excessively wide river), or transcription errors.

**8-20.** Angle points of a restored adjusted record meander line are not ordinarily monumented except as necessary for administration or management purposes. These are monumented when the restored adjusted record meander line becomes a fixed and limiting boundary of Federal interest land or when accretions are lotted.

## Navigability

### Nonnavigable Waters

**8-21.** Nonnavigable bodies of water are rivers and lakes that have no history of use in navigation nor have the susceptibility of being used for commercial transportation in their ordinary condition at the date of statehood. They are the small natural ponds, rocky creeks, and even usually dry washes, and arroyos. They do not fit the description of streams or lakes that are legally navigable waters; navigable waters are more carefully defined below.

**8-22.** Nonnavigable watercourses, when crossed by lines of the regular survey and resurvey, are noted as items of topography. The field notes should reflect the distance along the line to the center of the watercourse, the direction of the flow, and average width. The shores of such small lakes will be noted as items of topography with the distance along the survey line and the bearing of the shoreline in the field notes.

**8-23.** Nonnavigable streams and lakes are meandered under certain conditions. Title to the beds remains in the United States until the shore lands have passed into private ownership (*United States v. Oregon*, 295 U.S. 1 (1935)). The Government's conveyance of title to a fractional subdivision fronting upon a nonnavigable body of water, unless specific reservations are indicated in the patent, carries ownership to the middle of the bed *in front of* the basic holding (*Oklahoma v. Texas*, 261 U.S. 345 (1923); see also 43 U.S.C. 931).

**8-24.** Well-defined nonnavigable watercourses more than 3 chains in average right angle width will be meandered on both banks between consecutive meander corners, unless otherwise directed by special instructions.

**8-25.** Nonnavigable lakes of 50 acres and upwards in extent will be meandered unless otherwise directed by special instructions. The survey procedure is the same as for a navigable lake.

**8-26.** It is necessary at times to survey the beds of nonnavigable streams and lakes, or the portions of the beds owned by the Government, in connection with the administration of the Federal interest lands, e.g., locating the medial line of the river which is the boundary of an Indian reservation. Where all the shore remains in public ownership, the survey is simply an extension of the regular rectangular system.

More commonly, it is desired to establish partition lines between alienated and Federal interest lands. In either case, if the area is covered by water, as in the case of the survey of the bed of a nonnavigable water body, the survey cannot be monumented in the regular manner, and many of the lines cannot be surveyed on the ground. The plat then represents a survey made largely by protraction. The procedure will be outlined in detail in the special instructions.

**8-27.** Where federally owned lots are dependently resurveyed along one bank of a meandered nonnavigable river and are opposed by entered, claimed, or patented lots along the opposite bank, generally the boundary line between the lots is located along the medial line of the river. The medial line is halfway between the opposite OHWMs of the river as of the time of the resurvey. See section 8-62 for more information about medial lines and exceptions to the general rule.

**8-28.** The field work usually consists of (1) a dependent resurvey of the lands bordering on the area to be surveyed; (2) the subdivision of the upland sections when necessary to determine the boundaries of Federal interest riparian subdivisions; (3) the monumentation of as many corners as practicable; (4) the protraction of section lines onto the bed to the extent needed for making computations; and (5) the establishment of medial and partition lines if this is to be done on the ground.

**8-29.** Nonnavigable rivers have been used as boundaries of reservations, borders between States, or other special purposes, e.g., the Yakima River in Washington State (a portion of the Yakama Indian Reservation boundary), the San Juan River (a portion of the Navajo Reservation boundary), or the Red River (a portion of the Texas and Oklahoma border). In some instances, the boundary of a special area follows one bank or the other rather than in the channel. It is important that the precise

# Navigable Waterways of Oregon

**WATERWAYS & WETLANDS**

- Use of State-Owned Waterways
- Permits & Authorizations
- Wetland Planning and Conservation
- Mitigation
- Non-Motorized In-Stream Placer Mining
- Staff Directory: Waterways & Wetlands
- FAQs: Waterways & Wetlands
- Laws & Rules: Waterways & Wetlands
- Forms: Waterways & Wetlands
- Technical Resources
- Publications: Waterways & Wetlands
- Check Application or Delineation Status
- Aquatic Resources Mitigation Framework
- Funding for Projects that Enhance Waterways
- DSL Partial Assumption of Federal 404 Permit Authority

Clicking on the >> symbol will reveal the map legend. Select a waterway to see related details.

The map interface includes a search bar at the top right with the text "Find address" and a magnifying glass icon. On the left side of the map, there is a vertical toolbar with a double right-pointing arrow (>>) at the top, followed by zoom in (+), home, zoom out (-), and a legend icon. A scale bar at the bottom left indicates 0, 1, and 2 miles. The map shows the Willamette River, Sturgeon Lake, Sauvie Island, and Vancouver Lake. A popup window titled "Waterways: Multnomah Channel" is open over the river, displaying the following data:

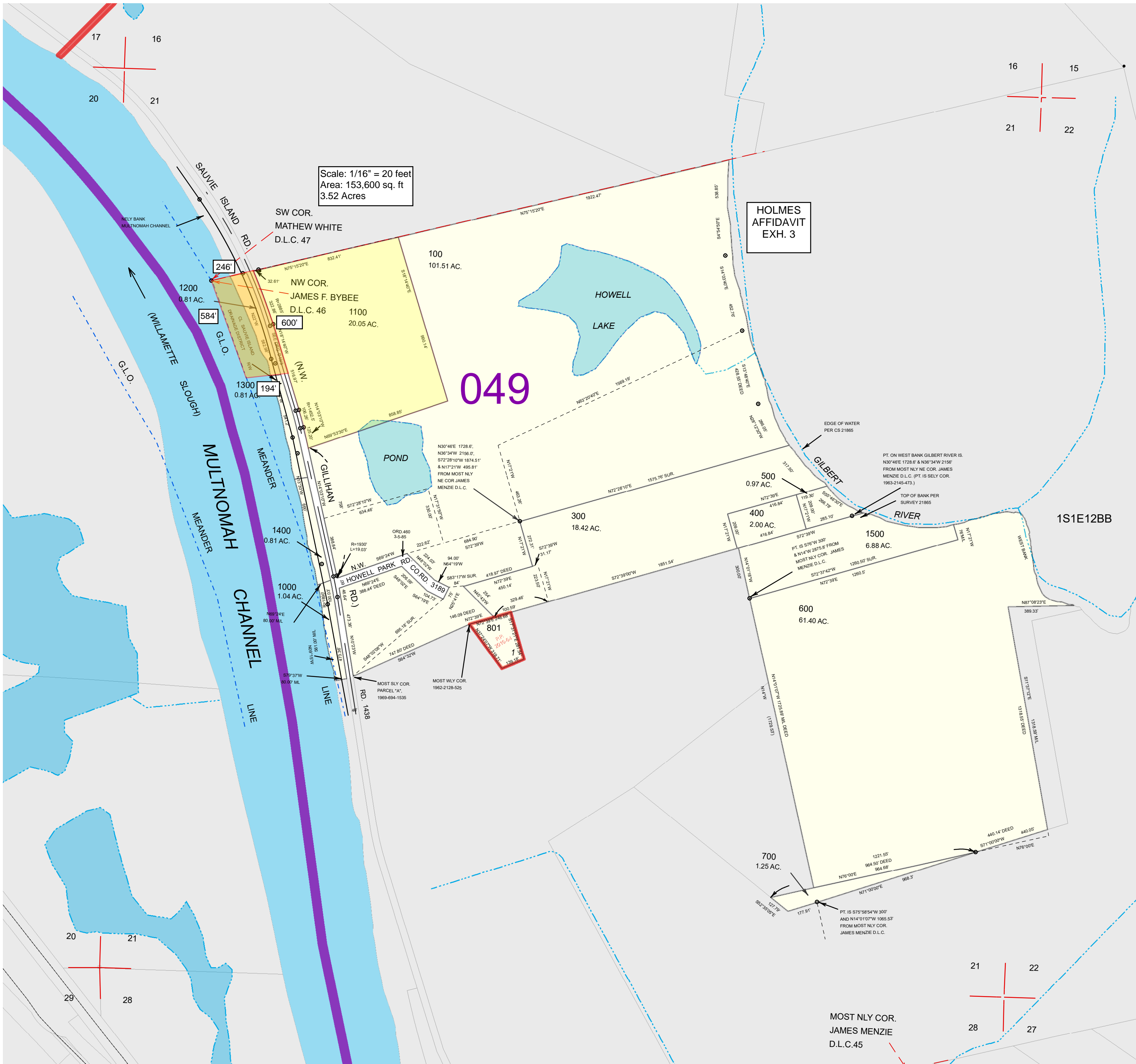
Waterways: Multnomah Channel	
Waterway Feature Name	Multnomah Channel
Acres	1,889.25
Tidal?	Yes
Meandered?	No
Navigable?	No
Waterway Group Name	Willamette River
Head of Tide Location	All

At the bottom of the popup, there is a "Zoom to" button with a magnifying glass icon. The map footer includes the text "CHS, Esri, DeLorme, NaturalVue | Dpet. State Lands | CHS, N..." and the Esri logo with "POWERED BY" text.

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

SECTION 21 T.2N. R.1W. W.M.  
MULTNOMAH COUNTY  
1" = 400'

2N 1W 21



Scale: 1/16" = 20 feet  
Area: 153,600 sq. ft.  
3.52 Acres

HOLMES  
AFFIDAVIT  
EXH. 3

049

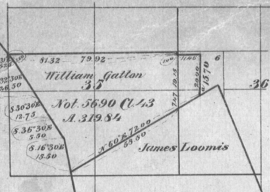
1S1E12BB

MOST NLY COR.  
JAMES MENZIE  
D.L.C.45

2N 1W 21

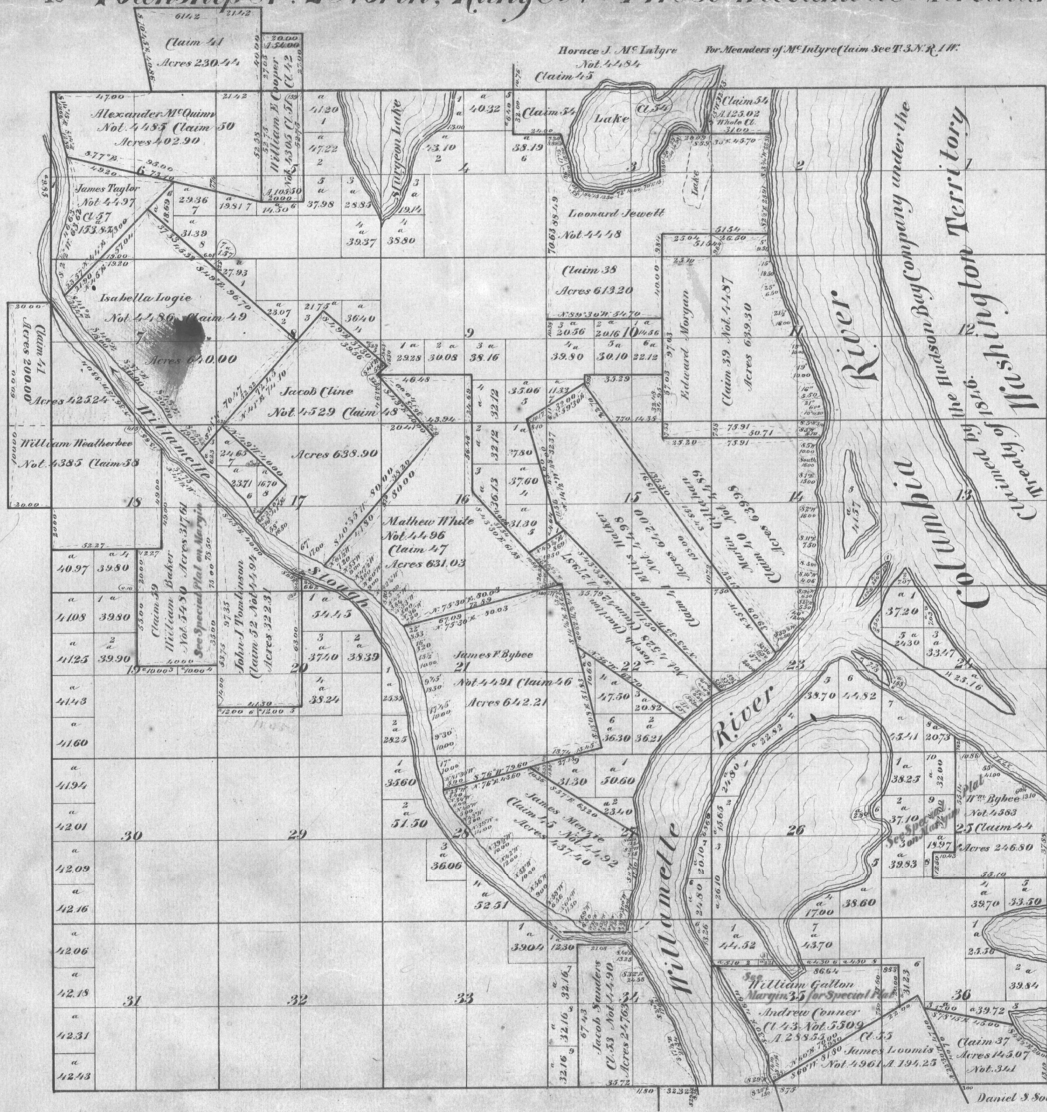


15 Township N<sup>o</sup> 2 North, Range N<sup>o</sup> 1 West Willamette Meridian.

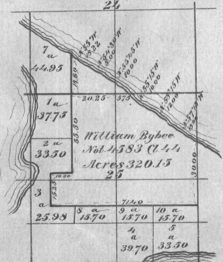


The above Special plat of Cl 43 in T2 N R1 W Mill Mer Ore is strictly conformable to the field notes of the survey thereof on file in this Office which have been examined and approved  
 Surveyor General's Office Eugene City Nov 15<sup>th</sup> 1865  
 B. P. Rogers Sur. Gen. of Ore.

Legal Subd Donation (6) Surveged 877962  
 Public land remaining Total on Claim Map 1725413



The above Special plat consequent upon the subdividing the donation claim of Wm Baber Cl 59, Not 3480 Secs 15 & 19 in T2 N R1 W Mill Mer is correct.  
 Surveyor General's Office Eugene City Feb 22 1870  
 G. L. Applegate Sur. Gen. of Ore.



The above Special plat of Cl 44, Wm Bybee in T2 N R1 W Mill Mer Ore is strictly conformable to the field notes of the survey thereof on file in this Office, which have been examined and approved.  
 Surveyor General's Office Eugene City Oct 30, 1863  
 B. P. Rogers Sur. Gen. of Ore.

The above Map of the Survey of Claims in Township N<sup>o</sup> 2 North, Range N<sup>o</sup> 1 West, Mill Mer Oregon, is a true and correct copy of the Original Map on file in this Office.  
 Surveyor General's Office, Portland, Ore Aug 5<sup>th</sup> 1897.  
 Robert A. Habersham Sur. Gen. of Ore.

The above Map of the Survey of Claims in Township N<sup>o</sup> 2 North, Range N<sup>o</sup> 1 West, Willamette Meridian, Oregon, is strictly conformable to the field notes of the survey thereof on file in this Office, which have been examined and approved.  
 Surveyor General's Office Eugene City Sept 25<sup>th</sup> 1862  
 B. P. Rogers Sur. Gen. of Ore.

HOLMES AFFIDAVIT EXH. 4

United States of America, by special power, this 16th day of  
Do have and to hold, all and singular the above described  
premises, together with all and singular the tenements im-  
provements or appurtenances therunto belonging, unto them the  
said James S. Bybee his heirs and assigns forever. In Testimony  
whereof I have hereunto set my hand and seal this the 16th day of  
December A. D. 1873.

In presence of us  
B. A. Dolph Joseph Simon  
State of Oregon } John Foley (Notary)

Multnomah County }  
fore me personally came John Foley, to me personally known to be  
the identical person who is described and who executed the  
foregoing Indenture, and acknowledged to me that he had  
executed the same. In testimony whereof I have hereunto set  
my hand and affixed my Notarial Seal this the day and year  
this Certificate first above written.

Received for Record  
December 16, 1873. Notarial  
Seal Joseph Simon  
Notary Public in and  
for the State of Oregon

Bybee J. F. and wife  
to  
Howell, J. and wife

This Indenture made and entered into at the City of Portland  
Oregon between James S. Bybee and Julia A. Bybee his wife of  
Multnomah County State of Oregon the parties of the first part  
and John Howell and Joseph Howell of the same place the  
parties of the second part, Witnesseth, That the said parties of  
the first part for and in consideration of the sum of Ten  
Thousand Dollars (\$10,000) in U.S. Gold coin to them in hand  
paid by the parties of the second part the receipt whereof is  
hereby acknowledged, have granted, bargained, sold and con-  
veyed and by these presents they do grant, bargain, sell and con-  
vey unto the parties of the second part their heirs and assigns  
forever all the following described piece, parcel or tract of  
land, to-wit: The Donation Lands claims of James S. Bybee  
and Julia A. Bybee his wife being claims No 26, and Notifi-  
cation No 4491 and being parts of Sections 1151 Fifteen (15) Sec-  
tion (21) Twenty One (22) Twenty Two (23) Twenty Seven and  
(28) Twenty Eight in Township Two (2) North Range One (1) West  
and more particularly bounded and described as follows, to-wit:  
Beginning at a point bearing North 76° East and 13 1/2 rods  
from a point 13 1/2 rods East of the South West corner of said

10<sup>th</sup> A. D. 1874  
 written  
 into  
 into  
 the  
 destination  
 16<sup>th</sup> day of  
 by (and)  
 D. 1873, be-  
 comes to be  
 to be  
 to be  
 into  
 in  
 Oregon  
 stands  
 of  
 first part  
 of  
 of  
 hands  
 of is  
 and  
 and  
 assigns  
 of  
 Bybee  
 Notary  
 18<sup>th</sup> day  
 and  
 West  
 as to be  
 chains  
 of

Section Twenty Two (22) and remaining thence South 76° West 79.60  
 chains, thence North 18° 30' West 5.00 chains, thence North 17° West  
 10.00 chains, thence North 9° 30' West 10.00 chains thence North 11° 45'  
 West 10.00 chains, thence North 9° 45' West 18.50 chains, thence North 13° 30'  
 West 10.50 chains, thence North 16° West 8.20 chains, thence North 22° West  
 8.50 chains, thence North 75° 30' East, 80.00 chains, thence South 14° 45'  
 East 25.65 chains and thence South 13° 08' East 57.80 chains to the place  
 of beginning containing 642 <sup>2</sup>/<sub>100</sub> acres situate, lying and being  
 in the County of Multnomah and State of Oregon. Together with  
 all and singular the tenements, hereditaments and appurtenances  
 thereto belonging or in anywise appertaining. And the rever-  
 sion and reversions, remainder and remainders, rents, issues  
 and profits thereof. And all the estate right title interest claim  
 and demands of the parties of the first part, of in and to the said  
 described premises and every part and parcel thereof with the  
 appurtenances. To have and to hold the same unto the said parties  
 of the second part, their heirs and assigns forever, to each the  
 equal undivided one half <sup>share of</sup>. And I the said James F. Bybee for  
 myself my heirs, executors administrators do covenant promise  
 and agree to and with the parties of the second part their heirs  
 and assigns that I am the owner in fee simple of the said de-  
 scribed and herein conveyed premises, that they are free and  
 clear of all incumbrances, that I have good right, full power  
 and lawful authority to sell and convey the same in manner  
 aforesaid and that I will and my heirs, executors and admin-  
 istrators shall warrant and defend the same against the law-  
 ful claims and demands of all persons whomsoever lawfully  
 claiming or to claim the same. In Witness Whereof the parties of  
 the first part have hereunto set their hands and seals this 17<sup>th</sup> day  
 of December A. D. 1873

Executed in the presence of  
 us Witnesses  
 E. L. Bronaugh      C. A. Dolph  
 State of Oregon

James F. Bybee (Seal)  
 Julia A. Bybee (Seal)

This certifies that on this 17<sup>th</sup> day of Decem-  
 ber A. D. 1873 before me the undersigned, a Notary Public in and  
 for said County and State personally appeared James F. Bybee and  
 Julia A. Bybee his wife to me personally known to be the identical  
 persons described in and who executed the within conveyance  
 and acknowledged to me that they executed the same. And the  
 said Julia A. Bybee wife of said James F. Bybee on a private ex-  
 amination by me made separate and apart from her said husband

acknowledged to me that she executed the same freely and volun-  
tarily and without fear or compulsion from any one. In Witness  
Whereof I have hereunto set my hand and official seal the  
date above written.

Received for Records

December 18: 1873

at 30 minutes past 10 o'clock A. M.

Notarial  
Seal

J. A. Dolph

Notary Public for Oregon

Watson A. J. of  
to  
Fleischer L.  
Schmuel A.  
Kirsch S.

Know all Men by these Presents, that we A. J. Watson, ~~Richard~~  
Watson his wife, of the City of Portland and State of Oregon, in consider-  
ation of the sum of (2000<sup>00/100</sup>) Two thousand dollars Well Coin to  
us in hand paid by Lewis Fleischer, Alexander Schlessel  
and Solomon Kirsch, all of said City and State, the receipt whereof  
is hereby acknowledged, do hereby grant, bargain, sell, and quit  
claim, unto the said Lewis Fleischer, Alexander Schlessel and  
Solomon Kirsch, and their heirs and assigns, all and each of  
our right, title interest, claim and demands, of us and to us  
undivided one fourth of the following described Real Estate,  
"to wit" commencing at the south West corner of the Donation land  
claim of William Blackiston, in the County of Multnomah and  
State of Oregon, being claim No (53) fifty three, being parts of Sec-  
tions (28) twenty eight and (29) twenty nine, in Township (1) one  
North range (1) one East, already run and described in the  
United States surveys of said County and State, and commencing  
thence North along the west line of the claim (13) thirteen chains  
and (50) fifty links to a post in the west line of the claim, and  
also to the supposed division line of the claim, thence easterly  
along the division line of the said claim and at right angles  
with the west line of the same (41) forty one chains and (12) twelve  
links, by calculation, to a post in the North line of the south half  
of said Donation claim, witness a cedar tree (20) twenty and  
in diameter, South 63° 10' East (2) two chains and (52) fifty two  
links, thence South and parallel with the west line of said claim  
and at right angles with the said division line (10) ten chains  
and (12) twelve links to the North East corner of the land of  
land conveyed by J. A. Dolph to H. E. Ralney, thence westward  
parallel with the said division line (3) three chains and (12)  
thirty seven and one half links, thence North and parallel with  
the west line of said claim (3) three chains and (57) thirty  
seven and one half links, thence North and parallel with

HOLMES  
AFFIDAVIT  
EXH. 6

February 6, 1894.  
Signed, sealed and delivered  
in the presence of us as witnesses  
John D. Carson  
A. S. Carson

John C. Carson  
Elyza A. Carson

Sub  
Sub  
(and)  
(and)

State of Oregon,  
County of Multnomah.

As this Officer that on this 6th  
day of February A.D. 1894, before  
me, the undersigned, a Notary Public, in and for said  
County and State, personally appeared the within  
named John C. Carson and Elyza A. Carson, his wife,  
and to me to be their identical persons described  
in and with respect to their within mentioned and  
acknowledged to me that they intended the same  
said Elyza A. Carson, wife of the said John C. Carson  
in and to separate and apart  
from her said husband, that and their common and joint  
to me that she executed the same fully, and in  
lawfully and without fear, coercion or compulsion  
of any one. In testimony whereof, I have hereunto set my hand  
and Notarial Seal the day and year last above written  
and for record March 1st, 1894. Notary Public for Oregon  
John D. Carson  
Notary Public for Oregon

33358

Witness  
I do  
know

Herein all men by their presents, that I Joseph  
consequently, in consideration of Five Thousand Dollars  
and other good and valuable consideration, to me  
paid by and by me received from my brother John  
Carson have bargained and sold and by these presents  
do grant, bargain, sell and convey unto said John Carson  
his heirs and assigns all of the following described and  
described real property situated in the County of  
Multnomah and State of Oregon, to wit: One hundred  
and half (1/2) interest in and to the Pythecian Donation  
said claim, Notification No. 4491, Claim No. 446, being  
parts of (1) Robert Gibson (12) under (16), twenty and (21),  
twenty two (22), twenty seven (27) and twenty eight (28)  
Quadrants First (2) North of Range One (1) West of the  
William the Meridian, and being particularly described  
and described as follows to wit: Beginning at a  
point that (3) Charles and forty three (4) acres and  
of the north east corner of said section twenty eight  
(28) and running thence south westerly six degrees  
west (N 76° W) fifty two (52) chains and forty

Handwritten notes in the right margin, including names and numbers.

(14) three. thence north eighteen degrees and thirty seven  
 minutes west (N. 18° 37' W.) five (5) chains thence north  
 sixteen degrees west (N. 16° W.) ten (10) chains thence north  
 and thirty seven minutes west (N. 37° 30' W.) ten  
 (10) chains thence north eleven degrees and forty five  
 minutes west (N. 11° 45' W.) ten (10) chains thence north nine  
 degrees and forty five minutes west (N. 9° 45' W.) eight  
 (8) chains and fifty (50) links thence north thirteen degrees  
 and thirty minutes west (N. 13° 30' W.) ten (10) chains and fifty  
 (50) links thence north sixteen degrees west (N. 16° W.) eight  
 (8) chains and twenty (20) links thence north twenty two  
 degrees west (N. 22° W.) eight (8) chains and fifty three (53)  
 links thence north twenty five degrees and thirty  
 minutes east (N. 25° 30' E.) eighty (80) chains and three  
 (3) links thence south fourteen degrees and fifteen  
 minutes east (S. 14° 15' E.) twenty (20) chains and  
 three (3) links thence south thirteen degrees and fifteen  
 minutes east (S. 13° 15' E.) fifty one (51) chains and eight  
 (8) links and thence south twenty six degrees  
 west (S. 26° W.) thirty seven (37) chains and thirteen  
 (13) links is the place of beginning, containing one  
 hundred forty two and twenty six hundred and  
 seven acres together with all and singular the tenements  
 hereditaments and appurtenances thereto in any  
 way or in anywise appertaining, and also all rights  
 light title and interest in and to the same  
 to have and to hold the above described and  
 granted premises unto said John Howell, his heirs  
 and assigns forever. And I Joseph Powell, grantor  
 above named, do covenant so and with John Powell,  
 the above named grantee, his heirs and assigns,  
 that the above granted premises are free from all  
 incumbrances, and that I will and my heirs, executors  
 and administrators shall warrant and forever  
 defend the above granted premises, against the  
 lawful claims and demands of all persons  
 whatsoever.

In Witness Whereof, I have hereunto set my hand  
 and seal on this the seventh day of December 1794  
 signed sealed and delivered  
 in the presence of us witnesses Joseph Powell  
 J. R. O'Shaughnessy  
 Geo. H. Joseph

tion has pursuant to a resolution of its Board of Directors heretofore duly adopted caused these presents to be executed by its President and Secretary and its corporate seal to be hereunto affixed this fifth day of April 1923 A D 1923

Executed in the presence of

M L Lee

Ruby Cruickshank

(Corporate Seal)

STATE OF OREGON )

COUNTY OF MULTNOMAH ) SS

THE JOSEPH A STROWBRIDGE ESTATE CO.

By J A Strowbridge President

THE JOSEPH A STROWBRIDGE ESTATE CO

By A B Strowbridge, Secretary

HOLMES  
AFFIDAVIT  
EXH. 7

THIS CERTIFIES That on this Fifth day of April 1923 1923 before me, the undersigned a Notary Public in and for said County and State, aforesaid, appeared J A Strowbridge and A B Strowbridge, to me personally known, being duly sworn did say; that they are the President and Secretary respectively of The Joseph A Strowbridge Estate Co., a corporation, and that the said instrument was signed and sealed in behalf of said corporation aforesaid by authority of its Board of Directors and the said J A Strowbridge and A B Strowbridge, aforesaid acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my Notarial seal the day and year first above written

(Notarial Seal)

M L Lee

My commission expires July 14, 1923

Notary Public for State of Oregon

Rec for record May 5, 1923 at 4:19 P M

---c0o---

M I #335519

HOWELL TO HOWELL

KNOW ALL MEN BY THESE PRESENTS That Raymond J Howell an unmarried man, of Astoria, Oregon, in consideration of Five Thousand and 00/100 Dollars (\$5000.00) to him paid by John Benjamin Howell, of Portland, Oregon, has bargained and sold, and by these presents does grant bargain sell and convey unto said John Benjamin Howell, his heirs and assigns all the following bounded and described real property situated in the County of Multnomah, and State of Oregon,

An undivided one third interest in and to:

The Donation Land Claim of James Menzies and Parthenia E Menzies, his wife, being claim No 45, Notification No 4492, being parts of sections 27, 28 and 34 in Township 2 North Range 1 West of Willamette Meridian, in Multnomah County, State of Oregon, bounded and described as follows, to wit:

Beginning at a point 11 chains 28 links south of the northwest corner of said section 27 and running thence south 57 degrees east 52 chains and 84 links, thence south 1 chain 32 links; thence south 3 degrees west 7 chains 15 links, thence south 11 degrees west 17 chains 30 links thence south 10 degrees west 19 chains 41 links thence south 83 degrees west 3 chains 50 links, thence north 85 degrees west 5 chains 50 links; thence south 85 degrees 30minutes west 3 chains 50 links, thence north 81 degrees west 1 chain 39 links thence north 69 degrees west 8 chains 50 links thence north 64 degrees west 11 chains 50 links thence north 58 degrees west 6 chains 56 links thence north 56 degrees west 9 chains thence north 52 degrees west 10 chains thence north 42 degrees west 12 chains thence north 39 degrees 30 minutes west 10 chains thence north 39 degrees west 14 chains thence north 43 degrees west 5 chains thence North 40 degrees west 5 chains, thence north 34 degrees west 6 chains

27/20

thence north 25 degrees west 5 chains 40 links thence north 70 degrees east 43 chains 60 links, thence south 37 degrees east 10 chains 36 links to place of beginning, containing 457.40 acres; also

Donation Land Claim of James F Bybee and Julia A Bybee, his wife, Notification No 4491 Claim No 46., being parts of Sections 15, 16, 21, 22, 27, and 28 in Township 2 North Range 1 West of Willamette Meridian in Multnomah County, State of Oregon, bounded and described as follows, to wit:

Beginning at a point 3 chains 45 links South of the northeast corner of said section 28, and running thence south 70 degrees west 52 chains 47 links; thence north 18 degrees 30 minutes West 5 chains thence North 17 degrees West 10 chains; thence North 9 degrees 30 minutes West 10 chains; thence North 11 degrees 45 minutes West 10 chains; thence North 9 degrees 45 minutes West 18 chains 50 links; thence North 13 degrees 30 minutes West 10 chains 50 links; thence North 10 degrees West 8 chains 20 links; thence North 22 degrees West 8 chains 53 links, thence North 75 degrees 30 minutes East 80 chains 3 links, thence South 14 degrees 15 minutes East 29 chains 9 links thence South 13 degrees 8 minutes East 51 chains 33 links; thence South 70 degrees West 27 chains 13 links to place of beginning containing 642.21 acres

\$5,000 U S I R S Cancelled

Together with all and singular the tenements credits and appurtenances thereto belonging or in any wise appertaining and also all his estate right title and interest in and to the same including dower and claims of dower

TO HAVE AND TO HOLD the above described and granted premises unto the said John Benjamin Howell, his heirs and assigns forever. And Raymond J Howell, grantor above named does covenant to and with John Benjamin Howell, the above named grantee, his heirs and assigns that he is lawfully seized in fee simple of the above granted premises, that the above granted premises are free from all incumbrances except that the whole of said tract herein described is subject to a mortgage of Thirty five Thousand Dollars (\$35,000.00) in favor of the Portland Joint Stock Land Bank, and that the grantee hereby assumes and agrees to pay an undivided one third of said mortgage together with interest as the same becomes due; that grantor will and his heirs executors and administrators shall warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except the mortgage above mentioned.

IN WITNESS WHEREOF the grantor above named has hereunto set his hand and seal this 19th day of April A D 1923

Executed in the presence of

Q L Matthews

Raymond J Howell



A J Christopherson

STATE OF OREGON )

COUNTY OF MULTNOMAH )SS

BE IT REMEMBERED That on this 19th day of April A D 1923, before me, the undersigned a Notary Public in and for said County and State, personally appeared the within Raymond J Howell, who is known to me to be the identical individual described in and who executed the within instrument and acknowledged to me that she executed the same freely and voluntarily

IN TESTIMONY WHEREOF I have hereunto set my hand and Notarial seal the day and year last above written

(Notarial Seal)

A J Christopherson  
Notary Public for Oregon

My commission expires July 21, 1923

Rec for record May 5, 1923 at 1:30 P M -000-



RCW 364 PAGE 478

BARGAIN AND SALE DEED

KNOW ALL MEN BY THESE PRESENTS, that I, Mabel A. Lanpher, a single woman of Kelso, Cowlitz County, State of Washington, in consideration of the sum of One (\$1,200) Dollars and other good and valuable considerations to me in hand paid by John Benjamin Howell of Portland, Oregon, has bargained and sold, and by these presents does grant, bargain, sell and convey unto the said John Benjamin Howell, his heirs and assigns, all of my right, title and interest, including my equity of redemption, in and to the following described parcels of real estate, together with the tenements, hereditaments and appurtenances, situate in the County of Multnomah, State of Oregon, to-wit:

The Donator Land claim of James Menzies and Barbara M. Menzies his wife, being claim No. Forty-five (45) Notification No. 4404, being parts of sections twenty-seven (27), Twenty-eight (28) and Thirty-four (34) in Township Two (2) North Range One (1) West of the Willamette Meridian, in Multnomah County, State of Oregon bounded and described as follows, to-wit:

Beginning at a point eleven (11) chains twenty-eight (28) links South of the Northwest (NW) corner of said section Twenty-seven (27) and running thence South fifty-seven (57) degrees East fifty-two (52) chains eighty-four (84) links thence South One (1) chain thirty-two (32) links; thence South three (3) degrees West seven (7) chains fifteen (15) links; thence South eleven (11) degrees West seventeen (17) chains Thirty (30) links thence South ten (10) degrees

R20W 364 PAIR 479

West nineteen (19) chains forty-one (41) links,  
 thence South eighty-three (83) degrees West three  
 (3) chains fifty (50) links, thence North eighty-  
 five (85) degrees West five (5) chains fifty (50)  
 links; thence South eighty-five (85) degrees thirty  
 (30) minutes West three (3) chains, fifty (50) links;  
 thence North eighty-one (81) degrees West One (1)  
 chain thirty-nine (39) links, thence North sixty-  
 nine (69) degrees west eight (8) chains fifty (50)  
 links, thence North sixty-four (64) degrees West  
 eleven (11) chains fifty (50) links; thence North  
 fifty-eight (58) degrees West six (6) chains fifty-  
 six (56) links; thence Norther Fifty-six (56) degrees  
 West nine (9) chains; thence North fifty-two (52) de-  
 grees West ten (10) chains; thence North forty-two  
 (42) degrees West twelve (12) chains, thence North  
 thirty-nine (39) degrees thirty (30) minutes West  
 ten (10) chains; thence North thirty-nine (39)  
 degrees West fourteen (14) chains; thence North forty-  
 three (43) degrees West five (5) chains; thence North  
 forty (40) degrees West five (5) chains; thence North  
 thirty-four (34) degrees West six (6) chains; thence  
 North twenty-five (25) degrees West five (5) chains forty  
 (40) links, thence North seventy-six (76) degrees east  
 forty-three (43) chains sixty (60) links; thence South  
 fifty-seven (57) degrees east ten (10) chains thirty-  
 six (36) links to place of beginning containing four  
 hundred thirty-seven and forty one hundredths acres  
 (437.40), excepting therefrom the following described  
 tract: beginning at the South East corner of the James  
 Menzies D. L. C. No.- forty-five (45) in Township Two  
 (2) North Range one (1) West of W.M. and running thence  
 South one (1) chain, thirty-two (32) links; thence

364 PAGE 480

South three (3) degrees West, seven (7) chains fifteen (15) links to a point; thence South eleven (11) degrees West seventeen (17) chains thirty (30) links to a point; thence South ten (10) degrees West fourteen (14) chains sixteen (16) links to the head of Sauvie's Island; thence West seven (7) chains ninety-four (94) links to a point; thence North eighty-five (85) degrees West five (5) chains fifty (50) links to a point thence South eighty-three (83) degrees thirty (30) minutes West three (3) chains fifty (50) links to a point; thence North sixty-nine (69) degrees West eight (8) chains fifty (50) links to a point; thence North sixty-four (64) degrees West seven (7) chains fourteen (14) links to an Iron rod on the right bank of the Willamette Slough; thence North thirty-three (33) degrees East forty-one (41) chains ten (10) links to an Iron Rod on the North East boundary of the said Menzies D L C; thence South fifty-seven (57) degrees East along the North East boundary line of the said Menzies D. L C thirteen (13) chains thirty-two (32) links, to the place of beginning containing One Hundred Two and four tenths Acres, (102.4) Acres of land more or less; also

Donation Land Claim of James F. Bybee and Julia A. Bybee, his wife, Notification NO. 4491 Claim No. 46, being parts of Sections Fifteen (15) Sixteen (16) Twenty-one (21) Twenty-two (22) Twenty-seven (27) and Twenty-eight (28) in Township Two (2) North of Range One (1) West of the Willamette Meridian in Multnomah County, State of Oregon bounded and described as follows:

Beginning at a point three (3) chains forty-three (43) links South of the Northeast corner of said Section twenty-eight (28) and running thence South seventy-six

(76) degrees West fifty-two (52) chains forty-seven (47) links; thence North eighteen (18) degrees thirty (30) minutes West five (5) chains, thence North seventeen (17) degrees West ten (10) chains; thence North nine (9) degrees thirty (30) minutes West ten (10) chains; thence North eleven (11) degrees forty-five (45) minutes West ten (10) chains; thence North nine (9) degrees forty-five (45) minutes West eighteen (18) chains fifty (50) links; thence North thirteen (13) degrees thirty (30) minutes West ten (10) chains fifty (50) links; thence North sixteen (16) degrees West eight (8) chains twenty (20) links; thence North twenty-two (22) degrees West eight (8) chains fifty-three (53) links; thence North seventy-five (75) degrees thirty (30) minutes East eighty (80) chains three (3) links; thence South fourteen (14) degrees fifteen (15) minutes East twenty-nine (29) chains nine (9) links; thence South thirteen (13) degrees eight (8) minutes East fifty-one (51) chains eighty-three (83) links; thence South seventy-six (76) degrees West twenty-seven (27) chains thirteen (13) links to place of beginning containing 642.21 Acres.

TO HAVE AND TO HOLD the same unto the said John Benjamin Howell, and to his heirs and assigns forever.

It being the intention of the grantor hereto to release, remise and forever quitclaim <sup>and sell</sup> ~~any~~ all interest that she may now or at any time have possessed in the aforementioned described real estate, including such interest as she may have therein by virtue of a certain Indenture and Declaration of Trust made and executed by J. B. Howell and Rose Mabel Howell, husband and wife, as grantors and Mabel A. Lanpher as trustee, on the 17th day of February, 1951, and which instrument was duly recorded in the Deed Records of Multnomah County, Oregon.

BOOK 364 PAGE 482

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 16th day of November, 1936.

*[Handwritten signature]*

Executed in the presence of:

\_\_\_\_\_  
\_\_\_\_\_

STATE OF OREGON )  
County of Multnomah ) ss

BEFORE ME, REMEMBERED, that on this 16th day of November, 1936, before me, the undersigned, a Notary Public in and for the said County and State, personally appeared the within named Walter A. Bunker, who is known to me to be the identical individual described in and who executed the within instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year last above written.

*[Handwritten signature]*  
Notary Public for Oregon  
My commission exp: 10.28.1938



26116

364  
478

Nov 17 1936

B/S Dd \$1 Nov 16 1936

Mabel A Lanpher a sgl woman to John Benjamin Howell his hrs

gbse all of my rt&i incldg my equity of redemption in and to the folg desc parcels of real est in MCO

The DLC of James Menzies and Parthenia E Menzies his wf bg clm No 45 Notif No 4492 bg parts of Secs 27, 28 and 34 in T2N R1W of WM in MCO df t/w

Ma

Baap 11 chs 28 lks S of the NW cor of sd Sec 27 and rng th S 57° E 52 chs 84 lks th S 1 chn 32 lks th S 3° W 7 chs 15 lks th S 11° W 17 chs 30 lks th S 10° W 19 chs 41 lks th S 83° W 3 chs 50 lks th N 2x 85° W 5 chs 50 lks th S 85° 30' W 3 chs 50 lks th N 81° W 1 ch 39 lks th N 69° W 8 chs 50 lks th N 64° W 11 chs 50 lks th N 58° W 6 chs 56 lks th Norther 56° W 9 chs th N 52° W 10 chs th N 42° W 12 chs th N 39° 30' W 10 chs th N 39° W 14 chs th N 43° W 5 chs th N 40° W 5 chs th N 34° W 6 chs th N 25° W 5 chs 40 lks th N 76° E 43 chs 60 lks th S 57° E 10 chs 36 lks to pl of begg ctng 437.40 exog thrfrm the folg desc tract begg at the SE cor of the James Menzies DLC No.-45 in T2N R1W of WM and rng th S 1 ch 32 lks th S 3° W 7 chs 15 lks to a pt th S 11° W 17 chs 30 lks to a pt th S 10° W 14 chs 16 lks to the head of Sauvie's Island th W 7 chs 94 lks to a pt th N 85° W 5 chs 50 lks to a pt th S 83° 30' W 3 chs 50 lks to a pt th N 69° W 8 chs 50 lks to a pt th N 64° W 7 chs 14 lks to an Iron rod on the right bank of the Willamette Slough th N 33° E 41 chs 10 lks to an Iron Rod on the NE bndy of sd Menzies DLC th S 57° E alg NE bndy ln of sd Menzies DLC 13 chs 32 lks to pl of begg ctng 102.4 acres of 1d m/l; also

DLC of James F Bybee and Julia A Bybee his wf Notif No 4491 Clm No 46 bg parts of Secs 15 16 21 22 27 and 28 T2N of R1W of WM in MCO df Baap 3 chs 43 lks S of NE cor of sd Sec 28 and rng th S 76° W 52 chs 47 lks th N 18° 30' W 5 chs th N 17° W 10 chs th N 2x 9°30' W 10 chs th N 11° 45' W 10 chs th N 9°45' W 18 chs 50 lks th N 13°30' W 10 chs 50 lks th N 16° W 8 chs 20 lks th N 22°W/chs 53 lks th N 75° 30' E 80 chs 3 lks th S 14° 15' E 29 chs 9 lks th S 13° 8' E 51 chs 83 lks th S 76° W 27 chs 13 lks to pl of begg ctng 642.21 Acres

1222

1222

Dt bg the intention of gtor hrto to rel remise and fe qe and sell any and all int t she may now or at any tm have possessed in the aforementioned desc re incldg such int as she may have thin by vir of ctn Indenture & Declaration of Trust md and exec by J B Howell and Rose Mabel Howell h&w as gtors and Mabel A Lanpher as trustee on Feb 17 1931 and wch instrument was rec in Dds of MCO

Sig & Ack

26117

WD \$10 Nov 17 1936

\$2.50 IRS Canc

Q

John Gislason and Mildred Gislason h&w to Howard I Martine and Bessie E Martine h&w

gbse t ctn rp sit in C/P MCO df Lot 6 in Blk 108 IRVINGTON now wi cp lmts of C/P MCO

ffi save and exc a mtg of record in the sum of \$2000

Sig & Ack

BOOK 724 PAGE 304

34356 Filed

Know All Men by These Presents, That

JOHN BENJAMIN HOWELL and ROSE MABEL HOWELL, husband and wife,

in consideration of One and no/100 Dollars to them paid by

THE FEDERAL LAND BANK OF SPOKANE, a corporation,

do hereby remise, release and forever QUITCLAIM unto the said

THE FEDERAL LAND BANK OF SPOKANE, a corporation,

and unto its successors heirs and assigns all their right, title and interest in and to the following described parcel of real estate, situate in Multnomah County of Oregon, State of Oregon, to-wit:

The Bybee Donation Land Claim, Notification No. 4491, Claim No. 16, being parts of Sections 15, 16, 21, 22, 27 and 28, in Township 2 North, Range 1, West of the Willamette Meridian, bounded and described as follows:

Beginning at a point 3 chains 43 links South of the Northeast corner of said Section 28, and running thence South 76° West 52 chains 47 links; thence North 17° West 5 chains; thence North 17° West 10 chains; thence North 9°45' West 18 chains 50 links; thence North 13°30' West 10 chains 50 links; thence North 16° West 8 chains 23 links; thence North 22° West 8 chains 53 links; thence North 75°30' East 80 chains 3 links; thence South 16°15' East 29 chains 9 links; thence South 13°08' East 51 chains 23 links; thence South 76° West 27 chains 13 links to place of beginning;

The Donation Land Claim of James Menzies and Parthenia E. Menzies, his wife, being Claim No. 45, Notification No. 4492, being parts of Sections 27, 28 and 34, in Township 2 North, Range 1, West of the Willamette Meridian, bounded and described as follows:

Beginning at a point 11 chains 28 links South of the Northwest corner of said Section 27, and running thence South 57° East 52 chains 34 links, thence South 1 chain 32 links; thence South 3° West 7 chains 15 links; thence South 11° East 17 chains 30 links; thence South 10° West 19 chains 41 links; thence South 83° West 3 chains 50 links; thence North 85° West 5 chains 50 links; thence South 25° West 3 chains 50 links; thence North 31° West 11 chains 50 links; thence North 58° West 6 chains 54 links; thence North 56° West 9 chains; thence North 52° West 19 chains; thence North 42° West 12 chains; thence North 39°30' West 10 chains; thence North 39° West 14 chains; thence North 45° West 5 chains; thence North 40° West 5 chains; thence North 34° West 6 chains; thence North 25° West 5 chains 40 links; thence North 76° East 43 chains 60 links; thence South 57° East 10 chains 35 links, to the place of beginning.

To Have and to Hold, the same, together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining to the said

The Federal Land Bank of Spokane, a corporation,

and to its successors heirs and assigns forever.

In Witness Whereof, we have hereunto set our hand and seal this 6th day of November A. D. 19 42.

EXECUTED IN THE PRESENCE OF

John Benjamin Howell (S)
Rose Mabel Howell (S)

BOOK 724 PAGE 305

STATE OF OREGON.

County of Multnomah

BE IT REMEMBERED, That on this 6th day of November A. D. 19 42

before me, the undersigned, a Notary Public in and for said

County and State, personally appeared the within named John Benjamin Howell and

Rose Mabel Howell, husband and wife,

who are

known to me to be the identical persons described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and

notarial seal this day and year last above written.



Charles H. Lewis
Notary Public for Oregon.

My commission expires Aug 7 1945

77182
Quitclaim Deed
John Benjamin Howell
to
The Federal Land Bank of
Spokane

HOLMES
AFFIDAVIT
EXH. 9

## SHERIFF'S DEED

THIS INDENTURE, made the 18th day of August, 1943, by and between Martin T. Pratt, as Sheriff of the County of Multnomah, State of Oregon, party of the first part, and The Federal Land Bank of Spokane, a corporation, party of the second part:

WITNESSETH: That said party of the first part, by virtue of an execution and order of sale duly issued out of the Circuit Court of the State of Oregon, for the County of Multnomah, on the 26th day of June, 1942, on a judgment and decree theretofore duly taken in said Court, in a suit wherein The Federal Land Bank of Spokane, a corporation, was plaintiff, and John Benjamin Howell and Rose Mabel Howell, husband and wife; Raymond J. Howell, a single man; Mabel A. Lanpher, a single woman; Mabel A. Lanpher, trustee; State Industrial Accident Commission; Paul O. Peterson and Winnie Peterson, husband and wife; Rich R. Snyder and Libbie Snyder, husband and wife,

were defendants, for the foreclosure of a mortgage upon the property hereinafter described, and a sale of said property duly made on the 3rd day of August, 1942, and a due confirmation of said sale on the 15th day of August, 1942, and in pursuance of the statutes in such cases made and provided, and for and in consideration of the sum of Forty-eight Thousand Two Hundred Fifty-nine and 01/100 (\$48,259.01) DOLLARS, the receipt whereof is hereby acknowledged, has granted, bargained, sold conveyed and confirmed, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors and assigns forever, all the estate, right, title and interest, which the defendants in said suit, or either of them, had on the 16th day of December, 1922, or at any time afterwards, or now have in or to the following described property in Multnomah County, State of Oregon, to-wit:

The Donation Land Claim of James Menzies and Parthenia E. Menzies, his wife, being claim No. Forty-five, Notification No. 4492, being parts of Sections 27, 28 and 34, in Township 2 North, Range 1 West of the Willamette Meridian, bounded and described as follows, to-wit:

Beginning at a point 11.28 chains South of the Northwest corner of said Section 27 and running thence South 57° East 52.84 chains, thence South 1.32 chains, thence South 3° West 7.15 chains, thence South 11° West 17.30 chains, thence South 10° West 19.41 chains, thence South 83° West 3.50 chains, thence North 85° West 5.50 chains, thence South 85° 30' West 3.50 chains, thence North 81° West 1.39 chains, thence North 69° West 8.50 chains, thence North 64° West 11.50 chains, thence North 58° West 6.56 chains, thence North 56° West 9 chains, thence North 52° West 10 chains, thence North 42° West 12 chains, thence North 39° 30' West 10 chains, thence North 39° West 14 chains, thence North 43° West 5 chains, thence North 40° West 5 chains, thence North 34° West 6 chains, thence North 25° West 5.40 chains, thence North 76° East 43.60 chains, thence South 57° East 10.36 chains to place of beginning, containing 437.40 acres; also

Donation Land Claim of James F. Bybee and Julia A. Bybee, his wife, Notification No. 4491, Claim No. 46, being parts of Sections 15, 16, 21, 22, 27 and 28 in Township 2 North, Range 1 West of the Willamette Meridian, bounded and described as follows:

Beginning at a point 3.43 chains South of the Northeast corner of said Section 28, and running thence South 76° West 52.47 chains, thence North 18° 30' West 5 chains, thence North 17° West 10 chains, thence North 9° 30' West 10 chains, thence North 11° 45' West 10 chains, thence North 9° 45' West 18.50 chains, thence North 13° 30' West 10.50 chains, thence North 16° West 8.20 chains, thence North 22° West 8.53 chains, thence North 75° 30' East 80.03 chains, thence South 14° 15' East 29.09 chains, thence South 13° 8' East 51.83 chains, thence South 76° West 27.13 chains to place of beginning containing 642.21 acres.



BOOK 774 PAGE 4

Subject to the Easements granted to Sauvie Island Drainage District by deeds recorded as follows:

- Easement Deed recorded April 5, 1929, in P. S. Deed Book 490 at Page 435.
- Easement Deed recorded November 21, 1929, in P. S. Deed Book 523, at page 13.
- Easement Deed recorded November 22, 1929, in P. S. Deed Book 523, at page 21.
- Easement Deed recorded February 16, 1940, in P. S. Deed Book 535, at page 51, and
- Subject to the Easement Deed issued by the Sauvie Island Drainage District to the United States of America, recorded May 19, 1929, in P. S. Deed Book 497, at page 251, records of Multnomah County, Oregon.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the said premises, with the appurtenances, unto the said party of the second part, its successors and assigns forever, free from all claim thereon upon the part of said defendants, or any of them, and as fully and absolutely as by law the said party of the second part can or ought to have or to hold the same hereunder.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand the day and year first above written.

Sheriff of Multnomah County, Oregon.

STATE OF OREGON, ss. County of MULTNOMAH

On this 19th day of August, 1942, before me, the undersigned, personally came the within named Martin T. Pratt, Sheriff of the County of Multnomah, State of Oregon, known to me to be the individual described in, and who, as such Sheriff, executed the above deed, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year in this certificate first above written.



Harry Paulson

NOTARY PUBLIC FOR OREGON

My commission expires December 14th, 1946.

Approved as to parties, description of property, execution and form. Aug 20th 1942 E. J. Purdy Attorney

Witness my hand and seal of office at Multnomah County, Oregon, this 19th day of August, 1942. A. A. BAILEY, County Clerk, Deputy.

DEED

1942 AUG 26 PM 3 59

of said County as

STATE OF OREGON } ss.  
County of Multnomah }  
I, A. A. BAILEY, County Clerk, and ex-officio Recorder of said County, do hereby certify that the foregoing writing was received for record and recorded in the

W 6107  
THE FEDERAL LAND BANK OF SPAIN

TO  
MARTIN T. PRATT,  
Sheriff

Oregon  
SHERIFF'S DEED  
25677

#24396TL-John Benjamin Howell

FORM FLB 409  
#2569 (Rev. 6-44)

DEED

BOOK 2111 PAGE 178

THIS INDENTURE, made this 21st day of March, 1962, between THE FEDERAL LAND BANK OF SPOKANE, a corporation organized and existing under the Act of Congress known as the Federal Farm Loan Act, as amended, with its principal place of business in the City of Spokane, County of Spokane, State of Washington, the party of the first part, and

Rose Mabel Howell,

part y of the second part,

WITNESSETH: That the party of the first part, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, receipt of which is hereby acknowledged, does by these presents Grant, Bargain, Sell and Convey to the part y of the second part, and to her heirs and assigns forever, the following described real estate, situate in the County of Multnomah, State of Oregon, to wit:



Beginning at the most Northerly Northeast corner of the Joseph Menzie Donation Land Claim, being Claim No. 45, Notification No. 4492; thence North 30° 46' East 1728.6 feet; thence North 36° 34' West 2156 feet to an iron pipe located on the West bank of the Gilbert River, which iron pipe is the true point of beginning; thence South 72° 39' West 1851.54 feet to an iron pipe; thence North 17° 21' West 223.50 feet to an iron pipe; thence South 72° 39' West 450 feet to an iron pipe; thence South 83° 17' West 84 feet; thence North 64° 19' West 94 feet to an iron pipe; thence North 48° 02' West 224 feet to an iron pipe; thence South 69° 24' West to an iron pipe located on the East line of the county road; thence South 69° 24' West to the West boundary line of the Bybee Donation Land Claim, Notification No. 4491, Claim No. 46; thence along the West line of Donation Land Claim in a Northerly direction to the Northwest corner of said Donation Land Claim; thence in a Northeasterly direction along the North line of said Donation Land Claim to its intersection with the West line of the Gilbert River; thence in a Southeasterly direction along the West bank of the Gilbert River to the said true point of beginning;

Together with the right to use jointly with the successors and assigns of the Grantor a private road located along the Southwesterly portion of the above described property as a means of ingress and egress to the buildings on the property described above to the county road located on the top of the dyke along the Westerly side of said above described property.

Together with all the tenements, hereditaments, rights, privileges and appurtenances thereunto belonging, and all waters and water rights, and all watering and irrigating apparatus and fixtures which are appurtenant to or incident to the ownership of said premises; but nothing herein contained shall be construed as a warranty of any water right.

To Have and To Hold said premises unto the part y of the second part, her heirs and assigns forever, subject to the following:

1. Unpaid taxes, assessments and water charges, including but not limited to those levied or imposed by the United States Reclamation or Indian Service or by any water or irrigation or drainage district or company, and all other unpaid charges, liens or assessments imposed by or pursuant to law on the above described property, including any and all deferred charges becoming due subsequent to the year 1941.
2. Any lien imposed by law by reason of the outstanding indebtedness of any drainage, irrigation or other special improvement district; and any lien or encumbrance revived or placed on said property by, through or under the part y of the second part.
3. The exceptions, provisions and reservations contained in patents or deeds from the United States of America, or the state in which said land is situate, or in deeds from railway companies; and any and all easements, rights of way for railroads, roads or highways or other servitudes.

TITLE TRUST COMPANY



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The party of the first part hereby covenants that, except as hereinabove stated, it will forever warrant and defend the title to the said premises against the claims of every person whomsoever lawfully claiming by, through or under it.

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IN WITNESS WHEREOF, the party of the first part has caused its corporate name to be hereunto subscribed and its corporate seal to be affixed by its proper and duly authorized officers.

THE FEDERAL LAND BANK OF SPOKANE

By [Signature]  
A. W. Behrens Assistant Vice-President

ATTEST:

[Signature]  
Don H. Marshall Assistant Secretary

STATE OF WASHINGTON }  
COUNTY OF SPOKANE } ss.

On this 21st day of March 19 62, before me (a notary public in and for the above named state) personally appeared A. W. Behrens Assistant Vice-President of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and that it executed the same, and on oath stated that he was authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



Eddy D. Delp  
Notary Public in and for the State of Washington  
Residing at Spokane, Washington

My commission expires January 7th, 1963.

TITLE AND TRUST COMPANY

Document No. \_\_\_\_\_  
THE FEDERAL LAND BANK OF SPOKANE  
14577  
Grantor  
TO  
Grantee

DEED  
STATE OF OREGON, }  
County of Multnomah } ss.  
I, the County Clerk and ex officio Register of said County, do hereby certify that the within instrument of writing was received for record and recorded in the record of \_\_\_\_\_ of said County at \_\_\_\_\_

APR 12 PM 4 09

In Book 2111 On Page 178  
Witness my hand and seal of office affixed.  
ST COHN, County Clerk.  
[Signature]  
Deputy.  
Form Co. CLK-23 Recording Certificate

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