

NARRATIVE

This survey was done at the request of Tanya Angus, owner of the land within. Ms. Angus wanted to monument the exterior of the property. The legal description for the deed to this property is a metes and bounds description, giving courses commencing at the SE corner of Section 24 and running cardinal West, to the West edge of the highway (POB), then to a nominal 1320 ft, thence North to the West edge of the highway, and then two courses Southerly back to the point of beginning. The primary concern of this survey is the question of title as it may fall along the East side of the Union-Medical Springs Highway. The origin of this area of questionable title stems from the courses and distances of the legal description of the Angus tract being grossly discordant with the calls to the West side of the highway right-of-way. A literal layout of the courses and distances of the deed (if one ignores the highway calls) would place the vast majority of the property on the East side of the highway. However, the legal description indeed does make a call for the East line of this tract to run along the West side of the highway, implying that the entirety of the ground falls on the West side of the highway. The legal description for the adjoiner to the East describes all that portion of the East half of the Southeast quarter lying East of the highway, further corroborating the idea that this tract was not intended to run on the East side of the highway. This tract, however, is junior to the Angus tract.

The Southwest corner of the Angus tract is intended to be the East 1/16th line between Sections 24 and 25, as the distance from the SE corner of section 24 in the legal description for the deed is a nominal 1320 foot, and the parent tract is an aliquot part. From this corner, however, the course heading North is reported as being 1563 feet, "to the West side of the Medical Springs Union Highway". The actual distance is far less, measuring only about 675 feet. This is reflected in road deed for the realignment of the highway as it ran North of the Angus tract, filed in Book 92, Page 606, recorded May 23, 1933 where the distance to the centerline is reported as being North 650.0 feet from the SE cor of the SW 1/4 SE 1/4 of Section 24.

In the Angus legal description, from the North corner, it follows two courses, both calling to the West line of the highway, back to the Point of Beginning, the last course being a Southwest running course. It should be noted that at no point, within the vicinity of this property, does the road make a Southwest running course. The nearest Southwest course in the highway to this property falls approximately a third of a mile to the South.

All of these taken together present a latent ambiguity, and I find it necessary to examine evidence in the deed records, parole evidence, and conditions on the ground to try to ascertain the intent of the original deed.

The parent deed for this tract is Book 97, Page 257, recorded December 1936, where George South conveyed the East 1/2 of the SE 1/4 to Jack Kimball. Kimball created the Angus tract in a deed to Henry Flanders by Deed Book 98, Page 141, recorded August 18, 1937. In this deed, the legal description is described, as mentioned previously, by metes and bounds, and gives courses to the nearest half degree, and distances to the tenth of a foot. It mentioned that this was surveyed August 12, 1937 by D.W.C. Nelson, an engineer out of Baker County. There is no mention as to if monuments were set, and I have been unsuccessful at finding a paper copy of a survey. The deed specifies that the acreage is 7.71 acres.

De Witte C. (D.W.C.) Nelson was a mining engineer based in the Baker City area and bears an engineer license dated Dec. 8, 1919. His work appears to have dealt primarily with mining throughout Eastern Oregon, between the early 1900s through the 1940s. An advertisement of his in Northwest Mining News dated December of 1909, indicates he did advertise providing services related to "surveys" and "mapping". I do not find any record of any filed survey of his in the Union County survey records, though he was working at a time prior to filing statutes and there is a notable gap in county records between the 1920's and the 1950's. The relevance of examining the history of the surveyor is to gauge his level of competency with regards to boundary surveys. In the controlling deed elements, as laid out by ORS 93.310, a call to a survey may supercede a call to a monument, when inconsistent with the other controlling elements of a map. However, that particular statute does state that this is the case only "if it appears that the parties acted with reference to the map". Given his credentials, I would conclude that, at the time that he was working, he would likely have been considered to have been a competent surveyor. I inquire with the Baker County Surveyor, who was aware of the name and, though he worked before his time, thought that he held a good reputation as a surveyor.

In trying to assess why the gross difference in calls, there exists a possibility that the road existed in a different location at the time of the initial conveyance than it does today. Petition No. 734 indicates a change in road No. 238 in the vicinity of this property. The courses of the change as shown in ODOT strip map 5B-7-7, dated 1936 and are identical to courses in Road Deeds from Goble to Union County, filed in Books 92, Page 605 and 606 (1933). These road deeds terminate at the North end of this property, implying that no additional alignment was needed as it abutted the Angus property. Most importantly these dates would indicate that at the time of the Nelson survey (1937), the road, as it sits in its current position, was in place.

That being said, I do make an attempt to place the original road petition 238, however, it is not a simple one to place. It begins at a mill in the city of Union, and terminates in the town of Cornucopia, giving no lies to intervening section corners or lines. Best as I can determine, placing the road by intermediate topographic calls, it did not exist in a grossly different location than it does today as it abuts this property. Despite all this, I do make a physical search for evidence of an old road bed within the vicinity of the East line as placed by the courses of the Nelson survey. I can find no evidence of any prior road construction along these courses, and a large East/West running rock bluff, of which I can see no visible signs of excavation, would greatly diminish any possibility of there ever having been a county road in this location. In an interview with long time resident Ron Lay (born in 1939 and raised in the area) he has no recollection of a road ever being in this location.

There is a powerline that runs East of the highway, outside of the road right of way, and within the area of questionable title. The document for this easement was recorded in Book 138, Page 44 and Book 138, Page 685, recorded October and November of 1957, respectively. They were granted to Cal-Pac by landowner Colton, who owned the property on the East side of the road. The Angus tract, at the time, was owned by Landers. I can find no record easement of a deed from Landers to Cal-Pac. Though this is not definitive proof, it is evidence that in 1957, there were likely no assertion of possession that would have prompted Cal-Pac to pursue an easement from Landers.

In examining if there were any lines of possession that may have existed physically on the ground I walk the line that would follow the bearings and distances in the legal description. I can see no evidence of any fences within the vicinity of the lines. There are fences, and rock jack remnants, but these appear to pertain to properties West of the aliquot line, or fall on or very near to the sixteenth line. The lack of this area ever being fenced is corroborated by Mr. Lay as well, who claims that the area was never fenced. It should be disclaimed though that he is not a completely disinterested party, as he is a relation of the owner of the land on this side of the road.

This analysis, however, does not resolve or explain the gross discrepancy between the courses and distances, and the physical calls to the road. It would be an anomaly for a competent surveyor, which I am asserting that D.W.C. Nelson likely was, to make a blunder resulting in a 900+ foot discrepancy. In trying to explain this, I make an examination at a called distance from the SW corner (C-E 1/16th) at a position along the West right of way of the road. I find a large pile of rock with dilapidated timber crib, undoubtedly remnants of a historic rock jack, approximately 4 foot square, falling approximately 50 feet North of the called distance from the SW corner of the Angus tract. This rock jack falls 20 ft. West of the current right of way fence, and does not appear to have any current fences emanating from it. Examination of aerial photos back to 1962 does not show any apparent fences from this corner as well. In discussion with Ron Lay, he said that the rock jack predated his memory.

As I can find no definitive reason for an isolated rock jack to be in this location, there exists a high likelihood, due to its proximate location, that this is a remaining artifact of the original Nelson survey. I therefore find it very likely that D.W.C. Nelson's blunder was likely not in distance, but in bearing.

It does beg the question of why the original Grantor opted to describe this tract by metes and bounds in the first place. Especially when in the legal description for the remaining junior tract (conveyed 11 years after) he was perfectly content describing it as "that portion of the East half of the Southeast quarter lying East of the highway". Kimball, the grantor of the original deed, did see a reason to survey the property prior to conveyance, and write the legal based on the survey, those reasons though unclear. What that reason was was either that 1) the survey departed from the aliquot lines and natural monuments enough that a separate survey was required to convey the intent, (which would lend credence to the idea that there was intended to be land conveyed on the East side of the road), or 2) the grantee insisted on a survey prior to taking ownership. Though I am inclined towards the later, I will admit that any true reason can only be a matter of supposition.

Regardless of whatever survey blunders occurred, this property would still terminate at the West line of the East half of the Southeast quarter, as at the time Kimball created the original parcel, lands within the West half of the Southeast quarter were owned by Goble. I therefore subdivide the section to place the West line of the parcel.

At the North quarter corner, I find a stone of called size with faint but distinct '1/4' chiseled. At the West quarter corner, I find a prominent collar of stone, well embedded into the ground, approximately 3 ft. diameter, comprised of stones of a large size not typical of what is found in the surrounding area. It falls horizontally in distance with the SW corner of the section and I accept this as the original corner. Subdivision of section is as per BLM Manual of Instructions.

Weighing the deed evidence, physical evidence, historical record, and the location of lines of possession, I conclude that the original intent of the deed did not intend to convey any property on the East side of the highway. I therefore place the East line along the West right-of-way line of the highway. I place the highway by matching constructed road to the courses of ODOT Strip Map 5B-7-7.

Fence lines are off as shown. True acreage of the tract is 2.18 acres. I find no other unusual conditions with this survey.

REFERENCE MATERIAL

GLO Field Notes of Contract Number 235, dated July 6, 1875, executed by John Stone
 Survey Number 052-1994
 ODOT Strip Map 5B-7-7 (Oct 1936)

DEED REFERENCES

Book 92, Page 605
 Book 92, Page 606
 Book 94, Page 8
 Book 97, Page 257
 Book 98, Page 141
 Book 100, Page 312
 Book 100, Page 313
 Book 109, Page 156
 Book 110, Page 601
 Book 117, Page 241
 Book 123, Page 346
 Book 126, Page 433
 Book 138, Page 44
 Book 138, Page 685
 Microfilm Document Number 127819
 Microfilm Document Number 994064
 Microfilm Document Number 20062080
 Microfilm Document Number 20134193

BASIS OF BEARING

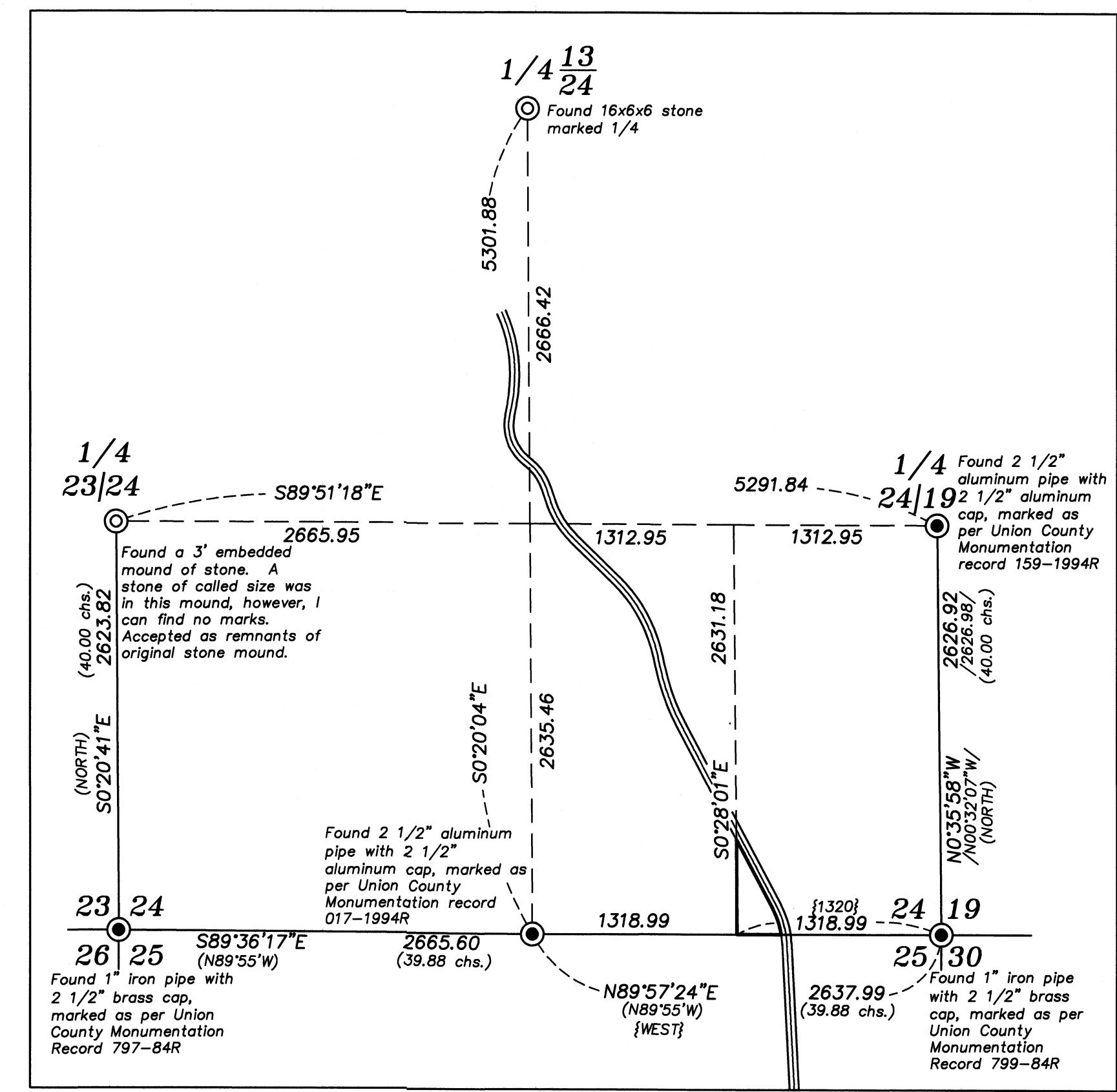
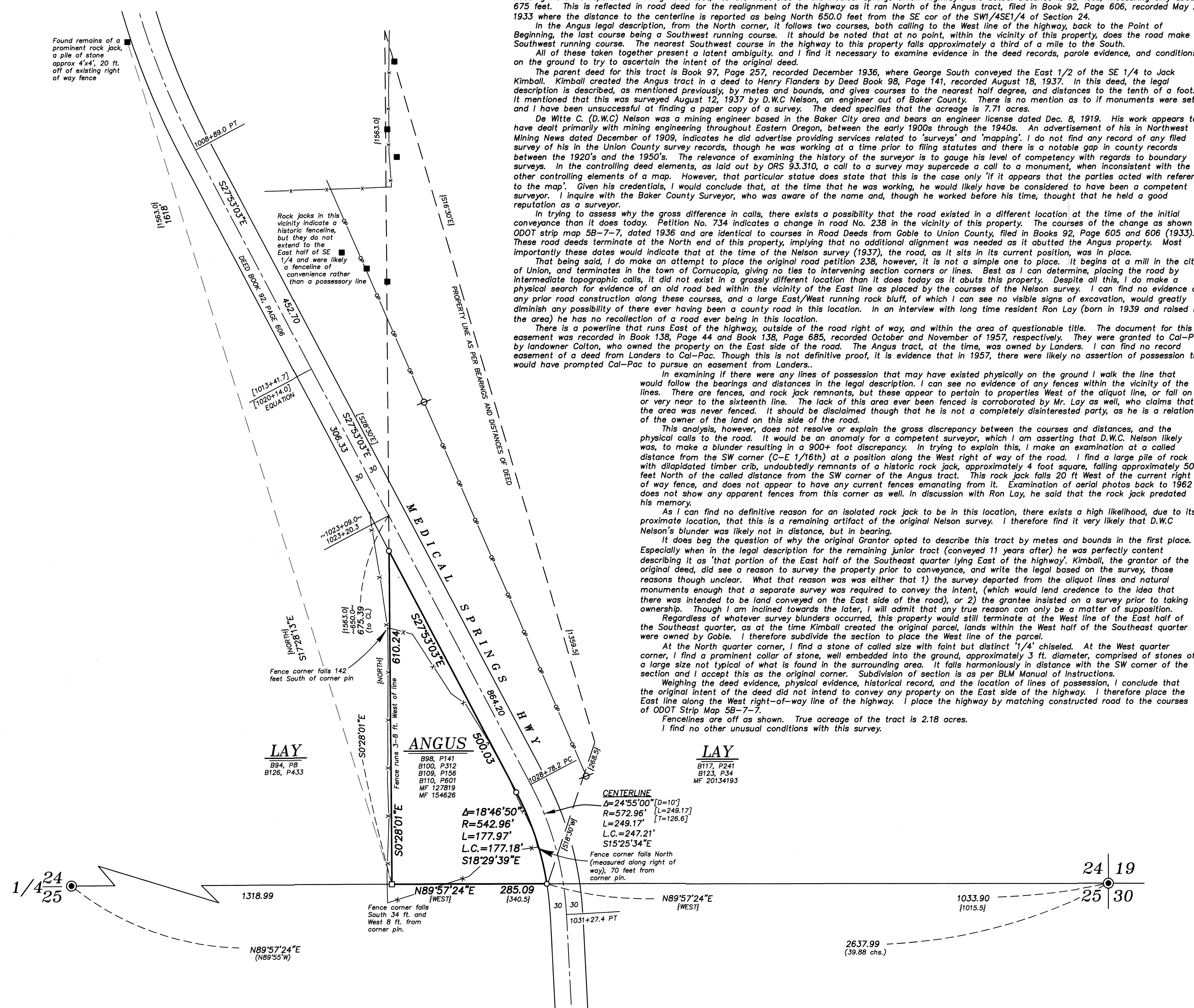
Lambert Conic Conformal projection with Central Meridian at 117°41'37.2351" West Longitude (NAD-83)

SCALE: 1" = 100'

LEGEND

- Found monument as per Union County Monumentation records
- ⊙ Set 2 1/2"x30" aluminum pipe with 3" aluminum cap, marked as per Union County Monumentation records, filed separately
- Set 5/8"x30" iron pin with 2 1/2" aluminum cap, marked as per Union County Monumentation records, filed separately
- Set 5/8"x30" iron pin with yellow plastic cap marked BGB SURVEY MARKER
- ⊖ Power Pole
- Rock Jack remnants (no fence line attached)
- Fence line
- Overhead Power
- { } Record dimension as per Book 98, Page 141 (deed creating parcel)
- ~ ~ Record dimension as per Book 92, Page 606 (Road deed)
- () Record dimension as per GLO Field Notes of contract number 235, executed by John Stone
- [] Record dimension as per ODOT Strip Map 5B-7-7
- / / Record dimension as per Survey Number 052-1994

Found remains of a prominent rock jack, a pile of stone approx 4'x4', 20 ft. off of existing right of way fence



REGISTERED PROFESSIONAL LAND SURVEYOR
 JEFFREY S. HSU
 83571
 Renewal Date: June 30, 2025

UNION COUNTY SURVEYOR
 Date Received 11/16/23
 Date Filed 11/16/23
 SURVEYED FOR Tanya Angus
 SURVEYED BY J. S. H.
 File No. 029-2023

BAGETT, GRIFFITH & BLACKMAN
 2006 Adams Avenue, LaGrande, Oregon (541) 963-6092
 Map of Survey
 A tract of land situated in the Southeast quarter of Section 24, Township 8 South, Range 41 East of the Willamette Meridian
 UNION COUNTY, OREGON
 SURVEYED FOR Tanya Angus
 SURVEYED BY J. S. H.
 Scale: 1" = 100' Drawn by: J. S. H. Nov. 2023