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September 27th, 2006

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RE: Mark Glander et al vs. Wisconsin Valley Improvement Co et al
Case No. 2003CV168

Gentlemen:

Enclosed is my long-awaited decision in the above case.

I recall all three of you asserting at the beginning of the trial that making the decision in this case was merely a matter of choosing to believe one expert over the other. However, as all of you know, making that choice without giving explicit reasons on the record would not pass scrutiny on review. In the past several weeks, in addition to carrying by regular caseload, I have found it necessary to meticulously review all of the exhibits presented, my extensive trial notes and your very helpful briefs.

I must complement the three of you on the manner in which you tried such a difficult case. I am sure that the marshalling of all the evidence,

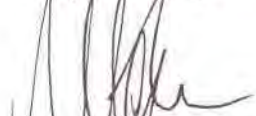
Glander Letter

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alone, was a significant task. Please convey my regrets to your clients on the delay required in this case.

Very truly yours,



Mark A. Mangerson
Oneida County Circuit Judge
Branch II

MAM/das

cc: Clerk of Courts

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH II

ONEIDA COUNTY

Mark Glander et al
Plaintiff,

vs.

Wisconsin Valley Improvement Co. et al
Defendant.

DECISION



Case No. 2003CV168

SUMMARY OF THE DISPUTE

The dispute before the court centers upon the location of the original government south $\frac{1}{4}$ corner, in sec. 19, T39N, R8E, Town of Newbold, Oneida County, as set by the original government surveyor, Alexander Anderson, in October 1863. The plaintiffs rely upon extensive work by Surveyor Steven J. Favorite who has examined and reconciled several previous surveys and has found several monuments in the field to support his claimed position of the south $\frac{1}{4}$ corner in question. His field work and findings in that regard are set forth in detail on Exhibits 6, 20 and 23. Favorite relies heavily on the work of former Oneida County Surveyor F. R. "Frostie" Wincentzen who, according to Favorite, actually found the subject $\frac{1}{4}$ corner in the field in 1954. See Exhibits 27 and 36. Favorite himself found a 1" pipe, 38" long, in the field which he claims is "Frostie's corner", the true south $\frac{1}{4}$ corner marker.

The defendants rely heavily on the work of Surveyor William E.

Bandow who relies to a lesser extent on monuments discovered in the field, but relies heavily on the prior work of Surveyor R. W. Smith, a Wisconsin Valley Improvement Company employee, who did extensive field work in section 19 and contiguous sections between about 1935 and 1939. Using Smith's extensive field notes and drawings (Exhibits 1, 2 and 8) and some collateral information, Bandow reestablishes the location of the subject $\frac{1}{4}$ corner by protraction, a method whereby the surveyor determines the $\frac{1}{4}$ corners on each section line and then runs a straight line from opposite $\frac{1}{4}$ corners to bisect that section. See Exhibit 41, sec. 3.86.

The plaintiffs contend that the opinion of Favorite should be given more weight because several surveyors over the years have done surveys for various purposes in section 19 and contiguous sections, which surveys comport with Favorite's theory of the case. Favorite accounts for the monuments he found in the field relating to those surveys and relates those surveys internally to "Frostie's corner". Plaintiffs contend that the recorded work of several surveyors bolsters Favorite's opinion, including some of the work of Wisconsin Valley Improvement Company's first surveyor, Smith.

The defendants and Bandow generally reject the work of Wincentzen, claiming that he likely followed a random line used by Smith in about 1936

for the purpose of establishing a starting point for a true south line for section 19. Discarding the work of a number of surveyors because they apparently used an erroneously located south $\frac{1}{4}$ corner, Bandow chose to use only undisputed corner posts, $\frac{1}{4}$ section markers and meander corners and, by mathematical calculation, to reestablish section and $\frac{1}{4}$ section lines, even to "lost" section corners. Plaintiffs and Favorite are critical of Bandow's use of the protraction method seeing his work as pure "mathematical calculations" insufficiently tied to the ground by markers in the field.

Attorneys for both the plaintiffs and the defendants agreed on the record that the task of this court is to choose one expert's theory over that of the other to resolve the case. While the debate focused on support for each of the competing theories and the shortcomings of each, this court believes that the proper, narrow focus is to determine the location of the *original U.S. Government south $\frac{1}{4}$ corner* as set by Anderson in October of 1863. We are not attempting to merely choose between two modern-day surveyors opinions of where the disputed $\frac{1}{4}$ section *ought to be* located because of the quantity of bolstering information supporting one surveyor or the harmony of the other surveyor's work with ancient field notes. We are attempting to use *all*

information available to properly locate *the government corner*.

PERTINENT SURVEYING STANDARDS

The plaintiffs argue that the south $\frac{1}{4}$ corner in dispute has actually been located in the filed by Surveyor Favorite, previously monumented by F.R. Wincentsen through the use of an iron pipe. They contend that the subject $\frac{1}{4}$ corner is "existent." Defendant WVIC and its surveyor, William Bandow, contend that the true south $\frac{1}{4}$ corner is "obliterated" and that Wincentsen's pipe is erroneously located. In the law of surveying, the conclusive term which describes the situation sometimes includes the standard used to determine that situation, as discussed below.

The forgoing terms were presented to the court in the form of snippets from the U. S. Department of Interior Bureau of Land Management's manual of surveying instructions found at 43 U.S.C. 753. See Exhibits 29, 38, 41 and 48. Because these exhibits are recitations of the law and not assertions of fact, this court has not felt bound by the four corners of the exhibits, but has referred to the manual in its entirety as found in the United States Code.

An existent corner is one whose position can be identified by verifying the evidence of the monument or its accessories, by reference to the description in the field notes, or located by an acceptable supplemental survey record, some physical evidence, or testimony.

Even though its physical evidence may have entirely disappeared, a corner will not be regarded as lost if its position can be recovered through the testimony of one or more witnesses who have a dependable knowledge of the original location.

43 U.S.C. 753, sec. 5-5.

An obliterated corner is one at whose point there are no remaining traces of the monument or its accessories, but whose location has been perpetuated, or the point for which may be recovered beyond reasonable doubt by the acts and testimony of the interested landowners, competent surveyors, other qualified local authorities, or witness, or by some acceptable record evidence.

A position that depends upon the use of collateral evidence can be accepted only as duly supported, generally through proper relation to known corners, and agreement with the field notes regarding distances to natural objects, stream crossings, line trees and off line tree blazes, etc., or unquestionable testimony.

43 U.S.C. 753, sec. 5-9.

It is the finding of this court that the evidence is insufficient to prove that the pipe found or set in the field by F.R. Wincentzen in 1954, and subsequently found by Favorite properly monuments the location of an "existent" government $\frac{1}{4}$ corner. Conversely, the evidence is sufficient for this court to conclude that the original government $\frac{1}{4}$ corner, "obliterated" by flooding of the Rainbow Flowage in 1936, has been recovered, beyond reasonable doubt, through the evidence and methods used by Surveyor William Bandow.

FAVORITE'S POSITION

In discussing Favorite's methodology, this court does not wish to disparage the professionalism of a highly qualified surveyor or unduly discount his zealous efforts. However, when this court considers both the *amount and quality* of available evidence in the record, his methodology does not carry the day.

As shown on Favorite's master Exhibit 22, he has relied on the work of a number of surveyors who found or set monuments over the years, including Wincentsen, Poskie, Kirby and Rowinski. The argument advanced is that, if some of the monuments found or set by the various surveyors over the years demonstrate congruity and tie into County Surveyor Wincentsen's south $\frac{1}{4}$ corner, it is likely that Wincentsen located the corner properly. This court believes that such evidence is not persuasive, since all of the surveyors were conducting isolated surveys for various purposes, years apart. Field notes justifying their discretionary calls are not available. The fact that the finding or placing of certain monuments by them over decades may allow Mr. Favorite to piece together a puzzle in support of his clients' position is of little consequence. None of the surveyors on which Favorite relies were specifically surveying section 19 for the purpose

of verifying existent corners or relocating an obliterated corner. None of the surveys appear to be adequately tied into the calls or bearings of the original government survey. We cannot regard the surveyors upon which Mr. Favorite relies as experts in regard to the issue at hand – the location of the *original* south $\frac{1}{4}$ corner.

Surveyor Favorite also relies too heavily, in the court's opinion, on the 1954 work of Oneida County Surveyor F. R. Wincentsen, Exhibit 27. Exhibit 27 and its companion Exhibit 36, Wincentsen's "field notes," illustrate that Wincentsen knew of the existence of a previously set or described south $\frac{1}{4}$ corner and meander corner as shown on Exhibit 27. Wincentsen chose to disregard those corners in favor of an iron pipe shown in the same general vicinity on that exhibit. Wincentsen also chose to disregard a line which ran south of his accepted south section line. However, neither Exhibit 36 nor any other traditional surveyor's notes by Wincentsen give a clue as to why he concluded that the line south of his was "erroneous" and why the two other locations for the south $\frac{1}{4}$ corner and its meander corner should be disregarded. In its most naked form, the argument is that the south $\frac{1}{4}$ corner is where it is on Exhibit 27 because Frostie says it's there.

Examining the bearings and distances shown on Exhibit 27, it is clear

that Wincentsen had reference to the original survey notes of Survey Anderson from 1863, Exhibits 30 and 31. Without explanation, Wincentsen indicates on his survey that he is 103 feet short of the length of the south section line as shown on the original survey. Again, we have no explanation in his notes for this variance, wildly beyond acceptable tolerances for any decade.

We must also remember that, according to the survey, Wincentsen's focus was not to necessarily confirm the proper location of the south $\frac{1}{4}$ corner, but rather to merely provide a description for a line by agreement between the Wisconsin Valley Improvement Company and William Shannon. There is no indication whether Wincentsen set this pipe or merely found it in the field and, if he found it in the field, it might well be a random pipe set by some other surveyor in the past. For example, Exhibit 8, p. F-8, documents that "Stoddard et al" set an iron pipe as a meander post 45 feet west of the south $\frac{1}{4}$ corner of section 19 in 1948. It appears quite possible that Wincentsen found this pipe and chose this monument in the field over clearly conflicting documentary evidence.

This court believes that, in attempting to determine the proper location of a government $\frac{1}{4}$ corner, heavy weight should be given to the work of the

government surveyor who originally located and set that corner. The plaintiffs and Favorite attempt to use the notes of Anderson of 1863 to confirm that "Frostie's corner" marks the original government $\frac{1}{4}$ corner. Favorite notes on his master Exhibit 22 that the original surveyor's notes mention the entry of "the willow bottom unfit for cultivation" 99 feet (1.5 chains) from the south $\frac{1}{4}$ corner. While the determination that there is currently a drop-off in the water consistent with an ancient change in elevation may be of some evidentiary value, this court believes that, with flooding and erosion having impact over decades and inaccuracy of the measuring method, such value is minimal. More importantly, as described below, the plaintiffs and Favorite ignore a clear and plain call of the original surveyor which the court gives great weight.

SURVEYOR BANDOW'S METHODOLOGY

Defendant WVIC's surveyor, Robert Bandow and its secondary expert, Mr. Wylie, rely heavily on work done by Surveyor R. W. Smith in the field between about 1935 and 1939. This court finds the work of Smith to be very helpful in attempting to determine the true location of the south $\frac{1}{4}$ corner as originally monumented in the field by the government surveyor for a number of reasons.

First, the work done by Smith is extremely well documented, both by detailed drawings (Exhibits 2 and 47) and by extensive field notes (Exhibit 8). Secondly, it is undisputed that Surveyor Smith was in the field both prior to the flooding of the flowage in 1936 and shortly thereafter. He is the only surveyor who had an opportunity to locate original government stakes in the field before they were obliterated by flooding. Finally, it is obvious from the exhibits created by Smith that his primary quest, at least in 1939, was to find and document existing government stakes. That he did so properly is entirely undisputed with reference to a number of section quarters and $\frac{1}{4}$ corners in section 19 and contiguous sections.

The evidence shows that Surveyor Smith was in the field in about 1935 in anticipation of the flooding of the Rainbow Flowage. His task at that time was to run a perimeter line on high ground to establish reference points in anticipation of flooding the lowlands to either 92 or 95 feet in relation to the ordinary high water level for Big St. Germaine Lake. (See Exhibits 2 and 14.) Smith was also in the field in 1938 or 1939, after the flooding, for the apparent purpose of documenting or restoring government markers in the field which may have been affected by the flooding. It is of great significance to the court that on Exhibit 2, Smith's drawing of the perimeter

done shortly before or contemporaneous with the flooding of the reservoir clearly shows a meander corner, denoted "M.C.", located at the southeast corner of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of section 19. The parties and their experts have all agreed that a meander corner can only properly be set with reference to a corner monument found in the field. Surveyor Smith appears to be a very meticulous, qualified surveyor. Many of the corners he found in the field or reset have been accepted as accurate by Favorite, Bandow, Wylie and several other surveyors in the past five decades. There is every reason to believe that this qualified surveyor, with his pre-flooding advantage, actually located the government marker placed by Anderson in 1863 and documented it for prosperity in about the year 1935.

It is true that there is no specific documentation anywhere in our record confirming that Smith found this particular marker. An examination of his field notes (Exhibit 8) shows that, when Smith actually found a government marker, he specifically noted it as "found." It is also true that, when Smith set a pipe in the field, he clearly indicated that he did so in his field notes. And, in relation to the south $\frac{1}{4}$ corner in question, Smith clearly indicated in his notes that it was "in flowage" when he was in field in 1938 or 1939, after the flooding.

But there are a number of other inferences, together with Smith's 1935 or 1936 setting of a meander corner, which support the conclusion that he found the government $\frac{1}{4}$ corner in the field. An examination of his 1938 - 1939 field notes (Exhibit 8, pages S-5 and 6) indicate that, in surveying the south line of section 19, Smith measured from the southwest corner of section 19, apparently due east, distances of 1,285.8 feet and 1,318.8 feet to his denoted meander corner ("M.C."). This is a total of 2,558 feet to his meander corner. A review of his notes for his survey of section 30 (Exhibit 47, p. 10) shows a distance of 46.6 feet between that meander corner and the $\frac{1}{4}$ corner which Smith denotes is "in flowage." The total of these distances is 2,604.6 feet, Smith shows no bearing on this line and, presumably, he ran the line and made his measurements due east.

There is a presumption, of course, that all government survey lines were run due east and west or due north and south, absent clear notations to the contrary. Looking at Exhibit 31, Alexander Anderson's notes relating to his government survey in 1863, Anderson set the original south $\frac{1}{4}$ section post 39.50 chains due east of the southeast corner of section 19. Since a "chain" is 66 feet, the original south $\frac{1}{4}$ corner was located 2,607 feet due east of the southwest $\frac{1}{4}$ corner of section 19. That puts Smith's corner within 2.4

feet of the original government $\frac{1}{4}$ corner! This court believes that Smith found Anderson's $\frac{1}{4}$ corner in the field having measured along the same course, due east, and having documented his measurements to the tenth of a foot. If he were attempting to locate the former position of an obliterated corner mathematically, he would not have shown such precise measurements in his notes and, in all likelihood, would not have set a meander corner in the field. It is only reasonable to believe that some ancient notes of this surveyor are missing, probably in relation to his 1935 or 1936 work, which notes documented the finding of the original $\frac{1}{4}$ corner stake and establishment of a meander corner and witness trees.

It also appears from the testimony that other distances shown on Bandow's survey, Exhibit 6, are more consistent with distances of the original government survey than distances determined by Favorite. For instance, the distance from the northeast corner of the section to the east $\frac{1}{4}$ corner would have been 2,640 feet, according to the original survey. Favorite determined that distance (admittedly, by scale) to be 2,480 feet, a difference of 160 feet; Bandow determined that same distance to be 2,654 feet, a difference of 14 feet. Similarly, from the southeast corner of the section to the east $\frac{1}{4}$ corner, the distance on the original government survey,

again, was shown as 2,640 feet. Favorite determined that distance (by scale) to be 2,580 feet, a difference of 60 feet, while Bandow determined the same distance to be 2,654 feet, a difference, again, of only 14 feet. The difference between Bandow's distances and the government survey distances can be attributed to tolerances expected by the profession and the development of better equipment and techniques over several years. However, while Bandow's tolerances are within acceptable limits, Favorite's are not. Even these distances illustrate that Bandow's work takes us closer to the original corner locations set by Anderson in 1863.

Some additional support for location of the south $\frac{1}{4}$ corner as determined by Bandow, based on Smith's work, though not weighty, is found in the bearings of the respective south section lines as they run east from the southwest corner of section 19. It appears that the bearing of the line chosen by Bandow and Wylie appears to be very close to 90° , the presumed bearing of the original government survey. See bearings noted on Exhibit 22. This bearing, together with Smith's documented measurement from that corner definitely put the south $\frac{1}{4}$ corner well into the flowage. While Bandow's eventual length of the line from the southwest section corner to the south $\frac{1}{4}$ corner varies from the original survey and Smith's

distance because of the use of proportionate measurement, all of the evidence – taken together – supports Bandow’s location. Again, assuming that the original government survey lines ran due north – south and east – west, section 19, as originally established, should be virtually square. A wide view of the work done by Favorite (Exhibit 22) gives the perimeter an odd, “warped” appearance, though this fact is not of great significance. The eventual, overall appearance of Bandow’s method seems to be much closer to the original government survey work.

Finally, it is clear from the distances and other references in Smith’s field notes, Exhibit 8, and references to Surveyor Alexander Anderson’s notes of 1863, and especially his reference to the “willow bottom”, that the south $\frac{1}{4}$ corner should definitely be located *in the flowage* today. Surveyor Favorite’s work, based on much more recent, secondary surveying work makes the subject $\frac{1}{4}$ corner high and dry.

RELOCATION BY PROTRACTION

Surveyor Bandow chose to relocate the obliterated south $\frac{1}{4}$ corner using a method commonly known as “protraction.” By this method, a lost or obliterated $\frac{1}{4}$ corner is relocated by establishing the location of exterior section corners and existent $\frac{1}{4}$ corners and drawing a line from the north $\frac{1}{4}$

corner to the south $\frac{1}{4}$ corner or from the east $\frac{1}{4}$ corner to the west $\frac{1}{4}$ corner to set the center of the section. From that located center further subdividing can be accomplished. He is criticized by the defendants due to his choice of certain markers in the field and disregard of others and the fact that he had to make use of section $\frac{1}{4}$ s and corner $\frac{1}{4}$ s unusually distant.

The expert testimony and other evidence in this case makes it clear that, in surveying, there is often more than "one way to skin a cat." This court is convinced that Surveyor Bandow's methodology is appropriate and accurately relocates the south $\frac{1}{4}$ corner in question, first, because he has relied on a number of monuments in the field which appear to be trustworthy. Those include a number of section $\frac{1}{4}$ s previously identified by Smith in the field and also accepted by Favorite. Those include the southwest corner, east $\frac{1}{4}$ corner, northwest corner and north $\frac{1}{4}$ corner of section 19. Additionally, Bandow's work relies on three unchallenged meander corners set by Smith along the north line of the northeast $\frac{1}{4}$ of section 19 and two meander corners set by Smith on the east line of the southeast $\frac{1}{4}$ of section 19, the accuracy of which are also unchallenged. When Bandow uses the protraction method, the resulting lines, which also develop the location of the south $\frac{1}{4}$ corner in question, coincide well with

monuments placed by other surveyors in the field, most notably Surveyor Gerald Inman (See Exhibit 5) and Surveyor Stuart Foltz.

This court realizes that there is some subjectivity involved in Bandow choosing to recognize and accept monuments accepted by Inman and Foltz but to reject work in the field by Wincentsen, Poskie, Kirby and Rowinski. In this court's opinion, it is highly likely that the earlier surveyors, before Inman, – even including some partners or predecessors in Bandow's firm – conducted their surveys without knowledge of or reference to the highly significant work of R. W. Smith. With Smith's reliable information and Bandow's acceptable methodology, the relocation of the original government south ¼ corner of Section 19 has been accomplished.

BONA FIDE RIGHTS OF AFFECTED LANDOWNERS

At trial, the defendants repeatedly and vociferously challenged Surveyor Bandow on his decision to give little weight to the bona fide rights of landowners affected by his reestablishment of the south ¼ corner and its results. Adoption of Bandow's methodology results in a significant shift of the north line of the south half of section 20 to the south, potentially affecting 18 to 20 landowners in a subdivision on the south shore of the Rainbow Flowage.

Under the above laws, and in principle as well, it is required that

no resurvey or retracement shall be so executed as to impair the bona fide rights or claims of any claimant, entryman or owner of land so affected.

Likewise in general practice, the local surveyor should be careful not to exercise unwarranted jurisdiction, nor to apply an arbitrary rule; he should note the distinction between the rules for original surveys and those that relate to retracements. The disregard of these principles, or for acquired property rights, may lead to unfortunate results and prompts the suggestions herein that are intended to help avoid such troubles.

Exhibit 38, p. 2.

The surveyor should neither rigidly apply the rules for restoration of lost corners without regard to effect on location of improvements nor accept the position for improvements without question regardless of their relation or irrelation to existing evidence of the original survey. Between these extremes will be found the basis for determining whether improved lands have been located in good faith or not.

* * *

Cases will arise where lands have been *occupied* in good faith, but whose boundaries as occupied disagree with the position of the legal subdivision called for in the description. Obviously the rule of good faith as to location cannot apply; relief must be sought through the process of amended entry under R. S. 2372 as amended (43 U.S.C. 697), to cover the legal subdivisions actually earned, rather than through an alteration of the position of established lines. This is a process of adjudication rather than one of resurvey. A case of this character should be regarded as erroneous location in precisely the same manner as if the question of resurvey were not allowed.

Exhibit 41, p. 148, secs. 6-15 and 6-18.

Giving the principle of protecting bona fide rights of existing

landowners paramount significance, of course, would result in that rule trumping all discretionary calls of the survey. In the case at bar, this would mean that the apparent erroneous surveys of Wincentzen, Poskie, Kirby and Rowinski – when taken to the ground – would govern despite conflicting reliable monumentation. Clearly, however, consideration of the bona fide rights of affected landowners is a discretionary call for both the surveyor and the court and, when protection of those landowners clearly conflicts with a cardinal rule, the cardinal rule must prevail. The cardinal rule in this case is that:

Original corners of townships, sections and $\frac{1}{4}$ sections must stand as the true corners whether they're in the place in the field notes or the original surveyor or not.

Exhibit 23, p. 2.

When the cardinal rule can be followed, bona fide rights of landowners must yield. It is clear that, in situations such as the case before this court, infringement on the rights of some bona fide landowners may be inevitable. In making the “best call” as to the relocation of lost or obliterated government corners, some discretion must be exercised both by the surveyor and the court, which discretion may result in potential additional legal problems for others. This is the nature of the beast. Affected landowners

may be left to other remedies. See Manual of Instructions for Surveyor of the Public Lands of the United States (1973), Exhibit 41, sec. 6-18.

This court is not convinced that the effect on neighboring landowners is so great as to require this court to accept the location of the Favorite/Wincentsen south $\frac{1}{4}$ corner and disregard the compelling evidence supporting the opponents' location. We cannot tell from the record made in this case whether the legal descriptions for the property owners in section 19 potentially affected by our case are tied into the south line of their $\frac{1}{4}$ section or not. Even if all of the lots in that subdivision are described with reference to that line, it is not clear from the record that those landowners would be *adversely* affected by this court's ruling. In fact, it appears that the majority of the lots would be elongated – *increased* in size – by this court's decision. Relatively few of the owners of property in that subdivision stand to suffer actual "paper loss" of some real estate by this court's decision. And, of course, we don't know if *any* improvements on any lot, save the Volkman's, will be affected. We know, of course, that, regardless of how this court decides the ultimate question, *someone's* rights are going to be abridged.

The court must also note that, on one or more occasions on record, the parties to this action were openly invited to join other property owners in

this action should their rights be in jeopardy. It is difficult to imagine how their rights are now determinative of this action when the defendants chose not to make them parties, even at the express invitation of this court.

CONCLUSION

The task in this case has been quite ambitious. We have been attempting to determine – as accurately as possible – the location of a wooden stake driven into the ground nearly 150 years ago by Government Surveyor Alexander Anderson. Seventy-three years after monumentation of the south $\frac{1}{4}$ corner in the field by Anderson, the marker was obliterated by flooding of the Rainbow Flowage by the Wisconsin Valley Improvement Company. Before and contemporaneous with the flooding, WVIC Surveyor R. W. Smith documented the location of many stakes placed by Anderson and witnessed stakes which were obliterated or about to be obliterated by reference to meander corners and bearing trees. Since the work of R. W. Smith in the late 1930s, many surveyors have done partial surveys of section 19, finding only some evidence in the field, drawing their own conclusions and driving their own pipes.

We cannot know, at this point, on what basis many of the surveyors between Smith and the experts in our case made their discretionary calls. At

this point, we can only look at the quality and quantity of available evidence to determine where the original government 1/4 corner should be located.

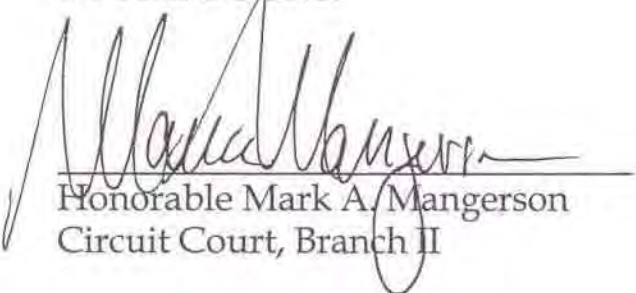
This court is of the opinion that the methodology by Bandow carries the greatest weight, because it accepts reliable monumentation in the field, employs a recognized surveying method and is based on the highly reliable documentation of R. W. Smith which coincides closely with the documentation of the original government surveyor.

ORDER

Counsel for the defendant, Wisconsin Valley Improvement Company, is directed to prepare a judgment consistent with this opinion, quieting title in favor of his client in the lands in dispute in this action, according to the survey of William Bandow, as shown in Exhibit 6.

Dated this 27th day of September, 2006.

BY THE COURT:


Honorable Mark A. Mangerson
Circuit Court, Branch II