

HARNEY COUNTY HISTORY PROJECT

AV-Oral History #116 - Side A

Subject: Marcus Haines

Place: Burns, Oregon

Date: July 30, 1985

Interviewer: Pauline Braymen

MARCUS HAINES: Do you want to start with the origin of the Lane? Why it was ---

PAULINE BRAYMEN: Okay.

MARCUS: 'Cause there's a lot of history to it prior to 1900.

PAULINE: Right, and if you would rather start back, why let's start back.

MARCUS: Well it doesn't matter. It seems to me that if we're going to tell a story, we'd ought to start at the beginning, shouldn't we?

PAULINE: Start at the beginning. Okay, let's start at the beginning.

MARCUS: Well Sod House Lane was established by the survey of Melbrum in 1877, when he surveyed the meander line of Malheur Lake.

PAULINE: Well he was hired by ---

MARCUS: He was hired by the federal government.

PAULINE: By the federal government to establish that. Was that

M E L B R E N ?

MARCUS: U M.

PAULINE: U M.

MARCUS: Uh huh.

PAULINE: Do you know what his first name was?

MARCUS: It was J. W., the initials, but ---

PAULINE: Okay, why did the federal government hire him to do that?

MARCUS: Well they're on the meander line, the meander line around Malheur Lake.

PAULINE: Well, they claimed ownership of the Lake, didn't they, the federal government, or did that come later?

MARCUS: That came later.

PAULINE: That came later.

MARCUS: But now they were getting to where Pete French, you see Pete French came in here in '72, and acquired property down to the meander line, on the north side of Harney Lake. He owned the, he owned all the land that borders on the Malheur meander line, and by no English law that had been established, he was entitled to hold to the center of the lake on a riparian right ownership. Are you familiar with, or do you need some more information on that now?

PAULINE: Well I'd like to get you telling it.

MARCUS: All right.

PAULINE: Okay.

MARCUS: If you have property that borders on a meander line around a lake, you are entitled to hold to the center of the lake, or halfway in on the lake, from your two ends of your property. See if this was Sod House Lane through here, zigzag back and forth like this, here's my mother's place over here, and here's the refuge over here. Well Pete French owned all this back here, and right up in these fractional 40's that went along here. Well he claimed then that he should hold to the center of the Malheur Lake in line of these two corners, you see here. Well that's really what led up to his death. And he brought suit against Alvie Springer, who lived right over in this corner here.

PAULINE: Okay, I've got my little map I drew the other day, if I can find it. Let me get that out here. I was looking at it here

... So this is refuge headquarters, this is east isn't it, north, and south, and west, so this was refuge headquarters.

MARCUS: Yes.

PAULINE: And your mom's place was here.

MARCUS: Yeah, right out here at the end of the Lane, very end of the Lane, you see.

PAULINE: Okay.

MARCUS: Now the Melbrum Survey was zigzagged back across here. ... There isn't one place in the Lane that runs true east and west. Pete French owned all of this property.

PAULINE: The Sod House Ranch was his, and all of Blitzen Valley.

MARCUS: Yeah, the Sod House Ranch would be right about here.

PAULINE: When did these people come in, that settled in here?

MARCUS: Springers came in '85.

PAULINE: Okay, 1885.

MARCUS: And these people were called "squatters". They held this property out here by adverse possession, and they were called "shotgun rights". You got the shotgun out and laid it around --- and they didn't --- they couldn't get the title to this property because it was undetermined as to who it belonged to.

PAULINE: There were Springer's and Hills.

MARCUS: No.

PAULINE: Not Hills yet?

MARCUS: No, there weren't any Hills in there then.

PAULINE: But Simmons you mentioned.

MARCUS: I think Springer was the principal one. I think that they were the example. I think there was a fellow by the name of Caldwell that lived right back out in here. I think

he was involved in it too. Pete French took these folks to court over this meander line here, and here in Burns, and he was beaten here. So he carried it to the Supreme Court.

PAULINE: Now, Oregon Supreme Court?

MARCUS: Yes.

PAULINE: Okay.

MARCUS: And so the judge surveyed this, or looked this situation over pretty good here. And now this was up in the '90's by now, the early '90's. And he said that Melbrum didn't survey a true meander line when he went clear up around the head of the Sod House Spring, which was over by 4100 and some feet, and was running through here, and all through here in the '90's, you see. So then he demanded that they make a new survey.

PAULINE: Okay, so this is when Mr. Neal came in?

MARCUS: And that's when Neal came in, and he was instructed to take the 4093-foot contour, and resurveyed the meander line around the Malheur Lake. And so when he did, it dropped this line way back down here, you see. Well, this was government property then, and these folks had even homesteaded in here. Pete French would have had to purchase it, but he hadn't homesteaded it, so he couldn't pass it. So they homesteaded all along through here, and that was the end of the case right there.

Then when the government came in and had the lawsuit --- when the federal government had the lawsuit with the State of Oregon over the ownership of the lake, they won. And then the people immediately brought suit against the federal government, just like French brought it against these people here, and they won, you see. So that's kind of the story. It all actually started from Sod House Lane, and the meander line there. The Melbrum Survey line.

PAULINE: Okay.

MARCUS: Have I confused you?

PAULINE: Well no, probably I think maybe I understand it a little better. When Melbrum run this survey in the first place, was that just part of the, of like the geologic surveys today? They are always surveying, and mapping. Was the Melbrum Survey just a government mapping exercise?

MARCUS: The government, he was in here, sent in to run a meander line around Malheur Lake. The same as Neal was hired to do it here. He didn't do all of it. There was a fellow by the name of Perkins, that did some more of it. It was kind of broken up in contracts, I suppose. But he did do this down through here we're talking about. Same thing is true about Harney Lake, and Mud Lake, around through there, they were all ---

PAULINE: But Melbrum did this out by Sod House Lane?

MARCUS: He did that section right there.

PAULINE: Okay. Where were the --- the Oliver's didn't really live in that --- I thought --- Where did Oliver's live in relation to ---

MARCUS: Well Oliver lived south of the Rockford Lane.

PAULINE: Okay.

MARCUS: But he was married to a Simmons girl and they lived just right straight north of my mother's place, a half a mile.

PAULINE: Okay.

MARCUS: And his wife was down there with her mother for Christmas, she and the children, and he was staying up here in this field, what we would call Little Sagebrush Field now, between the Rockford Lane and Buena Vista, taking care of some cattle that belonged to Mrs. Simmons. And then he came down and spent Christmas night and Christmas day, and stayed all night, and then the next morning he was going back up to feed these cattle, and he run into French up there and killed him. Up there, about halfway up to where he lived. But Oliver never lived here, down in this area here. He had

homesteaded up there see, that's what caused the friction to begin with, between Oliver and French.

French, he just fenced in everything, from river to river, then people started homesteading in there on him, and no other damn thing he could do, except make it so rough and tough for them, that they would sell out to him, and he'd get rid of them that way. But Oliver was just determined enough that he wouldn't do that.

PAULINE: French had bought the Sod House Ranch from somebody else.

MARCUS: Well this fellow Ruby and some others had acquired these properties through the Swamp Act thing here. ... and received it for \$1.25 an acre, and French bought them out. And this fellow Ruby was --- McCoy and those fellows were up from Diamond, the Diamond Swamp and all that country up in there. You see French acquired that by getting it from those fellows. And so he was after everybody else's up in there. That's the reason Smyth's and French had the trouble, and he hired old George Miller to kill Rye Smyth one night. I got the story on that.

So he was after everything he could get, and he had 32,000 or 132,000 acres under lease and ownership at the time he was killed. So you can see he did that in 25 years, so you can see how that was working. We're getting away from the Sod House Lane.

PAULINE: It seemed to spread out into other areas.

MARCUS: But I was telling you this basically because of the meander of the riparian right ownership that held later on under law. And I have a tape in here made by Myrtle Barnes telling about --- George Miller trying to kill her father. I don't know if I ever told you about it or not.

PAULINE: We've talked about it, but I think it's something we want to come back to, but let's stick to Sod House Lane.

MARCUS: The County then put the Sod House Lane through by help there from people, and just what year that was I've never been able to find out. But they put in thirteen bridges from the Sod House Lane in the original go-around. And it was just a dirt road, and it was a good thing we had the bridges because when it got muddy, you made it from one bridge to the next, and you got there and you dug mud out from around the wheels on the old car, and then you could make it to the next bridge. And then you had to do the same thing there. Hadn't been for the bridges you wouldn't have been able to go through.

PAULINE: You'd have been caked up, and there you would have been. Yeah, that adobe mud is ---

MARCUS: That old Hanley Lane was just the same way exactly, you know. And then of course it was team and buggy days there for so long after it was first made. It was put in there on account of the water, you know, coming down through the Blitzen Valley there, and then the lake backing out.

And then when the C's came in here in 1935, they raised the road by hand, shoveled the dirt out of the bar-pits, and raised the road by hand, and took out about half of the bridges and replaced them with new ones.

PAULINE: Did you work with those crews?

MARCUS: No, no I didn't. But we were living right there at the schoolhouse while it was going on, and then they cindered the road. The CC's cindered the road, so it made an all-weather road to the Sod House Lane there. So that went on then until 1958, and then at that time the county came through and took out most of the bridges, and actually there's just one bridge left in the Sod House Lane. Then they replaced the bridges with culverts.

... (Unrelated conversation.)

MARCUS: Then in 1958, the county, they raised the road and widened it out, and changed culverts, and I think we talked about that. And then about ... '69, why the road

was surfaced, a blacktop job, or oiled, or whatever you want to call it. And that's the way it was when it was destroyed by the flooding of the lake. That was the end of the Sod House Lane. That was a year ago last summer; I guess you would say that it went out.

PAULINE: 1983, yeah. Okay. At one time then how many places were there along that Lane? We wound up with, there was your place up there under the hill by the headquarters, and McEwens had what evidently was about three places before --- at one time, and Rex Taylor had what was the Campbell's, which was something else before.

MARCUS: The Billy Dunn place there.

PAULINE: But like say 18---, well it was settled up between 18--- well French was claiming it all until 1885, when Springer's moved in.

MARCUS: Well they were still claiming it.

PAULINE: He was still claiming it, and by ---

MARCUS: He was claiming to the center of the --- but he couldn't make anybody believe him, they didn't pay any attention to him. They just kept coming in and squatting and holding by adverse possession until he brought this suit. Well he never did run anybody out, 'cause he never won anything, you see.

PAULINE: Well who were some of the other people that moved in there? We know the Simmons moved in.

MARCUS: The Simmons moved in, and a fellow by the name of Caldwell, and Billy Dunn, and Springer's moved in. We are getting back there quite a little ways for this. And that just about takes care of the people on the north side of the road.

Then Pete French up until '95, owned everything on the south side of it, you see. And then there's only two ownerships, or three ownerships on the south side now. After French was killed, they changed hands two or three times, back up to 1916-17, there when the Eastern Oregon Livestock Company came in here. They started selling these

properties off and my mother bought 208 acres of land in the west end, on the west end of the Sod House Lane. It was French's, you see, and it's on the south side.

And then the Billy Duns, they bought 503 acres on, or no, 287 acres on the south side. And then the refuge, when they purchased the properties there, they purchased the 40 that run down to the Lane there for ingress, and so they can get out to the Sod House.

PAULINE: The Sod House Ranch.

MARCUS: They just have a quarter of a mile frontage on --- Here's my mother over here with a mile of such matter. And then our place started and ran over to the river. So that was the three on that side.

PAULINE: Then did Taylor's buy the Caldwell place from your mother, or from you, or?

MARCUS: No, they bought it from us. No, they bought it from Campbell's.

PAULINE: From Campbell's.

MARCUS: Yeah, Campbell's. Well you're going to hear a long story here now. Billy Dunn sold his property to people from --- Hoffman's from California in 1951. And then they in turn sold the property to the Critchlows the following year. Critchlows sold it to Campbell's, and Campbell's sold to Taylor's. That ranch changed hands four or five times, the same ranch. That was originally the Billy Dunn property. And then McEwen bought out the Lyle Hill property. And we own part of the Springer property on the north side of the road there, and the refuge owns quite a bit of it there too.

PAULINE: So part of yours is right across on the north side.

MARCUS: We had 40 acres on the north side there where that spring ---

PAULINE: I didn't realize that you run across the road at all.

MARCUS: Yeah, we owned that Springer house, you see it washed away there.

PAULINE: Okay. I didn't realize that.

MARCUS: We had 47 acres over there. And Hills, we built a new house and moved over

in '51, where we were living when we sold out. And the house, we used it for our tenant house, for hired help. And then Hills wanted it real bad for the in-laws, that would be Toelles, Shirley and Don Toelle. And I sold Harold the house and 5 acres. He was in the business, they had bought his dad out and they wanted a place there for Toelle, so I sold him 5 acres and the house. But we owned the rest of it, and we sold that to Dunbar.

PAULINE: That stayed part of your place then up until you sold it all to Dunbar?

MARCUS: Yes. And then from our place, our east boundary there on clear past the refuge, I owned all refuge land. That was the Springer property. They own from the Billy Dunn's house there, that was a big acreage there, their frontage. They owned the Taylor house, I should say. They owned from there clear over to the Cato Lane, or east of the refuge headquarters, clear through there. There was two sets of them. There was Old Daddy, and then Alvie Springer, and he homesteaded here. And Old Granddaddy, he homesteaded here. He was an old Spanish-American or Civil War veteran. And he died, gosh I think he was 97 or 98 years old when he died wasn't he?

EDNA HAINES: He was awful old, I know.

MARCUS: And he died in the early '30's. But Alvie, his son, has acquired all of his property. So then the refuge, 'course they owned the Sod House Spring --- the Dunns, or the Springer's owned the Sod House Spring. And of course they wanted that by all means, and they went at it in all directions to get it.

So Wilber then, Wilber Springer, was the sole heir to the property. His grandparents had died, and here Nel died in '35 or '36, and he was around there by himself. And so they tried to buy him out and he wouldn't sell. He was getting in debt more all the time with the State Land Board. And John Scharff was a pretty good friend of Paul Stewarts. Well Paul Stewart he goes over, and he makes a trade with Wilber, and gives him the Crane Creek Ranch now where Marvin Horton lives. Do you know where

that's at?

PAULINE: No, but back of Crane someplace?

MARCUS: It's on east of Crane, you go on down Venator Siding way, and you break over the hill and there's a little valley in there. Well, that's Crane Creek, and the ranch is right up the head of it there. So then young Paul Stewart, and then of course Paul Stewarts ... old peoples money, and that's how they acquired it. And then they started trading that off then, the parts they didn't want. And we had property up on the east end of the lake; they had a 40 --- now here is an example of your riparian right ownership. I had 160 acres up on the east end of the lake that I bought, called the Jim Ivy place, and there was a 40 of it that was on the meander line. And that's the widest part of the lake. Well I owned a strip of land a quarter of a mile wide, and three and three-quarters miles long, right out through the middle, through the center of the Malheur Lake up there. So I traded them that for this 40 acres that we're talking, the 47 acres.

PAULINE: That the Springer house is on?

MARCUS: That the Springer house was on. And then they had what they called the bull field out in front of the house where we lived. There was 60 some acres in it. One of the best hay fields down there. And that's how we acquired those two tracks was by this land exchange, you see.

Then Hills owned property just down below, right on north of the Springer property there, from Sod House Spring. And they traded that to the government for the 80 acres that was between the Springer house and the Taylor house, where they went in there, and they had that alfalfa field in there. Well, that's how they acquired that, you see, that was the Springer grain field. They raised grain there for many, many years, Springer's did.

But just the land exchange around here, Alvie was pretty good at that, so he

acquired more property by trading than any other way. ... And then here just three or four years ago, Lyle Hill then, when he ended up with a mile and a quarters frontage, when this suit was settled, and the meander line was right down below his house here to the north. And from here to here was a mile and a quarter, I think. He owns to the center of the lake down here, and it amounted to 1600 and some acres.

So then they sold to McEwen. And McEwen went down and started to dike this off. He got a drag line in there and was going to dike off this 1600 acres so he could control the water, and could do this and that on it. The Harney engineers had some kind of a law, I've forgotten just what it was called, and the Fish and Wildlife Service got next to it. So they come in and filed an injunction against Walt, and wouldn't let him put this dike in.

PAULINE: No, I don't remember that.

MARCUS: You don't remember something about it? Well that was the best thing that ever happened to Walt McEwen, of course. Then they wanted to buy it all this time, and that was the last tack of land that was within the lake, and he wouldn't sell. Or they couldn't agree on the price, and finally they condemned it.

Now then here on the north, they didn't stick right to the meander line here. They had this place all diked off down here where it was below the meander line, and had alfalfa around in here so they dropped down and followed this dike line through here which reduced this by 400 or so acres, from the 1600 and some acres. But that's how they got that then by condemnation.

And then they came up and started trading --- I've got to have my story here now, that was already in the mill, and about the second year we were here, I think Edna, wasn't the first year, 'cause I went to Portland with Charlie Otley and Irv Smith on that land deal. ... Well it doesn't matter. Anyway, we went down there and spent a couple of days, and had a couple of, hired attorneys from Texas, and they come in and they finally got over a

point there would be no more condemnation. The Fish and Wildlife then agreed to that in the district court down there.

PAULINE: But up until the time that that happened, they were actually hot and heavy after your place.

MARCUS: No.

PAULINE: Not your place?

MARCUS: No, but they condemned the 40 acres up on the hill there.

PAULINE: Well that, they actually took that then.

MARCUS: Well, I mean they had it under --- they were going to do that. They had 13 tracts that they had --- Mazzoni had it condemned, or was in the process. So I got down there and they backed off from the whole thing. And they had, but with Larry Dunn now, they had already gotten started on the Mud Lake exchange, up in the Diamond country there. So it went on through, and it turned out to be the best thing that happened.

PAULINE: The best thing that happened to Larry, yeah. Now I want to clear up this point.

Did they take the top of the hill up there?

MARCUS: No, they backed right off from that.

PAULINE: So Dunbar's didn't have that?

MARCUS: Yeah, there was 40 acres, actually about 60 acres there.

PAULINE: Who owns the place where they are excavating the gravel out of the side of the hill there?

MARCUS: Oh, I think that belongs to the BLM. Now the corner of the property was just right up, it was our fence there. That was the original Pete French corner right there. And they got up there close enough that our fence fell in on them, and they had to rebuild the fence. So I'm sure it's BLM, belongs to the BLM. But anyway, it's quite a mess down there.

PAULINE: Well I remember your telling me that you had joked about putting in a motel, or a hotel up there or something, and that the refuge had reacted very --- I mean they took you really seriously.

MARCUS: Oh, that's just the reason that they --- that's what Mazzoni --- Well, this was Mazzoni's idea. He said, "Well you might decide you want to put in a motel or something up on top." And I said, "Well, I hadn't thought about it, but maybe I will." "Well we just can't have something like that detracting from the refuge." See, that was the excuse for their acquiring that property. And they had a 120 acres, just from out at the end of the Lane, right along the --- out there in the greasewood. You couldn't raise anything on it. And he wanted to exchange that to me for this 40 acres up there. Well it wouldn't be worth the fence you put on it, you know. And I told, "Well, how damn silly do you think I am, Joe? Gee whiz, come off of it here."

And then just over the hill when you're coming along, out of all the things, when you make this big loop up here through the --- leave the road here at the end of the Lane, and go up through here and come back around and go to the refuge here now; south quarter is right here. And you get down through here, there's an 80 acres that belong to some people in Los Angeles, two 40's right through here. And it's got greasewood on it. Then the hill just runs right on up through there. Well the rest of it runs down here to the river on this side. Well they condemned that 80 acres there because it detracted from this side. And you couldn't tell one side from the other, you know. That was the reasoning, and so much of the stuff there.

PAULINE: Did they actually go through with the condemnation?

MARCUS: No, they were in the process, but got this all stopped.

PAULINE: They dropped it.

MARCUS: We got the whole thing stopped, except for the Larry Dunns. And it was, they were all signed and working on it then, but nobody else. This was all in the making, and they were giving out the warning, but there had been no action taken on any of it, you see.

And then the Johnny Crow place, called up the other side of Buena Vista, they condemned that. It belongs to Freddy Witzel now. They were going to take that.

PAULINE: Okay, that's not the place that they were living on that was under the 99-year lease?

MARCUS: No, that's before you get to Buena Vista. There used to be a house along there, Johnny Crow's homestead. Now that was another example of Pete French. He had his fence up on the rim there, you see, and a lot of that property down there he didn't own at all. And Johnny got next to it in the early '30's, just before they closed the Homestead Act. And he homesteaded right there, and got quite a section of ground out of there, and fenced it. And the rest of it lays up on the hill to the north. A lot of it was never fenced.

But down here, I don't know if I ever took you down there or not, but around on the north side of the lake, you turn off there at The Narrows, you know, going on the Double O road in through there. And here's the start of the Sand Reef right here, and it goes around and goes across. And this is the biggest part of the Sand Reef. It's quite wide right in here ... with these southwest winds just right to build up.

Well it was quite a playground down in there. People went down with their dune buggies, and their motorcycles, and that sort of thing. And we went down there one time and after ... Diane was just a little thing, was only 4 or 5 years old, and had on a little pink coat, I remember that, and a little cap, and she'd lay down and roll off of those dunes. They were pretty steep, you know, and they was just some place that --- And by gosh you

know they stayed with that till --- it belonged to Dolans, remember Viva Dolan and her husband? Well they owned that property right down from the meander line, and it was on their property. And they condemned that, and then of course, that fell through too.

Then, now Joe worked this about --- shortly after that the Krumbo Dam went out. It was washed out, and was caused by the Kerns Dam going out up on Steens Mountain. It washed out and they didn't open the spillway, or open the gate or anything on the Krumbo, and it washed it out. Had they been paying any attention to it, they would never have lost their dam. But anyway, this dam, well Kerns built on government land, he had a permit for it. So he gets around the Hammond's boy, what's his name, Dwight Hammond, and Dwight buys this property from Dolan. Then he trades this property to Joe for the sight on, for the dam up on the mountain, and they put it back in then. The government helped put it in.

PAULINE: I know that they put that all into a natural resource area, or study area or something. We used to go down there and play too. And now you are not supposed to, it's all fenced up now.

MARCUS: It's all fenced up, and you can't get in there, you have to walk in. We used to go down there a lot. It was a lot of fun to go up there and go around the sand. The first time the wind came up, you know, you couldn't ever tell anybody had been there. Just to see goofy things like that.

And then the Tyler boys that bought the Les Griffin properties over here along --- just this side of The Narrows, they condemned all that on those boys. They backed out on that. There were 13 condemnation suits in the making and we got that stopped, that time in court.

So I don't know what else we ought to talk about now here. We've already jabbered about --- you've got this --- you're recording over here aren't you? I see the light

going.

PAULINE: Yeah, and when it goes snap, I'm going to quit for today. I used to sit and talk to people for two or three hours at a time, and it's just darn hard to assimilate all that.

MARCUS: It sure is.

PAULINE: So I found out that about 45 minutes is plenty long, and if there's a good story going, I'll turn the tape over. But you sure don't want to go more than 90 minutes anyway.

MARCUS: No, that's right.

... (Unrelated conversation.)

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