

Boundary Lines Between Counties, Adjustment Of.

Where the boundary lines of counties are inadequately marked by natural objects or lines or definite legal surveys, they may be definitely established by joint survey of the respective county surveyors.

March 8th, 1911.

Justin M. Smith, Esq.,
County Attorney,
Bozeman, Montana.

Dear Sir:

I am in receipt of your letter of March 2nd, 1911, wherein you ask my opinion concerning the adjustment of definite boundaries between Gallatin, Madison and Broadwater counties. In your statement of the case you say that the commissioners of these three counties propose to require the surveyors of their respective counties to make joint survey of certain county division lines between the counties, which are now indefinite and inadequately described.

Section 2844, Revised Codes, provides that common boundaries of counties inadequately marked by natural objects or lines or by definite legal survey, must be definitely established by joint survey of the respective county surveyors. The only difficulty which you experience evidently in the interpretation of this section is as to whether it is sufficiently broad enough to allow the boundary lines to be run along section lines. I believe that this may be done where the lines are not indicated by some natural mark or course, as for example, a well defined stream, such a boundary could not in my opinion be changed however slight the extent to which a section line course would effect such change. If on the other hand, the boundary is designated by some natural mark or course, which is in itself indefinite, I think that the survey might be established along the course of the nearest section line. An example of this latter indefinite location would seem to me to be the crest of a chain of mountains or hills, or the center of a ravine or valley between a range of mountains or hills—in other words, I think the rule can be safely stated that if the line is sufficiently definite that all reasonable persons must agree upon it, then it cannot in any event be changed except by legislative action. If on the other hand the designation of the boundary is so indefinite that reasonable persons might honestly differ as to its exact location, that the adjustment can be made under authority of Section 2844 and that section lines may properly and in fact should be designated as division lines except where such a designation would so far depart from the original description as to be patently and openly at variance with it. The proper application of this statute to a particular case would of necessity require an intimate knowledge of the particular facts, but at all events the determination of the facts in view of the rule laid down could be safely entrusted to the combined judgment of the surveyors and boards of county commissioners of the three counties.

Yours very truly,

ALBERT J. GALEN,
Attorney General.