

COUNTY BOUNDARIES - Boundary line of Cole and Osage Counties.

May 12th, 1934.

5-14



Honorable Elliott M. Dampf
Prosecuting Attorney
Cole County
Jefferson City, Missouri

Dear Sir:

We have your request of April 20th, 1934 for an opinion upon the following facts:

"Does accreted land at the mouth of the Osage River belong in Cole County where the main channel of the Osage River flows between this land and Osage County. Section 11946 and Section 11978 set the boundary of Cole and Osage Counties in the middle of the main channel of the Osage River.

An attempt was made some years ago to make the main channel of the Osage River flow through the upper end of this tract (as shown by Federal plat) which was unsuccessful. A levee has been built by the Government along this strip, and at the present time, no water whatsoever flows through this slough, and a road has been built on top of the levee. This property has been taxed by Osage County in the past years, but has been assessed by Cole County for the year 1933.

Therefore will you kindly give me your opinion as to whether the boundary line as set out in the above sections are to be used in determining to which county the above tract belongs."

#2 - Honorable Elliott M. Dampf

We assume from your letter that the land in question lies north and west of the main channel of the Osage River, and south of the main channel of the Missouri River. The boundary line of Cole and Osage Counties, immediately south of the Missouri River, is fixed at the middle of the main channel of the Osage River.- Sections 11946 and 11978, Revised Statutes of Missouri, 1929. These boundary lines were created by acts of the Legislature, and such boundary lines are fully recognized by the Constitution of Missouri, Article IX, Section 1. The sudden changing of the bed of a boundary river stream does not change the boundary of the county. A river which suddenly abandons its course and seeks new channels, whether from natural causes or from artificial and man-made channels, causes no changes in the boundary between the counties where the boundary line is fixed at the middle of a main channel of a river. *Randolph v. Moberly Hunting and Fishing Club*, 15 S. W. (2d) 834.

It is, therefore, the opinion of this office that the tract of land in question lies within the boundaries of Cole County, as defined by statute (Section 11946), and recognized by the Constitution of Missouri, and that the land for all purposes is Cole County territory.

Respectfully submitted,

FRANKLIN E. REAGAN
Assistant Attorney General

APPROVED:

ROY MCKITTRICK
Attorney General

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