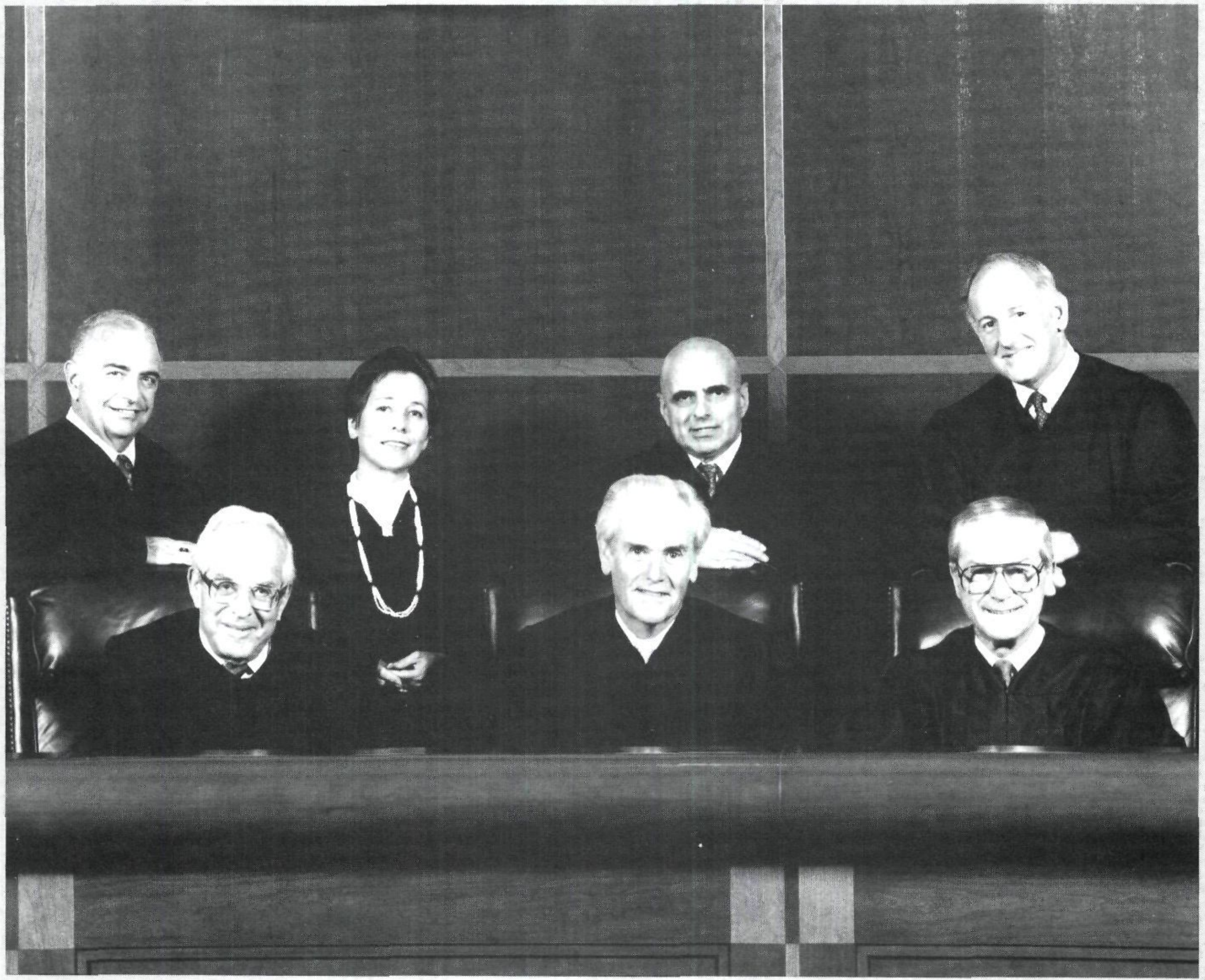
Institutional Affiliate of American Congress on Surveying and Mapping.

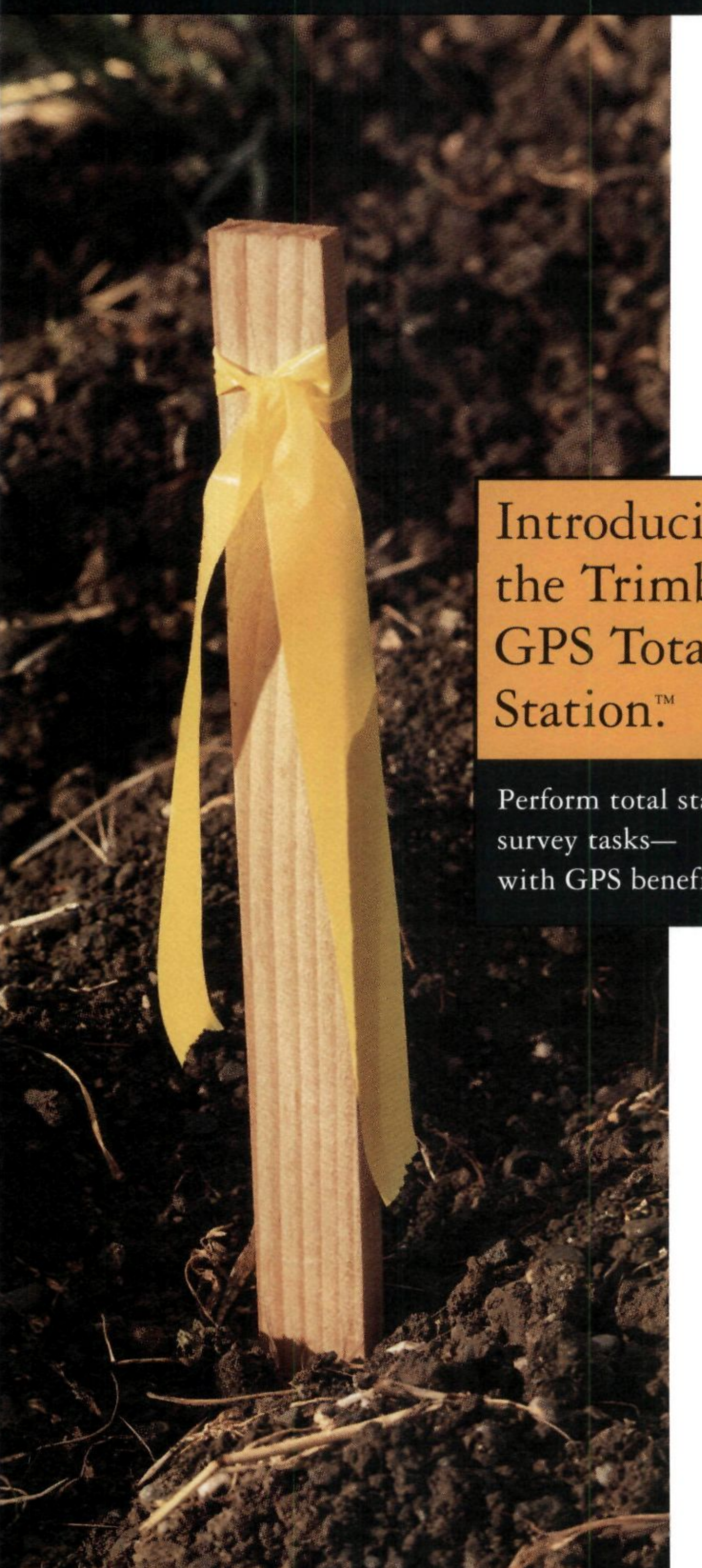
The California Surveyor

FALL 1994 The Voice of the Land Surveyors of California NO. 106



Legal Issues In Land Surveying

Now, you can take advantage of GPS for *more* applications—and locations.



Introducing the Trimble GPS Total Station.™

Perform total station survey tasks—with GPS benefits.

Yes, even for stake out.

You're probably well aware of the productivity advantages of using GPS for geodetic and control surveying. No instrument pointing. No line-of-sight requirement. All-weather operation. Greater range. Fewer set-ups.

Now, with the Trimble GPS Total Station we've extended these GPS benefits into your everyday topographic, boundary, detail, and local control work—even stake out! That's because a GPS Total Station enables you to survey with GPS—but without having to wait for post-processing. You get 3-D centimeter-level coordinates—*as you survey the point!*

What's more, a single surveyor can use a GPS Total Station to find buried marks quickly and run contour lines from vehicles. Several surveyors can work simultaneously from one instrument station. *In fact, GPS Total Stations can increase your productivity by more than 100 percent.* And Trimble's breakthrough techniques greatly expand the kinds of places where you can use GPS.

So why are you waiting? For a demonstration, call 1-800-426-3968 for the location of your nearest Trimble office or dealer.

The Leader in GPS Solutions

Surveying & Mapping Products
645 North Mary Avenue
Sunnyvale, CA 94088-3642
408-481-8940, North and South America
+44-256-760-150, Europe
+61-7-262-8880, Australia
+65-738-6549, Singapore

© 1994 Trimble Navigation

The California Surveyor

is the quarterly publication of the California Land Surveyors Association, Inc. and is published as a service to the land surveying profession of California. It is mailed to all Licensed Land Surveyors in the state of California as well as to all members of California Land Surveyors Association, Inc. *The California Surveyor* is an open forum for all surveyors, with an editorial policy predicated on the preamble to the articles of Incorporation of the California Land Surveyors Association, Inc. and its stated aims and objectives, which read:

"Recognizing that the true merit of a profession is determined by the value of its services to society, the 'California Land Surveyors Association' does hereby dedicate itself to the promotion and pro tection of the profession of land surveying as a social and economic influence vital to the welfare of society, community, and state."

"The purpose of this organization is to promote the common good and welfare of its members in their activities in the profession of land surveying, to promote and maintain the highest possible standards of professional ethics and practices, to promote professional uniformity, to promote public faith and dependence in the Land Surveyors and their work."

PERSONNEL

OWNER
California Land Surveyors Association, Inc.

CENTRAL OFFICE
P.O. Box 9098, Santa Rosa, CA 95405-9990

EDITOR
Tom Mastin, P.L.S.

ASSISTANT EDITORS
Michael McGee, P.L.S. – Linda Richardson, P.L.S.

ADVERTISING

Commercial advertising is accepted by *The California Surveyor*. Advertising rates and information can be obtained by contacting CLSA Central Office, P.O. Box 9098, Santa Rosa, CA 95405, Telephone (707) 578-6016, Fax (707) 578-4406. Circulation: 5,200.

SUSTAINING MEMBERSHIP

Membership in the California Land Surveyors Association, Inc. as a sustaining member is open to any individual, company, or corporation who, by their interest in the land surveying profession, is desirous of supporting the purposes and objectives of this association. For information regarding sustaining membership, contact CLSA Central Office, P.O. Box 9098, Santa Rosa, CA 95405, Telehone (707) 578-6016, Fax (707) 578-4406.

EDITORIAL MATERIAL

All articles, reports, letters, and contributions are accepted and will be considered for publication regardless of the author's affiliation with the California Land Surveyors Association, Inc. Contributions submitted on floppy disk medium is encouraged. For compatibility, disks should be 5.25 or 3.5 inch, MSDOS (IBM compatible) format. We can accept ASCII text files or word processor files from WordPerfect or Microsoft Word.

EDITOR'S ADDRESS

Tom Mastin, P.L.S.
1303 Garden Street, 2C, San Luis Obispo, CA 93401

DEADLINE DATES

Winter...... October 10, 1994 Summer....... April 10, 1995
Spring...... January 10, 1995 Fall........... July 10, 1995

Articles, reports, letters, etc., received after the above mentioned date will be considered for the next edition.

ON THE COVER: The California Supreme Court — back row, Justices Baxter, Kennard, Arabian, and George; front row, Justice Mosk, Chief Justice Lucas, and Justice Panelli.

Opinions expressed by the editor or individual writers are not necessarily endorsed by the California Land Surveyors Association officers or its Board of Directors. Original articles may be reprinted with due credit given to the source and written notification to the California Land Surveyors Association.

Copyright © 1994 California Land Surveyors Association

Table of Contents

FEATURES

From the President
by Kurtis K. Hoehn, P.L.S. 6

Morehart v. County of Santa Barbara: New Trails in the Unchartered Territory of Antiquated Subdivisions
by Robert E. Merritt, Esq. 10

What is a Legal Lot?
by Michael B. Stanton, P.L.S. 14

A Surveyor's Look at the History of Boundaries
by Walter G. Robillard, Esq., R.L.S. 18

Court Rules for Property Owners in Dispute with State Over Ownership of Waterfront Lands
by John Briscoe, Esq. 24

DEPARTMENTS

CLSA Officers and Board of Directors 4
Application for Membership in CLSA 5
Letters to the Editor 7
CLSA Publication Order Form 25
Know Your Sustaining Members 26

Index to Advertisers

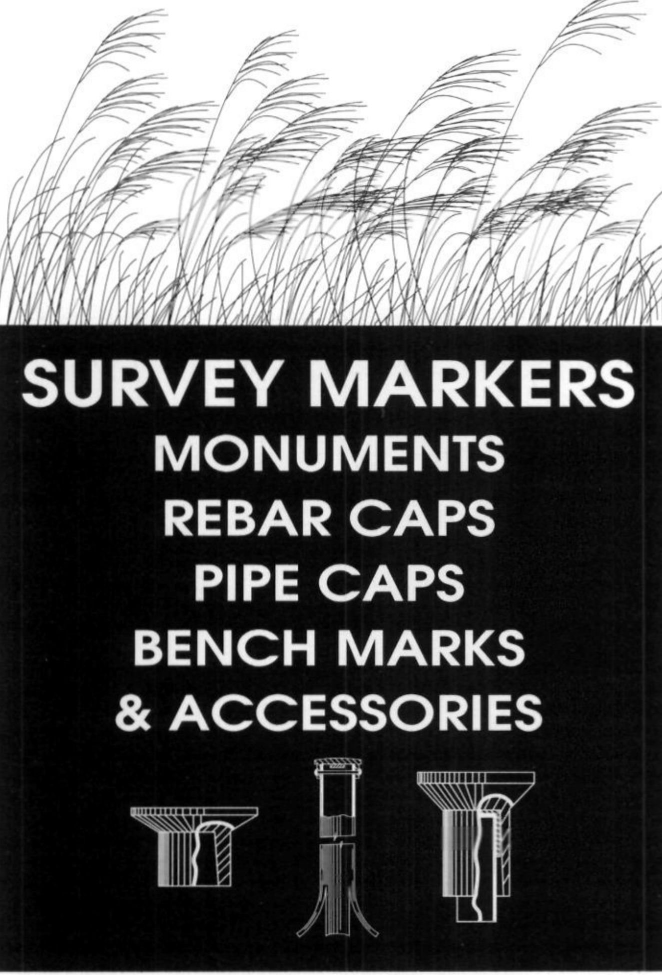
Association Administrators and Consultants 21
Cross Land Surveying, Inc. 3
Desert Engineering Group, Inc. 4
Ronald Greenwell & Associates 8
Haselbach Surveying Instruments 17
Industrial Pipe & Steel Co. 21
Lewis & Lewis Enterprises 11
McGee Surveying Consulting 9
Nikon Surveying Instruments 19
StarPlus Software 24
Surveyors Service Company (Servco) 27
Surv-Kap 23
Topcon California 15
Trimble Navigation 2
Williams Communications 13
Carl Zeiss 7

CROSS LAND SURVEYING, INC.
Consulting Land Surveyors
GPS-Global Positioning System Surveys

Earl R. Cross, President
Calif. P.L.S. 3242
Nevada R.L.S. 3623
Arizona R.L.S. 26052

2210 Mt. Pleasant Rd.
San Jose, Calif. 95148
(408) 274-7994

"WHAT Survey Marker...?"
"WHERE??"



FOR CATALOG CALL
(602) 882-7363 or 1-800-323-4578
OR WRITE:

SURVEY MARKERS & MONUMENTS
A Division of Desert Engineering Group, Inc.
3162 E. 46th Street, Tucson, Arizona, 85713

CLSA Officers 1994

President	Kurtis K. Hoehn, P.L.S.
President-Elect	Billy Martin, P.L.S.
Secretary	Frederick W. Kett, P.L.S.
Treasurer	Gary T. Lippincott, P.L.S.
Immediate Past President	Joseph W. Betit, P.L.S.
Executive Director	Dorothy C. Calegari

Board of Directors

Chapter Representatives

Bakersfield	Paul Burn, P.L.S.
Central Coast	Tom Vaughn, P.L.S. Joseph T. Morris, P.L.S. Robert Reese, P.L.S.
Central Valley	Keith Spencer, P.L.S.
Channel Islands	Gerald Hovell, P.L.S. John Adam, P.L.S.
Desert Chapter	James McGillvray, P.L.S.
East Bay	Harold B. Davis, P.L.S. Patrick Tami, P.L.S.
Gold Country	Marc R. VanZuuk, P.L.S.
Humboldt	Peter Rei, P.L.S.
Lake/Mendocino	Daniel Martinez, P.L.S.
Los Angeles	Lloyd Cook, P.L.S. Stephen Gregerson, P.L.S.
Marin	Michael Brogan, P.L.S.
Monterey Bay	Steven C. Wilson, P.L.S. Lee Vaage, P.L.S.
Mother Lode	Don Ratzlaff, P.L.S.
Northern Counties	Robert Grimm, P.L.S.
Orange County	Glenn Lake, P.L.S. Elwood Oehlert, P.L.S. Bill Carr, P.L.S. Pat Mercado, P.L.S. Jon Sollie, P.L.S.
Riverside/San Bernardino	Darrell T. Harness, P.L.S. Gerald Stayner, P.L.S.
Sacramento	Reed Bekins, P.L.S. Chris Russell, P.L.S.
San Diego	Robert Wallace, P.L.S. Dale Greenhalgh, P.L.S. Philip Giurbino, P.L.S. Michael Butcher, P.L.S. Jack Hill, P.L.S. Michael Pallamary, P.L.S.
San Joaquin Valley	Robert Greene, P.L.S. John Johnson, P.L.S.
Santa Clara/San Mateo	Paul W. Lamoreaux, Jr., P.L.S. Kristina Davis-Comerer, P.L.S.
Sonoma County	Neal Campbell, P.L.S. Gordon Meininger, P.L.S.

Here's Some Important Information About CLSA

The goal of the California Land Surveyors Association is to promote and enhance the profession of surveying, to promote the common good and welfare of its members, to promote and maintain the highest possible standards of professional ethics and practice, and to elevate the public's understanding of our profession. CLSA represents all land surveyors, whether they are employees or proprietors, whether in the public or the private sector.

Representation

LOCAL: Your local chapter represents you in local issues. Through your chapter representative to the State Board of Directors, the individual member can direct the course CLSA will take. STATE: The surveyor is represented at the state level through an active legislative program, legislative advocate, and liaison with the State Board of Registration. REGIONAL: CLSA is an active member of the Western Federation of Professional Land Surveyors. This federation is composed of associations throughout the western United States and addresses regional issues. NATIONAL: Through institutional affiliation with the National Society of Professional Surveyors and the American Congress on Surveying and Mapping, CLSA is represented at the national level.

Education Opportunities

CLSA presents annual conferences which provide technical and business programs, as well as exhibits of the latest in surveying and computing technology. Seminars and workshops are presented to assist in continuing education. CLSA publishes the *California Surveyor* magazine and the *CLSA News* to keep the membership abreast of changing legislation, legal opinions, and other items which affect our profession.

Business and Professional Services

CLSA provides a fully staffed central office which is available to answer questions or to provide up-to-date referrals concerning legislation, educational opportunities, job opportunities, or other issues concerning our membership. Health and professional liability insurance programs are available to members.

Join CLSA Today!

Application for Membership in the California Land Surveyors Association

Mail Your Completed Application To:

CLSA Central Office
P.O. Box 9098
Santa Rosa, CA 95405-9990

Questions?

Phone (707) 578-6016
Fax (707) 578-4406

** First year's annual dues are to be prorated from date of application*

Name ______ Work Phone (____) ______
Firm or Agency ______ Home Phone (____) ______
Mailing Address ______ Suite or Apartment No. ______
City ______ County ______ State ____ Zip ______
Signature ______ PLS , PS, CE, or LSIT No. ______

Recommended by (Affiliate and Student Memberships only) ______
Mailing Address (above) is: ☐ Home ☐ Business
Employment: ☐ Private (principal) ☐ Private (employee) ☐ Public ☐ Retired

☐ $145.00 CORPORATE MEMBER: Shall have a valid Calif. Professional Land Surveyor or Photogrammetric license.
☐ $ 72.50 AFFILIATE MEMBER: Any person, who in their profession, relies upon the fundamentals of land surveying.
☐ $ 72.50 ASSOCIATE MEMBER: Any person who holds a valid certificate as a Land Surveyor in Training.
☐ $ 14.50 STUDENT MEMBER: A student in a college or university actively pursuing the study of land surveying.
☐ $290.00 SUSTAINING MEMBER: Any individual, company, or corporation desirous of supporting the association.

Dues (prorated* from above) $ ______ + Entrance Fee $15.00 = Total Amount $ ______

☐ Check enclosed I authorize charge to my ☐ Master Card ☐ Visa Expiration Date ______
Card Number ______ Signature ______

From the President

By Kurtis K. Hoehn, P.L.S.

THIS MARCH, at the CLSA/ NALS Joint Convention in Reno, I had the opportunity to hear keynote speaker, Mr. Dennis Mouland. He spoke about how he has met with many many surveyors across the country while giving seminars. It seems that when giving his classes, he has noticed that many people in his classes did not belong to their state organizations.

He noted that they seem to realize the importance of keeping up with their education in the surveying field. He also observed that for the most part, they realize the importance of continuing education. This is a requirement to keep up not only with the everchanging philosophies of the surveying community, but also to keep up with the everchanging technical aspects. These observations would lead you to conclude that the attendees not only support some type of personal education process, but also might be active members of their appropriate state organizations. Again, listening to what Mr. Mouland has to say, he seems to note a major discrepancy or contradiction in what is happening when it comes to membership in a professional organization, or supporting some sort of continuing education program.

I can hear it from the readers now. He said the "C.E." word again. Here comes another round of this! Well, have faith. I am just making a comment — and the jury (CLSA) has not made any judgement on this issue as far as it being mandatory. The decision of CLSA was to set up a "Voluntary Continuing Education Program."

We take many things for granted when it comes to the support CLSA gives to the surveying profession. Also, we assume that CLSA will always be there for the profession. When CLSA can convince the Board of Registration that a new policy or Board Rule needs to be set up, it is only after considerable time, effort, and review by this organization. This is the same process that happens when we are successful in getting new legislation passed. When CLSA is successful in handling the above mentioned areas, all of the surveying profession benefits. This means that all surveyors in the State of California benefit. This also includes not only members, but also non-members. There have been many instances where, without the efforts by members of the organization, surveyors would have even less than they have now. Some examples of this include SB2, GIS legislation, many legislative bills, and the ongoing meetings of the Subdivision Map Act Committee in Sacramento. The efforts of CLSA in these areas have assured others we are a group that is to be listened to.

The efforts by members of CLSA benefit all the surveying profession within California. The whole profession is benefitting from the efforts of those within CLSA. Is that fair to the members who give not only time and effort, but also financially? Is it fair to those persons for all to benefit, members or not, from the efforts of a few? Luckily for all, that thought is not considered when time, effort, and money are being donated. We do not care who benefits, since our efforts are for the betterment of the profession. Our political power is not a mighty force to be dealt with at this time, but we are being heard by many within the legislature. Imagine what CLSA could do if it could increase the membership just by 50 percent. This includes all different categories of membership, not just at the corporate level. CLSA is working for the profession, not just for a few individuals. I am sure there are a few out there who are skeptical of this comment, but when is the last time you went to a chapter meeting? Have you tried wondering what things might have been like had it not been for the efforts of others? Where would the surveying profession be right now if SB2 had not gone into effect?

CLSA is not the cure all for all that is wrong with this profession. It is not a perfect organization. It has enough participation to overcome some of its faults.The association has received strong comments from non-members who seem to write only when they do not agree with our efforts. These constructive comments from the profession are encouraged as it is good for an organization to get "constructive criticism." The profession would benefit more by the continual support and input from these individuals. As a member of CLSA, it is the responsibility of all to let others know what advantages there are in belonging to CLSA.

The efforts by members of CLSA benefit all the surveying profession within California.

Right now there have been many discussions concerning the sending of this magazine to non-members. Why should the association bear the added expense? One reason is that we are all involved in the same profession. We are working together to gain the same goals. We need to keep each other informed. CLSA needs to be aware of the items and subjects that affect the profession. This is why we will continue to send the *California Surveyor* to all licensed land surveyors. However, this is not just a one way street. We need your help also. This organization cannot continue the progress it has made with only the help of a few. If you want to benefit from the few, then you must also make an effort. This effort is joining CLSA. CLSA cannot continue to benefit all in the profession with the help of a few. You must make an effort also by not only joining the state organization, but also by joining your local chapter. JOIN CLSA! ⊕

Letters To The Editor

CURTIS M. BROWN SCHOLARSHIP

The California Land Surveyors Association, San Diego Chapter, is pleased to announce they have awarded their Curtis M. Brown Scholarship of $1,000.00 to California State University, Fresno, senior Robert Lloyd Nielsen.

The Curtis M. Brown Memorial Scholarship Fund was established in 1989 in honor of the chapter's long-time member, the late Curtis M. Brown, a well-known surveyor and author. The scholarship is intended to aid and award a student enrolled in a four-year institution (or in a community college with the intent of attending a four-year institution) majoring in surveying or surveying engineering. The Scholarship Committee reviews not only the academic and financial status of the applicants, but considers the applicant's activities and involvement in the surveying profession.

Robert Nielsen, recipient of the award for the academic year 1994/1995, is a full-time surveying engineering student at California State University, Fresno, with a GPA of 3.56. He is a permanent resident of San Marcos and received his Associate of Arts Degree in Surveying Technologies from Palomar College in 1992.

Robert is president-elect of the Fresno State Chapter of CLSA and is a member of the San Joaquin Chapter as well. His other memberships include ASPRS, ACSM, and SPSA. Robert is the founder of a Tutor Program at Fresno State to aid other surveying students, and he served as Scholarship Chairman for the last two annual Fresno State Surveying Engineering Conferences. He also attends as many professional conferences as he can, and actively recruits students to the Surveying Engineering program.

After graduation in 1995, Robert may pursue his Masters Degree in Surveying. He would like to return to San Diego to work with a progressive surveying company, making use of his skills and education in GIS and GPS. He would also like to promote the advantages of college education for all new Land Surveyors to strengthen the profession of surveying.

Beth A. Swersie, P.L.S.
Chair, Education Committee
CLSA San Diego Chapter

WHY METRICATION?

When the ostrich people find that the metric system is really going to happen, the questions start: *Why should I change? What's in it for me?* Then the statements: *I know how long a foot is, and I don't want to start again at my age. The foot was good enough for George Washington, so it's certainly good enough for me.* Then they go smugly on their way, having put those metric radicals right.

Only one minor problem with their rebuttal. George Washington and his contemporaries didn't use the foot. Land was measured by the chain and acre, and also the sub-parts of both: the rod (or pole, or perch), link, and the rood (¼ acre = 1 rood).

The rod was defined by an ordinance of Edward I in 1303, as equal to exactly 5½ ulnae. The Ulna was an iron bar which was the standard for the English yard. In many colonial surveys, land was described by rods, and the early public (surveys were done using the two-pole (two-rod, or two-perch) chain (5½ yards = 198 in = 25 links).

In 1742, the English Royal Society had a brass bar constructed which contained a 3-foot scale. A copy of this bar, made in 1760, was adopted by an Act of Parliament in 1826, as the standard for England. In the United States, the standard yard was adopted by an act of Congress in 1836 — the first standard unit of measure in this country. This standard was established using the "Troughten Bar," a graduated brass bar brought to the United States by F. R. Hassler, the first Superintendent of the U. S. Coast Survey, in 1813. Hassler had earlier, in 1805, brought a standard meter bar, which was used for U.S.G.S. base line surveys. In 1866, Congress passed a law making the use of metric system legal, which defined the yard as 3600/3937 of the meter. This act also

CONTINUED ON PAGE 8

The Leader In Advanced Surveying.

The best companies use the best instruments. Zeiss has the quality & advanced performance to make you a leader.

Series E Total Stations

- Automatic temperature & pressure correction.
- Lightweight & easy to use.
- 8 models, including economical Elta 5 & Rec Elta 15.

New Automatic Levels (Ni 30, 40, 50)

- Accuracies of 1mm, 2mm & 3mm.
- Gas-filled telescope, rugged compensator, sighting collimator.
- Fast, precise & reliable.

Contact your Zeiss dealer or:

Carl Zeiss, Inc.
Surveying Division
Thornwood, NY 10594
(914) 681-7305
Fax (914) 681-7472

Letters . . . .

CONTINUED FROM PAGE 7

created the U.S. Survey Foot as 1200/3937 meters. (The International Foot is defined as 1 foot = 0.3048 meters. So 3.28083333... U.S. Survey feet = 1 meter and 3.2808399 International Feet = 1 meter.) The foregoing shows that the only legally defined foot in the United States is based upon the international unit of length (meter).

American surveyors have been using conversion factors for over 100 years, converting chains, varas, arpents, leagues, etc. Why should it be difficult to make one more, particularly as our EDMs measure directly in meters, and convert to the International Foot.

The text *Elements of Surveying and Navigation,* by Charles Davies, published in 1830, and revised in 1850, prepared for the instruction of cadets at the Military Academy at West Point, goes into the following explanation of area determination:

> *105. An acre is a surface equal in extent to 10 square chains; that is, equal to a rectangle of which one side is ten chains, and the other side one chain.*
>
> *One-quarter of an acre, is called a rood.*
>
> *Since the chain is 4 rods in length, 1 square chain contains 16 square rods; and therefore, an acre, which is 10 square chains, contains 160 square rods, and a rood contains 40 square rods. The square rods are called perches.*
>
> *107. Since there are 16.5 feet in a rod, a square rood is equal to 16.5 x 16.5 = 272.25 square feet. If the last number be multiplied by 160, we shall have 272.25 x 160 = 43,560 = the square feet in an acre. Since there are 9 square feet in a square yard, if the last number be divided by 9, we obtain 4,840 = the number of square yards in an acre.*

Let **us** then consider the metric system relationship of area determination:

5,000 meter^2 = 0.5 hectare
10,000 meters^2 = 1 hectare
1 kilometer^2 = 100 hectares

The same ease of use occurs in linear relationships. Using the English System:

63,360 inches = 5,280 feet = 1 mile

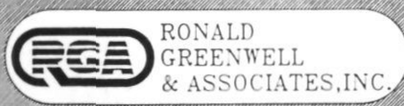
Using S.1. Units:

1,000 mm = 1 meter
1,000 meters = 1 kilometer
1,000,000 mm = 1 kilometer

So, as all S.1. relationships are directly related, the land surveyor will no longer need to employ convoluted calculations in order to convey the results of the work. Therefore, opposition to metrication makes no sense at all.

Harold B. Davis. P.L.S.
Chair, CLSA Metrication Committee

TRY G.P.S.



ECONOMIC & EFFICIENT

AERIAL · ROUTE · UTILITY · CONTROL SURVEYS

GIS & LIS BASE

GEODETIC & DENSIFICATION

PROJECT PLANNING & CONSULTING

BLUE BOOK EXPERIENCE

AUTOCAD INTERGRAPH

(800) 808-0626 (510) 778-0626
10 S. Lake Drive Suite 1
Antioch, CA 94509

■ METRICATION

There are many pros and cons and treatises regarding employing the metric system. Much of the recent discussion is of a technical nature. Not to bore you with redundant historical facts or technicalities, I'd like to address maybe what some have not discussed: pioneer spirit! (Of course "pioneer spirit" is a redunancy, to those of us who know their metric history.)

One of the better pro-metric analogies printed on the back of the *Metric in Construction* newsletter is this: "English is the international language of business. Metric is the international language of measurement." Americans are fortunate not having to learn another language when traveling abroad, as most of the world speaks English. So why not reciprocate, especially in our profession, and convert to metrics.

I had a somewhat narrowed view of the rest of the world until our family had the good fortune of hosting French students during the summers. These students were very bright, spoke English better than some of us, and knew their conversions from the metric system to the foot system. Not employing metrics in the U.S. makes us look rather like sluggards from a global point of view. Our Founding Fathers must be rolling in their graves, watching this country's reluctance to convert! 'Course their narrow-minded country-persons didn't listen to them either.

During these recessionary times, every export would aid in economic recovery. If this were a metric nation, there may have been increased exports — no matter how minuscule. Therefore, it would seem, not employing metrics should be considered UN-AMERICAN!

How many of us enjoy the beauty of an oak tree? Due to personal interests and horticultural hobbies, I plant oaks from acorns for the enjoyment of future generations (and maybe to relieve some of the guilt associated with the old fireplace). Therefore, sow some "metric acorns" not for today, but rather, the future.

Have you read or watched any Desert Storm documentaries? When those young men discussed distances it was in meters. Let's be all that we can be . . . GO METRIC!

The medical profession has been metric for more than a generation. Probably because it's more accurate and precise. Another reason to GO METRIC!

How many of us have turned a wrench? During college my metric transportation was an old '55 bug. The one with the oval rear-window and flip-out turn signals. If a 10mm wrench was too small, try a 11mm. If that was too small, go for a 12mm, and so on. Too difficult? Here's difficult: Go to your local auto parts store and buy some wrenches. Let's see . . . SAE (Society of Automotive Engineers, another conflict of terms surveyors recognize) wrenches come in all sizes. Sets, however, are in increments of 1/16 th of an inch up to 5/8 ths of an inch. After that it's in 1/8 ths, unless you buy them individually or purchase an expensive set. Doesn't this SAE business sound a bit off? It's

much easier chasing out the right wrench in millimeters, than the "other."

Watch any O.J. Simpson updates? (How can you not?) Yes, the criminologist is speaking in centimeters.

Our common-sense, surveyor/engineer forefathers long ago converted from chains to feet-inches. The more brilliant conversions went directly from chains to decimal feet. Isn't that similar to metric?

One of the purposes of the chains-system, was the ease of which one could determine acreage — in most instances, in one's head. To maintain the ability to determine area, we may consider a "metric chain," to determine hectares. In other words, one "metric chain" would equal about 31.623 meters. (Alright, maybe I've pondered too much . . . .)

Now a graphic demonstration of metric simplistics and a summer recipe: Get a two-cup "Pyrex" measuring cup with milliliters on one side and fractional "cups, ounces, and pints" on the opposite side. Look at the milliliters, then the "other" side. Visually, which system makes sense? More? Okay, how 'bout the recipe for an "A. Jordan, Esq. Margarita": one part tequila gold, two parts triple sec, and three parts sweet and sour! Now, with the "evidence" in the left hand and the tequila gold in the right, which system would you rather employ?

As a proponent of metrics, may I suggest the following to stimulate interest and education in metrication:

1) When discussing a topographic project with a potential client, especially municipalities receiving federal highway dollars, offer the client a metric option.

2) Use a metric tape measure in your home or home shop. You must have a friend in the "trades," such as a plumber, carpenter, engineer, etc. — give them a metric tape measure as a holiday present. As I've found in my wood shop, every measurement is to millimeter precision, which is more than I can say of my cutting abilities!

3) Discuss metrics with your City/County Engineer/Surveyor. Educate them regarding federal highway monies and about adopting metrics into the zoning/subdivision codes.

4) Write a metric information fact sheet for your organization's computer draftsperson and field crew. (i.e., metric scale factors; multipliers for area conversion; multipliers for inch radius guides for various mapping scales, legal descriptions, etc.). For public relations, one may consider sharing this with title companies and attorneys.

5) Attempt to introduce metrics to the title companies and attorneys. When writing a legal description, if at all possible, make it metric.

6) Record metric surveys, and if possible, subdivision maps.

Please consider the next Record of Survey as being metric. Learn something as futuristic as GPS (although ancient in the global sense), simple as seventh-grade math, and as expensive as two metric scales ($12). Sow your own "metric acorns," for future generations. (And while you're at it, plant a few oaks!) Thanks for your time.

Phillip A. Danskin, PLS 4794
Sonoma, California

MOREHART v. COUNTY OF SANTA BARBARA

As you are undoubtedly already aware, on May 12, 1994, the California Supreme Court ruled in favor of our clients, John and Frances Morehart, that the County of Santa Barbara could not require merger of undersized parcels with contiguous parcels as a condition of development if the parcels were not eligible for merger under state law. The full text of the opinion appears in the May 16, 1994, *Los Angeles Daily Journal Daily Appellate Report* at page 6396.

We wish to take this opportunity to thank you and the California Land Surveyors Association for your amicus curiae support in this important case which is already being hailed as a triumph for private property rights.

Richard C. Monk
Hollister & Brace
Attorneys at Law

RANCHO AGUAJITO — REVISITED

Thank you for printing both of my articles in the *California Surveyor.* Due to the article, I have sold six copies of the "SPRR Taper Curve Tables," and the article on the Rancho Aguajita got me some replies and copies of articles out of other old books and periodicals. Due to these, I found the Rancho was a better-known fact than I had realized.

Apparently I didn't make myself clear enough, though. Almost all of the respondents seemed to feel the Rancho was "lost." This is not the case; I know precisely where the Rancho is located. It is even shown on the USGS 1:24,000 quad sheet as a Rancho. I have a copy of the Official Plat, and a copy of Frank Reade's field notes.

The mystery lies in the fact that — although confirmed by a federal court and by the Surveyor General, and although the survey was advertised in both the San Francisco and local papers, and although the plat was accepted and confirmed — *nowhere* in the official records of Santa Cruz County can I find any mention of the Rancho, or any conveyance of it or any part of it to anyone. Nor can I find any title insurance policy that makes any mention and/or exception to the effects this Rancho may have on title!

If you should decide to print this letter, I would like to thank all those who were interested enough to spend some of their own time perusing their (or other's) libraries in an attempt to assist me in this — what is to me — an intriguing event in local history.

George R. Dunbar, P.L.S.
Professional Land Surveyor
(mostly retired) ⊕

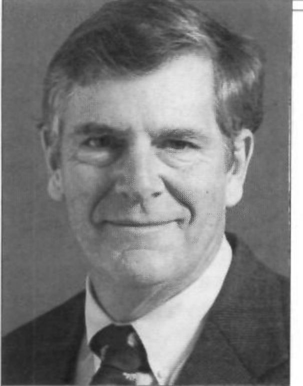
GPS SURVEYS

PROJECT COORDINATION
TRAINING & ASSISTANCE

Project coordination utilizing your staff and our equipment or we provide everything. "Down to Earth" training in planning and organizing a GPS survey, running the software and analyzing the results. Datums and concepts such as geoids and ellipsoids made clear. Call for information, references or to estimate the feasibility of using GPS on a project.

- Project Management
- On The Job Training
- GIS and High Precision Surveys
- High Production Methods
- Quality Control
- Seminars

McGEE SURVEYING CONSULTING
Michael R. McGee, PLS
5290 Overpass Road Ste. 107
Santa Barbara, CA 93111
Tel: (805) 964-3520


Robert Merritt

Morehart v. County of Santa Barbara

New Trails in the Unchartered Territory of Antiquated Subdivisions

By Robert E. Merritt, Esq.

IN MAY OF this year, the California Supreme Court handed down the long-awaited decision in *Morehart v. County of Santa Barbara*, 7 Cal. 4th 725 (May 26, 1994). This case has been of special interest to land surveyors because it raises two questions — whether lots, created by old maps predating the Subdivision Map Act are legal lots and the extent to which a city or county can regulate development of these lots. The *Morehart* decision gives us some answers, but plenty of mystery still remains when dealing with antiquated subdivisions.

BACKGROUND

The Morehart Land Company, a family run business whose owners reside near Santa Barbara, purchased a major portion of the Naples Township in 1977. The township consists of about 900 acres and was founded by St. Louis lumberman John H. Williams in 1888. It is shown on a map entitled, "Plan of Naples, Seventeen Miles West of Santa Barbara, Cal.," which was filed in the county records in 1888. The map shows a grid of blocks, lots, and streets. It was never developed although local historians say there was once a general store, hotel, stone chapel, railway depot, and dance hall.

At the time Morehart Land Company acquired Naples, it was zoned as agricultural, requiring 10 acres for each dwelling unit. In 1981, the California Coastal Commission approved the county's local coastal plan which increased the minimum lot size to 100 acres for residential dwellings.

In 1984, the county adopted two resolutions regulating antiquated subdivisions which affected the Naples Township as well as other property. The resolutions create an "AS Antiquated Subdivision Overlay District" and require that lots be combined to meet minimum lot size requirements when an application for a land use permit is made, except when such combinations are impossible because lots are held in separate ownership. The resolutions also declare that the parcels are eligible for certificates of compliance with an attached warning that the parcels may be subject to rezoning requiring a minimum lot size unless held in separate ownership before the date of adoption of the resolutions.

On June 28, 1984, four days before the county resolutions were to become effective, Morehart Land Company made numerous conveyances of the Naples lots to various Morehart family members and Morehart family corporations to avoid common ownership of contiguous parcels. As a result of these conveyances, block 132 of Naples was conveyed to John and Francis Morehart. The surrounding parcels were conveyed to others so that there was no contiguous ownership of parcels by John and Francis.

In 1986, the John and Francis applied for and received a certificate of compliance for block 132 stating in part:

> *The parcel covered by this Certificate of Compliance is a legal parcel having been created in 1888 in compliance with the provisions of the California Subdivision Map Act and at that time there was no ordinance enacted pursuant thereto. This parcel is not a developable building site until such time as the [county] determines that the parcel is property served by domestic water, wastewater disposal, road access, and drainage and protected against flooding, bluff erosion and soils problems.*

In 1987, John and Francis applied for a coastal development permit to build a single family dwelling on block 132. The application was rejected. The county refused to treat block 132 as being "held in separate ownership" because the surrounding parcels were owned by other Morehart family members and controlled corporations. Appeals to the county planning commission and board of supervisors were rejected. The following year the resolutions creating the overlay district were formally adopted by the county into its zoning ordinance. The overlay district requires that parcels be combined to comply "to the maximum extent possible with current density standards." The overlay district regulations grandfather any parcels held in separate ownership before July 1984.

John and Francis brought suit against the county. They argued, block 132 complied with the county zoning overlay district requirements because it was held in separate ownership and, in any event, the county overlay district zoning was invalid because it conflicted with the merger provisions of the Map Act — a legal concept known as "preemption." The trial court agreed with the Moreharts and found the overlay zoning invalid. Following an appeal by the county, the District Court of Appeals reversed the trial court and found the zoning valid. Thus the stage was set for the Supreme Court.

OFFICIAL MAPS

There is an interesting footnote to the case that arose when it was argued before the District Court of Appeals. Even though the county had issued certificates of compliance for block 132 and other parcels in Naples, it tried to argue that it was not bound by these certificates. The county took the position that block 132 was not legal because it predated the origins of the Map Act in 1893. The Moreharts responded that the county could not reopen this issue,

CONTINUED ON PAGE 12

LEWIS & LEWIS ENTERPRISES

1600 CALLENS ROAD
P. O. BOX 1328 — VENTURA, CALIFORNIA 93002-1328
TELEPHONE (805) 644-7405
FAX (805) 642-3970

RENTALS / SALES / SERVICE *Call Toll Free* *(800) 342-3607 in Calif.* *(800) 235-3377 outside CA*

RENTALS: TOPCON

Total Stations:

Model	1-10 Days	11+ Days	Per Month
GTS-4	78.00	47.00	1400.00
GTS-301	75.00	45.00	1350.00
GTS-302	70.00	42.00	1200.00
GTS-303PG	60.00	36.00	1050.00
GTS-303	55.00	33.00	990.00
GTS-304	50.00	30.00	900.00
CTS-2	42.00	25.00	750.00
Data Collectors:			
TDS 48 sys.	9.00	5.40	160.00
TDS 100 sys.	10.00	6.00	175.00
Husky FS/2	20.00	12.00	350.00
FC-4	20.00	12.00	350.00

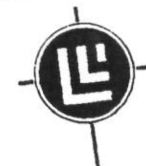
Call for a complete RENTAL RATE guide: GPS, Total Stations, Levels, Transits, Lasers Radios, Tripods, Rods, and other accessories.

RENTAL-PURCHASE Agreements

TOPCON

TrimbleNavigation

MOTOROLA



FREE L&L CATALOG

FINANCING AVAILABLE
Rental-Purchase
Lease Agreements
Purchase Agreements

HEWLETT PACKARD
Authorized Dealer

HP LaserJet Printers

HP FAX 950

LLCOGO Version 8.....$500.00

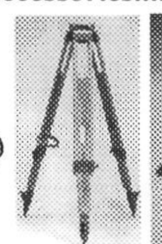
A standalone "Number Cruncher" for today's Land Surveyor........A basic, easy to use, compatible program:

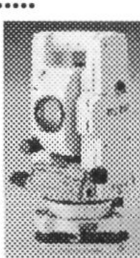
AFFORDABLE...$500 STANDALONE SURVEY CALCS.
COMPATIBILITY W/OTHER PROGRAMS
INSTALLATION EASE STATE PLANE CONVERSION
UPDATED TRIG-TRAVERSE TO ACCEPT LOCALIZED GRID PARAMETERS AUTOMATIC GRAPHICS MODE SELECT
SCREEN PLOT DURING CALCULATIONS

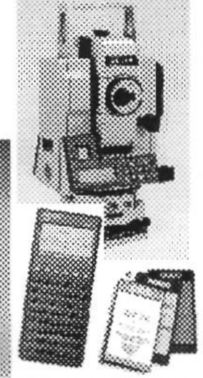
Free 30 Day Trial...........Call or FAX for Info.

USED INSTRUMENTS & ACCESSORIES FOR SALE...

Call or FAX for a complete and current list of Total Stations, Data Collectors, Levels, Transits, and accessories......



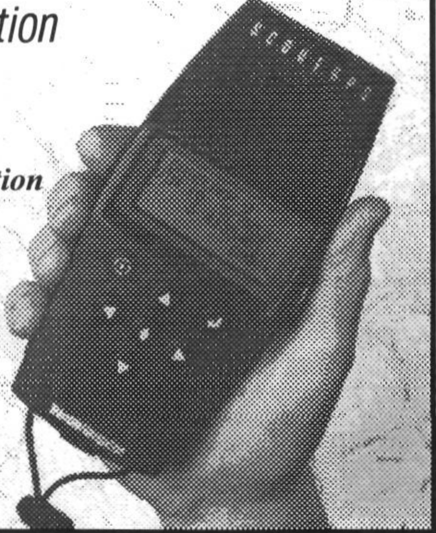




TrimbleNavigation

"SCOUT GPS"
Call for complete information on the Scout GPS as well as other Trimble products.

SALES & RENTALS



Morehart . . . .

CONTINUED FROM PAGE 10

but even if they could the lots were legal for two reasons. First, they had been accepted as legal lots over the years in numerous conveyances and for other purposes. Second, the Plan of Naples filed in 1888 and readopted in 1909, is an official map and any lot shown on an official map (such as block 132) is entitled to recognition as a legal lot under the Map Act.

The practice of using official maps as a basis for describing lots goes back to California's statehood. A statute setting forth standards for preparation and adoption of official maps was first enacted in 1903 and, although expanded, is retained in substance today (see Government Code section 66499.50 et. seq.). Most official maps are relics of the past that show divisions of land developed historically — such as pueblos which came into being when California was still a part of Mexico.

The part of the Government Code that deals with official maps is not part of the Map Act. Yet, the Map Act recognizes parcels shown on official maps as legal parcels. The certificate of compliance section of the Map Act (Government Code section 66499.35) states:

> *(d) An official map prepared pursuant to subdivision (b) of Section 66499.52 shall constitute a certificate of compliance with respect to the parcels of real property described therein and may be filed for record, whether or not the parcels are contiguous, so long as the parcels are within the same section or, with the approval of the city engineer or county surveyor, within contiguous sections of land.*

The Court of Appeals never reached the question of whether the Plan of Naples constituted an official map entitling the Moreharts to a certificate of compliance for block 132. Instead they found that the county was bound by its issuance of the certificates of compliance and could not reopen the question.

THE SUPREME COURT DECISION

There was considerable interest when the Supreme Court agreed to hear the case. Amicus curiae (meaning "friend of the court") briefs were filed on both sides. The California Land Surveyors Association filed its brief and argued orally before the court in support of the Moreharts. Others supporting the Moreharts were the Consulting Engineers and Land Surveyors of California, the Pacific Legal Foundation, Coastal Forest Lands, Inc., Huntington Beach Company, Rancho San Carlos Partnership, Sierra Pacific Industries, and Watson Land Company. Submitting briefs in support of the county were the California Coastal Commission and the California State Association of Counties.

After disposing of some procedural issues, the Supreme Court consider the preemption issue. The question is whether the merger provision of the Map Act, found at Government Code section 66451.10 et. seq., precludes the county from enforcing the overlay district zoning ordinance. The Moreharts argued that the Map Act merger provisions create the sole and exclusive means for merger of parcels and the county violated this rule by requiring the combining of parcels held in common ownership — a form of merger by zoning. The Supreme Court agrees — holding that the Map Act impliedly preempts the overlay zoning ordinance. However, this does not end the matter. The court acknowledges the county's concern about the need to regulate development of antiquated subdivisions and states:

> *The [Map] Act's merger provisions do not preempt zoning ordinances that require, as a condition to development, the merger of parcels that could be merged by ordinance under section 66451.11. Nor do the merger provisions affect the applicability of zoning ordinances requiring minimum parcel size for development so long as the requirements are not conditioned upon parcel merger. (7 Cal. 4th at page 760).*

This is not the big win that many land owners hoped for. Briefs filed on behalf of the Moreharts urged the court to find that legal parcels were entitled to be developed without having to meet current zoning and general plan requirements. Instead the Supreme Court is telling the county their ordinance is defective, but they can go back and cure it by incorporating the same considerations for merger by zoning as would be applicable to merger under the Map Act. These considerations include parcel size and access; whether a parcel meets current standards for sewage disposal, domestic water supply, and slope stability; whether it has adequate access or was created in compliance with law; whether development would pose health or safety hazards; or whether it is in compliance with the applicable general plan.

We can certainly expect cities and counties concerned about development of substandard lots to redraft their zoning ordinances in conformity with *Morehart*. In fact, as this article is being written, the County of Santa Barbara is considering a one-year moratorium on certificates of compliance for the announced purpose of rewriting their land use regulations to conform to *Morehart*. (Since the Map Act requires a county to issue on request either a certificate or conditional certificate of compliance, the placing of a moritorium on this process is legally questionable).

Having dealt with the central question of preemption, the court feels obliged to dispose of the county's argument that the merger provisions of the Map Act do not apply to the Naples Township blocks because they were created in 1888 — before the Map Act came into existence in 1893. The county had hoped to show that if the merger provisions of the Map Act do not apply, there can be no preemption on the facts of this case. Here the court takes advantage of a critical concession given the Moreharts by the county. The court states that block 132's "creation" is not in issue because the county acknowledged this "creation" in answering the Moreharts' complaint.

Having conceded the lots were "created," the county is stuck arguing that pre-1893 lots are not really "legal lots" subject to merger under the Map Act. The answer to the question turns on the correct interpretation of Government Code section 66451.10(a). This section recognizes as legal lots those created under the provisions of the Map Act or any prior law regulating subdivisions or which ". . . were not subject to those provisions at the time of their creation . . . " Rejecting a narrow interpretation of "not subject" as meaning "exempt from," the court finds that pre-1893 lots can qualify as legal lots. In other words, if a lot is "created" before 1893 it qualifies as a legal lot because it is not subject to provisions regulating subdivisions. Being a legal lot, it is subject to the merger provisions of the Map Act.

JUSTICE MOSK'S CONCURRING OPINION

Based on the court's opinion, the argument regarding the legality of lots shown on maps filed before 1893 has shifted to determining what it takes to legally "create" a lot. The majority of the Supreme Court decides to leave this question for another day. However, Justice Stanley Mosk, a leading land use jurist, does not feel comfortable with leaving the "creation" question completely open. He writes a separate concurring opinion to emphasize the narrowness of the court's decision validating "paper subdivisions."

> *As amici curiae in this case point out, there exist throughout California many thousands of subdivision lots ostensibly created prior to the state's first subdivision law in 1893, lots which have never been sold or leased as separate parcels. These subdivisions are the legacies of 19th century would-be developers whose dreams of carving up their land into profitable real estate parcels went only as far as the county recorder's office. The legal status of those paper subdivisions has not been resolved by the state merger law, nor by the majority's decision.* (7 Cal. 4th at page 765).

Justice Mosk then gives us a hint of what "create" means to him. He states that, at a minimum, California subdivision law has sought to ensure accurate maps with sufficient information to give constructive notice of subdivisions to the public and to subsequent purchasers. He implies these are minimum requirements to consider a lot as being created under the Map Act. Expressing doubt as to whether the Plan of Naples does the job, he quotes in a footnote from the brief of the County Counsel's Association of California:

> *"[t]he Plan of Naples is a one-page sketch map recorded in 1888. It depicts approximately 240 rectangular blocks and irregular fractional blocks, of which about 227 are numbered. The blocks numbered 31, 44, 60, 69, 70 and 142 are shown divided into approximately 170 pencil- shaped parcels that are unnumbered. The paucity of information on the map reveals that it does not qualify as a record of survey. For example, it gives no dimensions for any of the parcels or for the vast majority of the blocks, and lacks references to bearings, monuments, relationships to adjacent tracts, scale, compass points, or the date of any survey . . . . The map does show the blocks as being separated by a rigidly rectangular grid of streets drawn in apparent disregard for topography and natural features. The streets, in blind obedience to this plan, run straight across the barrancas depicted on the map and plunge over the coastal cliffs into the sea . . . ."* (7 Cal. 4th at 766-767).

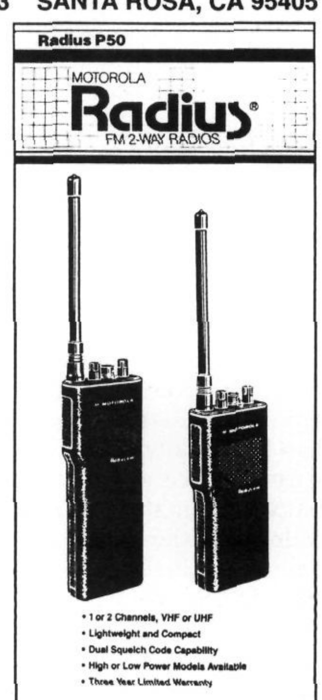
CONCLUSION

What have we learned from *Morehart*? We know that cities and counties can regulate development of antiquated lots through minimum parcel size requirements, but they must build into their zoning ordinances the same standards for merging parcels as set forth in the Map Act merger provisions (i.e., Government Code section 66451.10(b)). This does not appear to be a serious obstacle to their continuing efforts to regulate development of antiquated subdivisions. We have also learned that pre-1893 lots are not automatically excluded from being considered as legal lots. But the focus has shifted to trying to determine what it takes for these pre-1893 lots to have been legally "created." And perhaps the question also is relevant for post-1893 lots. One can only conclude that while *Morehart* has given us some guidance in tracking through the unchartered territory of antiquated subdivision, there is still plenty of wilderness to be explored.

ROBERT E. MERRITT, Esq., is a partner in the Walnut Creek office of McCutchen, Doyle, Brown and Enersen. He received his law degree from the University of California at Berkeley (Boalt Hall). He is considered one of the state's leading authorities on the Subdivision Map Act and co-authored *California Subdivision Map Act Practice* (CEB 1987). He assisted in the briefing of the *Morehart* case and has advised both landowners and public agencies on the subject of antiquated subdivisions. He presently serves as a member of the Subdivision Advisory Committee of the California Department of Real Estate, is a member of the American College of Real Estate Lawyers, and is chair of the Editorial Board of the Land Use and Environment Forum. ⊕

MOTOROLA 2-WAY RADIO AUTHORIZED DEALER ™

WILLIAMS COMMUNICATIONS CO.
MOTOROLA
795 FARMERS LN. STE. 23 SANTA ROSA, CA 95405



707 523-0839
FAX 707 523-0878

What Is A Legal Lot?

By Michael B. Stanton, P.L.S.

INTRODUCTION

There have been many battles throughout the state recently regarding the issue of legal parcels. Lot line adjustments have been processed as "subdivisions," certificates of compliance have been denied, "antiquated subdivision" ordinances enforced, and forced mergers have been hidden in zoning ordinances to circumvent the Map Act. All of these procedures violate the Map Act and the issue usually comes down to what a local agency considers a "legal lot."

The recent California Supreme Court decision on *Morehart v. County of Santa Barbara* [7 Cal.4th 725 (May 26, 1994)] should have a far reaching effect on local agency's ability to downzone parcels that were created legally.

DOWNZONING

In *Morehart v. County of Santa Barbara,* the Moreharts owned a 3.7 acre parcel in the Naples Townsite near Santa Barbara. The Naples Townsite was established in 1888 when a "Plan of Naples" was recorded in the county's official records. Prior to 1981, the county had zoned the Naples townsite to allow one dwelling unit per ten acres. In 1981, local coastal zoning ordinances downzoned the property to allow only one dwelling per 100 acres. The Local Coastal Plan's intent was to "discourage residential development of existing lots." The county had historically issued Certificates of Compliance on various 3.7 acre blocks within the Naples Townsite.

In 1988, the Board of Supervisors adopted ordinances creating an "Antiquated Subdivision Overlay District," requiring subject lots to comply with current minimum lot size requirements in order to obtain a land use or coastal development permit. This required parcels to be combined in order to comply with current density standards by recordation of a reversion to acreage, voluntary merger, final parcel map or final tract map. Thus, to obtain a development permit for a dwelling, owners of contiguous parcels of less than 100 acres must combine those parcels (unless they were held in separate ownership). In 1987, the Moreharts spent more than $97,000 pursuing a permit to build a single dwelling on Block 132. Their permit was denied on the grounds that it was feasible to combine Blocks 132 with 26 contiguous lots not owned by the Moreharts to meet the 100 acre minimum.

This case was a clear instance of a merger ordinance disguised as a "zoning" ordinance in violation of state law. The landowner was clearly denied due process under the merger provisions of the Map Act. The county attempted to treat owners of multiple contiguous lots differently than owners of a single lot.

County staff initially investigated the idea of merger according to Map Act provisions. However, the Map Act requires that affected parcels comprise less than 5,000 square feet in area to be subject to merger, or that one of six other criteria be met including; illegal lots (at time of creation), inadequate sewage disposal and water supply, unstable slopes, inadequate access, health or safety hazards, or inconsistency with general plan and applicable specific plan (other than minimum lot size). County staff recommended against merger due to "the cumbersome administrative procedures that must be followed to merge parcels." As a result they decided to initiate merger through zoning.

The county in the *Morehart* case unsuccessfully argued that the Subdivision Map Act only applied to "sale, lease or financing" and did not apply to development of parcels. The court had to decide if the Map Act preempts a zoning ordinance's requirements that parcels not eligible for merger under Section 66451.11 be merged as a condition to issuance of a development permit. The Supreme Court ruled "that the statute does impliedly preempt any such zoning requirement. The development-oriented nature of practically all the statutory merger standards requires rejection of the county's contention that the statutory merger provisions are merely intended to restrict imposition of merger as a means of controlling the separate sale, lease, or financing of parcels without regard to their prospective development."

HISTORY OF MERGER

"Merger" is defined as the combination of two or more adjoining, commonly-owned lots into a single parcel. The Subdivision Map Act has (since 1984) regulated the merger of contiguous parcels initiated by a local agency. The legislative history of the Map Act is significant in that it augments the importance of intent in the development of current law.

The controversy started with an Attorney General's opinion subsequent to the 1972 Supreme court decision in *Hill v. City of Manhattan Beach* [6 Cal. 3d 279 [1971)]. The first of these opinions, 56 A.G.O. 509 (1973) appeared to conclude that two or more contiguous parcels under one ownership were subject to automatic merger. The subsequent opinion, 59 A.G.O. 239 (1976) attempted to clarify the first opinion, but only caused further confusion for local governments, owners of potentially affected lots, and the development community. Because of this confusion, there was a consensus that it would be desirable for the Legislature to address the issue of automatic merger.

In 1977, the Legislature added Section 66424.2 to the Map Act which stated that parcels would not merge unless: 1) at least one of the parcels is substandard in size under current zoning; and 2) at least one of the lots is not developed. Further legislation was enacted in 1977 which delegated responsibility of automatic merger to local government if they desired, by enacting a merger ordinance. With this new legislation, merger occurred automatically only where a local agency enacted an ordinance. In 1980, further

amendments added subdivision (b) which provided that where parcels had merged under the statute, and a local agency had not enacted a local ordinance, such parcels were deemed "unmerged." However, at this time merger laws were not being administered uniformly around the state, which prompted a task force of representatives of public entities and real estate industry organizations to create coherent statewide merger criteria in 1983. The work by the task force culminated in legislation which repealed preexisting merger statutes and replaced them with new sections that address all situations. The new law detailed specific criteria to be met before a local agency could initiate merger. The new law required the local agency's ordinance to comply with procedures outlined in Section 66451.11 which detailed the conditions that must exist on each parcel to be merged, as well as requiring recording of a "notice of merger" and hearing procedures. The sponsor of the revised merger statute made the intent clear; "The practice of merger has precluded the development of legally created parcels which could support needed housing throughout the state."

Section 66451.10(b) of the Map Act states: "this article shall be the sole and exclusive authority for local agency initiated merger of contiguous parcels." There is no section of the Map Act which allows a local agency to force a merger as a condition to issuing a development permit.

From the Constitution of California, Article XI, Section 7: "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." Thus, if a local ordinance conflicts with state law, it is preempted by such law and is void. California courts have concluded that the Subdivision Map Act fully "occupies the field" as to subdivisions of property, so that any inconsistent local ordinance is deemed invalid.

The legislative history reveals that State law has progressed from expressly allowing merger by common ownership in 1976 to expressly denying merger by common ownership except when certain circumstances and conditions exist in 1984.

PRE-1893 MAPS

Many local agencies around the state claim that pre-1893 maps are invalid. This is because many agencies consider the State Statutes of 1893, Chapter 80, to be the original predecessor to the Subdivision Map Act. They claim that any lots created by a subdivision map prior to the 1893 statute are not legal lots unless they were conveyed individually by deed.

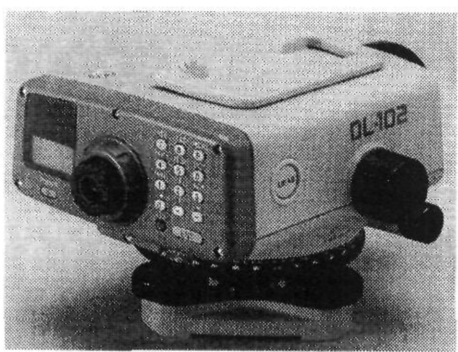
The 1893 statute (Chapter 80) says: "An act requiring the recording of maps of cities, towns, additions to cities or towns, or subdivisions of lands into small lots or tracts for the purpose of sale, and providing a penalty for the selling or offering for sale any lots or tracts in cities, towns, additions to cities, towns, subdivisions, or additions thereto, before such maps are filed and recorded."

State law, Section 66451.10(a) says: ". . . two or more contiguous parcels or

CONTINUED ON PAGE 16

TOPCON CALIFORNIA

YOUR FULL SERVICE SUPPLIER
INSTRUMENT SALES-RENTALS-REPAIRS
COMPLETE LINE OF FIELD SUPPLIES



NEW!
DL-101/102

DIGITAL ELECTRONIC LEVEL

SIMPLE!
RELIABLE!
AFFORDABLE!

NEW!
GTS-300D

DUAL AXIS COMPENSATION

Call for introductory pricing and product information TODAY!
3380 Industrial Blvd., Suite 105, West Sacramento, CA
(800)500-8575

Legal Lot . . . .

CONTINUED FROM PAGE 15

units of land which have been created under the provisions of this division, or any prior law relating to the division of land, or a local ordinance enacted pursuant thereto, or which were not subject to those provisions at the time of their creation, shall not be deemed merged by virtue of the fact that the contiguous parcels or units are held by the same owner . . . " Any map created prior to 1893 was not subject to the Map Act; thus, lots shown on such maps are legal parcels.

The idea to invalidate pre-1893 maps is so irrational that is has rarely been challenged in the courts. Most major towns and cities in the state were first created by pre-1893 maps. These historic maps were prepared by surveyors, laid out on the ground and were the sole basis from which deeds and contracts of sale were made. They did not compare to maps or surveys done to today's standards, however they met all necessary requirements at that time and became the standard from which all maps and conveyances are made today. To disregard 140 years of California common law that recognized these maps makes a mockery of our land title system.

However, a concurring opinion by Judge Mosk at the end of the *Morehart* case casts some doubt on the blanket validation of all pre-1893 maps. Government Code Section 66451.10(a) provides that automatic merger does not apply to "two or more contiguous parcels or units of land which have been created under the provisions of this division . . . or which were not subject to those provisions at the time of their creation . . . . " Neither the Map Act nor the California Supreme court has addressed what constitutes the "creation" of a parcel prior to 1893.

The opinion states "because there were no subdivision laws prior to 1893, the majority's positions may give rise to the inference that all subdivisions recorded prior to 1893 can be said to the legally 'created,' since there is no statute in place by which a subdivision could be judged to have been unlawfully created." In the *Morehart* case, both Morehart and the county acknowledged the existence of the Naples subdivision.

Judge Mosk writes "because of the county's concession, this court has been spared the task of addressing an issue the case would have otherwise raised: at what point can a map recorded prior to 1893 that purports to create contiguous subdivision parcels be so inaccurate or so lacking in information as to fail in fact to "create" these parcels within the meaning of section 66451.10(a)?"

There may be certain instances where pre-1893 maps are invalid. Currently, there is no foolproof test for a pre-1893 map's legal status. In the *Morehart* case, the defendants and *amicus curiae* County Counsel's Association of California claimed that due to the inaccuracy and lack of information on the one-page Naples subdivision map, it should be invalid.

It is a weak claim that because a map does not meet today's standards of accuracy, it should be invalid. Most of the original cities and towns in California created by pre-1893 maps that were crude by today's standards, but were obviously adequate for transfers of title and location of the parcels on the ground.

As surveyors, we are in the best position to provide guidance to our legislators in this area. There needs to be some key prerequisites to a valid legal subdivision created prior to 1893: Does the map provide sufficient bearing and distance data to accurately locate individual parcels? Or lacking complete bearing and distance data, were monuments set on the parcels? Was the map filed or recorded? Is there physical evidence of a survey on the ground? Were transfers of property made using the map as a legal description? Did the map conform to local standard of practice at the time? Can the parcels be located on the ground from a lot and block description? If it can be proved that a subdivision's only existence is on paper, without a recorded map, with no record transfers of title and no survey, then possibly one could argue the parcels never existed at the time the map was created and hence do not exist today.

OFFICIAL MAPS

Section 66499.50 *et. seq.* of the Map Act describes the authority, preparation, compilation, certification and filing of "Official Maps." Many "antiquated subdivisions" are shown on these official maps. According to Section 66499.57: "it shall be lawful and sufficient to describe the lots or blocks in any deeds conveyances, contracts, or obligations affecting any of the lots or blocks as designated on the official map." According to Section 66499.35 of the Map Act: "An official map prepared pursuant to subdivision (b) of Section 66499.52 shall constitute a certificate of compliance with respect to the parcels of real property described therein and may be filed for record . . . ." Notwithstanding this statute, some agencies in the state deny the validity of these documents.

WHAT CONSTITUTES A "TAKING"

The Fifth Amendment to the Constitution of the United States as well as Article I, Section 19, of the California Constitution protects citizens from taking of private property for public use without just compensation.

In *Nollan v. California Coastal Commission* [483 U.S. 825 (1987)] a Coastal Commission permit was conditioned upon dedication of private beach frontage for public use. The supreme court "ruled that adding conditions to building permits to achieve a public benefit or protect against a public harm without identifying and being able to prove that the need for the condition is caused by the proposed development results in an unconstitutional taking unless compensation is provided." In this case the court found that the Coastal Commission could not prove that the need for more beach frontage was caused by the development. The conditions imposed must be reasonably related to the landowner's proposed use.

Lucas v. South Carolina Coastal Council [120 L. ed. 2d 798 (1992)] involved a beachfront parcel that was zoned as open space by the Coastal Council. The court stated, "the fact that regulations that leave the owner of land without economically beneficial or productive options for its use — typically, as here, by requiring land to be left substantially is its natural state- carry with them a heightened risk that private property is being pressed into some form of public service under the guise of mitigating serious public harm."

When local governments force the merger of 26 parcels into one, as in *Morehart,* does that constitute a "taking?" If a city requires a dedication of open space for commercial development amounting to four times the area of the parcel, does that constitute

CONTINUED ON PAGE 18

Isn't It Time You Moved Up To Today's Technology From Leica?

Take the lead in Productivity with Four Great New Systems from Leica!

WILD GPS-System 200

The **only** GPS System featuring Rapid Static with or without P-Code! The fastest, easiest high-accuracy surveying GPS system ever developed.

WILD NA3000 Digital Level

Precise leveling with speed, accuracy, and automatic recording.

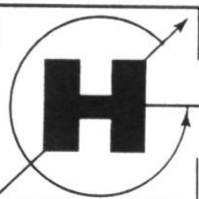
WILD VIP Total Stations

Versatile, Individual, Programmable instruments to make your fieldwork fast, simple, and accurate.

WILD GPC1 Data Terminal

A true MS-DOS field computer with virtually unlimited storage capacity. Choose from Leica's library of powerful software, or add your own!

Advanced technology at affordable prices. Your Leica Representative can show you the most important and newest innovations in surveying.



HASELBACH
SURVEYING
INSTRUMENTS

1447 Rollins Road
Burlingame, California 94010
In CA: (800) 462-8181
(415) 348-7247

Legal Lot . . . .

CONTINUED FROM PAGE 16

a taking? To some local agencies, this is "paying the price" of development, and providing a public benefit in exchange for private gain. But at some point, this form of public service amounts to extortion, an abuse of police power, and a "taking" under the Constitution. So far there has been no fool proof test as to when a taking exists. In California, the limits of taking property for public good are tried in the courts regularly. Our local agencies attempt to benefit society as a whole and destroy individual property rights in the process.

SUMMARY

There are estimates that California has up to a million "antiquated" but legal lots held by 400,000 owners created by deed, subdivision map or record of survey that were filed before the original predecessor to the Map Act in 1893. Local governments around the state will need to make concessions with regard to lots that do not meet today's stringent zoning requirements. To do otherwise not only goes against the due process procedural requirements of the Subdivision Map Act, it denies economically viable and beneficial use of private property.

I have spoken with surveyors in this state who believe that "we need to give in at some point" with respect to antiquated subdivisions. This issue is not a matter of "giving in" to planners or environmentalists. The validity of these maps should be based solely on the law. If these maps were done and surveyed according common law and acceptable standards of the time, and they were sufficient for deeds and contracts of sale to be written and parcels located on the ground, then it stands to reason that parcels created legally at that time are still legal parcels today.

The California Supreme Court has shown that the protection of property rights is important. I hope that CLSA can be active in the future in determining criteria by which historic maps can be proved to create valid, legal parcels.

MICHAEL B. STANTON, P.L.S., is Chief of Surveys at Engineering Development Associates in San Luis Obispo. He currently chairs the Central Coast Chapter of CLSA Professional Liaison Committee which works with local agencies to resolve issues such as legal lot status. ⊕

A Surveyor's Look at

The History of Boundaries

By Walter G. Robillard, Esq., R.L.S.

There are many books that one will pick up and never place down. Marathon reading will go through the night and often well into the dawn of the next day. History books are like that for me. I am writing this in hopes that surveyors will gain a better appreciation of the beauty of history in our profession. The following is a portion of the introductory chapter of the new Boundary Control and Legal Principles first written by the late Curt Brown. Both Don Wilson and I hope that this book will be in keeping with Curt's wishes and his original game plan.

In Memory of Curtis M. Brown . . .

IN THE PRIMEVAL forest and more particularly the plant kingdom, there are no boundaries between living things. The plant kingdom does not create boundaries to separate themselves. Animals, and more particularly man, create boundaries. Although we like to think that only man creates and appreciates boundaries, it has been recorded in nature that most animals, some reptiles, and a few fish create, identify, mark, and defend boundaries. This text will discuss the creation, identification, description, and the recovery of boundaries among people.

Some boundaries are created in a random manner — others with a preconceived plan in mind. Although it is not the intent of this text to dwell on the creation of boundaries by the lower forms of animal life, their actions in creating their boundaries should be examined because certain principles are similar.

Field examinations by naturalists have revealed that animals really don't create boundaries, per se, but they usually create the terminal points (corners) and then identify the boundaries between these points. Although these lower forms of animals may create boundaries by one form (their actions) man on the other hand usually creates boundaries in several manners. For the sake of simplicity these are: (1) Action – that is, creating a line and points on the ground by physical acts and the placing of actual monuments and identification of points (corners) and line object or points; (2) Writings – the written word becomes the method of creation when a person describes corners and lines in a deed and then conveys to these described lines before the completion of a survey; and (3) At law – ancient common and modern statute law are called upon to create many modern day boundaries.

There are many principles to be discussed before one can understand the beauty of boundary history.

Principle 1: A person or landowner can legally convey only the quantity and quality of interest they have title to.

Principle 2: In most instances there is no federal law of real property rights. Real property rights are determined according to the laws in effect in the particular states where the land is located *(lex loci).*

In America, many wars — often of a local nature — have been fought and individuals have been slaughtered over disputed boundaries. This problem was probably inherited from the European continent when we adopted English Common Law. In England and Europe, territorial boundaries have generally been stable because the lines were etched in antiquity. Parish boundaries, many established during Roman times, in England formed invisible webs or lines around families and bound them into communities — and ultimately separated communities from one another. This historical background was inherited in America and these distinctions exist today as a result of this historical influence.

Stories abound in both America and England where boundaries have affected the lives of peoples. Individuals and groups go to extremes over boundaries, for a boundary can

Copyright © 1994. This article is not to be reprinted without permission of the author.

determine such political ramifications as citizenship and jurisdiction in legal matters. A tale related from colonial times tells of the decision of the surveyors engaged to run the boundary line between Kentucky and Tennessee to place a jog in the line when a landowner placed a jug of rum near his property, and told the surveyors that it was theirs if they found it to be in Kentucky. It was. But, of course, the line has a jog in it. One of the authors, Walt Robillard, remembers as a young boy growing up near the Canadian border his father taking him to a tavern that straddled the American-Canadian border. All drinks stopped at midnight and "never on Sunday" on the American side of the bar, yet they continued on the Canadian side. At the stroke of midnight and on Sundays all drinks were served on the Canadian side. The people would physically move from the United States into Canada.

In 1870, the Reverend Francis Kilvert an Anglican Priest in Wales, United Kingdom, related how one of his parishioners occupied a house that straddled the border in Wales on the edge of Brilly Parish. It was suggested that it would be more desirable for his parishioner to give birth to her child in his parish. The line between the parishes was witnessed by a notch on the chimney. To insure the child would be born in the proper parish, the midwife ensured citizenship of the child by having the mother give birth standing up in a corner on the proper side of the parish line.

People take boundaries seriously. Yet what they really are saying is, "I want the rights I am entitled to in this property," or, "I want those rights in that parcel of land." Boundaries do not determine rights in land, but identify the limits of any created or identified rights a person or a group of people may have.

Over the years, the basic English language has developed certain terms that depict and/or identify the resulting problems. Until the advent of published maps, boundary identification and the resulting problems and discrepancies were passed from generation to generation by word of mouth. It was not until mapping became a part of everyday living that boundaries were identified to a degree of certainty that did not rely on the spoken word. In all probability, many of the boundaries indicated on modern maps were placed there based on testimony of people who identified those boundaries. There are many place names that indicate evidence of boundaries. In England the Old English term "maere" translates to "a boundary." An examination of modern Ordnance Survey Maps indicate such names as Merebrook and Merebeck, indicating that certain streams were boundaries.

Once a boundary or boundaries are established and identified they would be of no value if society could not assure them a degree of certainty. Once again, the Gods and society were called on to do this. The ancient Greeks assured that boundaries would be sacrosanct. They "appointed" the god Terminus to be the protector of these boundaries.

This was inherited into Norman-Saxon England, in possibly two manners: first, by the manner in which boundary stones were originally marked, and second, by the practice of "beating the bounds."

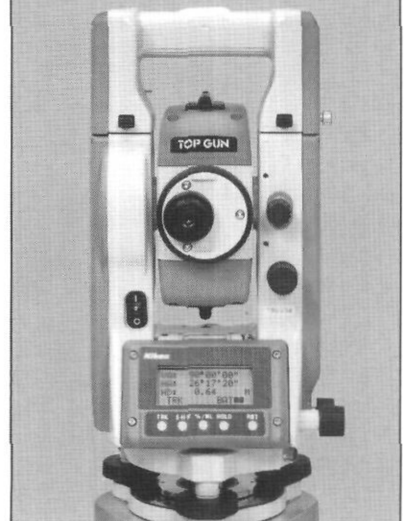
For centuries surveyors have marked boundary stones (corners) by cutting crosses into the rock monuments. This

CONTINUED ON PAGE 20

The lowest priced TOP GUN® total station on the market

TOP GUN® D-50

Ruggedly built and easy to use, the D-50 is ideal for distances up to 1,700 feet and for use in confined spaces. For longer distances, Nikon offers the TOP GUN A-Series with exclusive Lumi-Guide red tracking light. TOP GUN total stations feature world-renowned Nikon optics which provide exceptionally bright, clear images for highly accurate distance and angle measurements.



Ask About Total Surveying Systems

Complete field-to-finish system helps you take on today's toughest surveying challenges. Includes TOP GUN electronic total station, DR-48 electronic data recorder and DR-Link+ mapping software.

For a demonstration, call:
1-800-231-3577

Nikon
SURVEYING INSTRUMENTS

Boundaries . . . .

CONTINUED FROM PAGE 19

practice was probably brought to America by early English surveyors who used the same practice in England. An examination of early survey and mapping practices indicate that the early English surveyors would cut a cross into the monument as protection or to indicate a bounds of a religious holding. They then indicated these beacons (monuments) on maps in the form of crosses. In all probability these crosses were cut into the stone and then shown on maps in the hopes the new Christian God would also protect them as Terminus protected Greek boundary stones.

Terminus was designated by ancient Romans as the god of boundaries. Some believe this god evolved from the ancient Greek goddess, Terminus. Today, surveyors, real estate attorneys, and judges who must make legal determination on land matters should consult the wisdom of this ancient god(dess). There are numerous references in the Old and New Testaments concerning boundary stones, markers, landmarks, and boundaries. Yet these references were predicated on a much older reference that originated before the birth of Christ. Ovid, the Roman poet, wrote:

> *"O Terminus, whether thou art a stone or a stump buried in the field, thou hast been deified from days of yore . . . thou dost set bounds to peoples and cities and vast kingdoms; without thee every field would be a root of wrangling. Thou courtest no favour, thou art bribed by no gold; the lands entrusted to thee thou dost guard in loyal good faith."*

To show their faith in such a god, and with the hopes that a favorable response from the god would bring peace to a community and stability to its boundaries, a festival was held on Terminalia; the 23rd day of February. During this annual festival, common landowners would meet at their common boundary stones and each would place a garland of flowers. The ceremony would culminate with a minor feast of cakes and honey and toasting with wine. Then an animal would be sacrificed (usually a pig or a lamb) and the bones and blood deposited near the site.

Titus Livy wrote in his *History of Rome* that the Romans showed such favor to Terminus that at Rome's founding a temple was erected to Terminus on one of the seven hills and his domain was never questioned. In order to show that all the gods of Rome looked to Terminus he wrote:

> *"The gods are said to have exerted their power to show the magnitude of this mighty empire. The fact that the seat of Terminus was not moved, and that of all the gods he alone was not called away from that place consecrated to him, meant that the whole kingdom would be firm and steadfast."*

Disputes as to boundary location and/or identification predate recorded history. Until the development of modern maps at scales that permit adequate and positive identification of boundaries, individuals and communities depended on the spoken word to "seal" the location of boundaries. One method practiced, and in some areas still practiced, was the "beating of the bounds." This was possibly a vestigial reminder of what was a quasi-religious practice that was used to first identify parish boundaries between religious orders. Disputes over boundaries were frequent between communities and between church lands. This ancient ritual was usually carried out during Rogation Week, that time between the fifth Sunday after Easter and Ascension Sunday. On the selected day the parson, the constable of the townships, the steward of the court (clerk?) of the manors, accompanied by the townspeople both young and old, would take ample supplies of food and drink (stated by some to be at times alcoholic) and would perambulate (walk) the boundaries to be identified. It was in this manner that they sealed in the memories of the townspeople the boundaries that had never been reduced to writing or placed on a map. In order to make the occasion more memorable, certain young boys were selected and given a memorable experience at each of the beacons (corner monuments).

Trials over disputed boundaries and depositions in many shire (county) courts have left us with excellent accounts of some of the rituals that helped the young people remember the disputed boundaries. Some are related in the following experiences:

In 1687, an elderly William Gregory testified in a boundary dispute of a line of Exmore (Somerset) how, as a child of seven in 1601, he assisted a perambulation of Exford Parish. As the group passed one of the boundary stones one of the older gentlemen called to the boy, "William, put your finger on the mearestone, for it is soe hot it would scald him." William related, "that in doing so he layd hold on my hand and did wring one of my fingers sorely so that for the present it did grieve me very much." William then remembered the person stating "Remember that this is a boundary stone and it is a boundary to the parish of Exford."

Not to be outdone, in 1635 Robert Fidler testified in the matter of a boundary dispute that as a boy he "had his eares pulled and was set on his head upon a mearestone neere to a newe ditch of Ormisirke Moore and had his head knocked to the said stone to the end to make him better remember that the same stone was a boundary stone . . ."

Today perambulation, or "beating the bounds," can still be found in some communities. Although historical, it still has sound legal purposes.

An examination of many of the early English maps and names reveal that some of the disputes were centuries-old when William the Conqueror arrived to turn the Anglo-Saxon world into turmoil. A selection of some of the names to be found on present day maps in England are as follows:

calenge *(Middle English)* - challenge, dispute
ceast *(Old English)* - strife, contention
crioch *(Gaelic)* - a boundary
devise *(Old French)* - division, a boundary
flit *(Old English)* - strike, dispute
fyn *(Welsh)* - end, boundary
grima *(Old Norse)* - marker boundary blaze on a tree
ra' *(Old Norse)* - landmark boundary or settlement on a boundary
skial *(Old Danish)* - boundary, boundary creek
terfyn *(Welsh)* - a boundary
threap *(Old English)* - a dispute

In America, few of these names were adopted or carried into our language when we accepted the English Common Law. We have developed our own words to describe the problems that result from boundaries. Some terms like "Bloody Ridge," or such names, have led us to believe that all was not well in neighborhoods.

The first belief any surveyor should have when entering the area of boundaries is that any boundary dispute can be resolved with the help of an expert who is knowledgeable. The only problem is some disputes take longer to resolve than others. One individual stated it finally took the death of the original parties to solve the

boundary dispute. Some disputes may be prolonged for generations even to a point that they become identified on maps and thus sealed in history. It is at this point the origins of the original disputes become lost.

In examining British Ordnance Survey Maps one can see such names as Threapwoodand and Threapmuir. Then one can find Threapwood in Wales near Wrexham, a tract of disputed land belonging to no county, parish, or township. They were found to be paying no taxes and subject to no local courts. It was the true "no man's land." The boundaries had been disputed for centuries and no county had ever gained authority over the people and the land. This very situation exists in all states in both the public land surveys and in state-surveyed areas. As recently as 1994, surveyors in Louisiana discovered a "lost strip" of land between two Federal townships.

In a major dispute between England and Scotland, the dispute over the Threpelands was settled in 1552 by digging a ditch and giving one half to each of the disputing parties. The ditch is still in existence today and is called Scots Dyke. Here in America we do not have that flexibility.

The English left us with a legacy of boundary disputes. Yet they also left America with a legacy of attempting to make permanent those important boundary markers that identify land boundaries. A reference to today's Ordnance Survey Maps will indicate such boundary landmarks as the Navelin Stone that was established in 1200. This stone called the Avellan Stone is identified in the charter established in 1210 depicting the boundaries of Cumberland.

In other attempts to resolve boundary disputes by legislative and legal means, the English, very early, attempted to solve those boundaries that were identified in the centerline of roads. In order to aid in maintenance and care, local governments were given authority to modify the boundary and to give each parish half the length of the road and be responsible for its entire care. The philosophy adopted was that all stone and markers be placed along boundaries to give tangible substance to that boundary. In many instances, when these boundary stones were erected proper names were given. Today one can find such names as Kingstone, Earlestone, Sir Steven's Stone, Sargeant's Stone, and Attorney's Stone all recording long forgotten history.

It must be remembered that even though boundary stones were very important, they did not eliminate many forms of other boundaries including natural boundaries. This area — what we will call natural boundaries or natural objects — will be discussed to some extent in future chapters because many judges, attorneys, and surveyors misapplying their proper significance as controlling elements of boundaries.

Clients should expect surveyors to be expert measurers and collectors of data and evidence of boundaries. Not necessarily land boundaries, but this could be boundaries above and below the surface of the earth. In the event of a dispute, the surveyor's purpose becomes that of presenting these measurements and the evidence recovered to the court and the jury for their deliberation and consideration. Hence, their skills and knowledge of the science of these measurements should be positive and never be deficient.

Juries interpret evidence and courts apply the proper laws of evidence, meaning, and intent to legal documents upon which land surveyors and attorneys use to describe and locate land and boundaries of rights and interests in which we describe generally as land ownership.

CONTINUED ON PAGE 22

California Land Surveyors are Professionals.

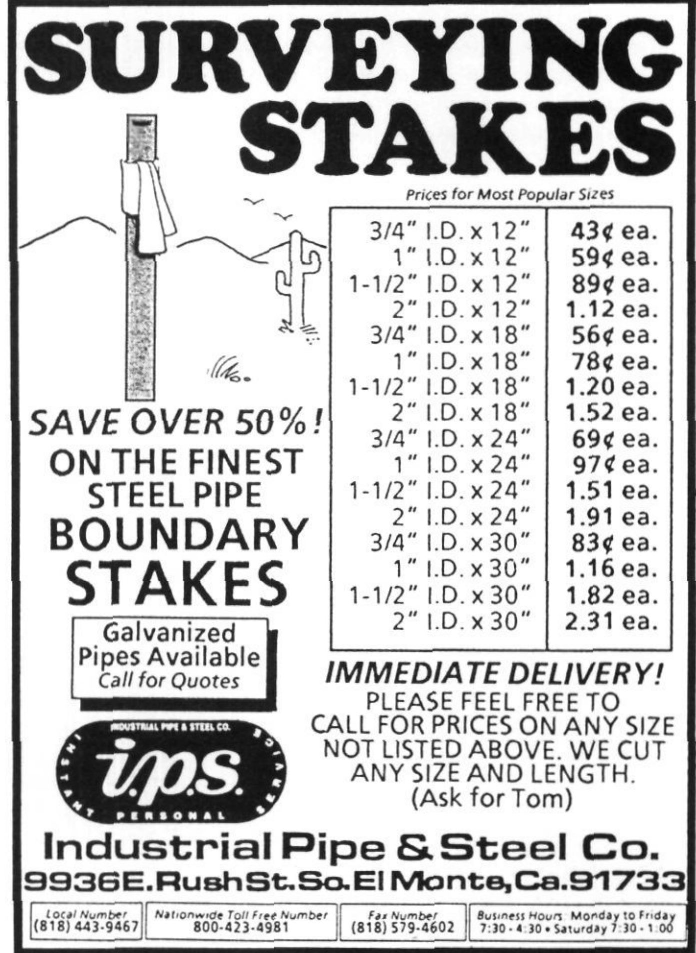
They Deserve Professional Service.

At AA&C, we view Land Surveying as a profession with unique insurance needs. Our Business Insurance Division is ready to provide you with service-oriented:

- **Professional Liability Insurance**
- **Office Package/General Liability Insurance**
- **Commercial Automobile Insurance**
- **Equipment Floaters**

Professional Land Surveyors deserve professional service from a broker with experience. Call us today

Alicia K. Igram, AAI
Assistant Vice President
Association Administrators & Consultants, Inc.
3 Park Plaza, Suite 1200
Irvine, California 92714
(714) 660-4700 • (800) 854-0491



Boundaries . . . .

CONTINUED FROM PAGE 21

It is assumed that the surveyor possesses those measurement skills which are necessary and essential for correctly locating boundaries. Yet in today's modern technological world, there are new areas evolving in which the student must become familiar: GIS (geographic information systems), GPS (geographical or global positioning systems), and many other areas of pseudo-measurements that some wish to substitute for measurements. To fully understand boundaries, the student must first understand that measurements and words are the foundation for boundaries.

Measurements that create the boundaries, measurements that are used as evidence of boundaries, and the words used to describe the boundaries are all important and become controlling elements for the surveyor. The person who specializes in boundaries should realize that a dual responsibility is placed on the surveyor. First, a boundary between two individuals (estates) could not exist without it being created. The created boundary not only can describe a parcel of land, but it can be used to describe multiple interests within a boundary of a parcel of land. Second, that created boundary at some time must be relocated and identified. In this phase, the surveyor will be required to take the description and, using the words, locate it on the ground. This may require the surveyor to disagree with his peers as to what the words actually mean or what the evidence indicates. It is in this phase that disputes seem to arise, for no two individuals see evidence in the same light.

Unlike other countries, surveyors in the United States do not have the authority to locate legal boundaries that are binding on all the involved parties. Their responsibilities lie in the area of interpreting legal descriptions and then placing these descriptions on the ground by conducting surveys to recover evidence of prior work or surveys. In addition to locating these title boundaries, surveyors may be called on to locate: (1) the limits of possession; (2) the limits of the claim of ownership, either under color of title or not under color of title; (3) improvements on property; and (4) to locate and describe rights and interest in land.

Surveyors who create and locate boundaries, create and locate nothing but invisible lines. Boundary lines, in and of themselves, have only legal dimensions — they have no physical dimensions. A boundary exists because the law permits it to exist yet one cannot feel it, touch it, see it, nor in any way is it manifested by a dimension. Yet when it once becomes created, it has legal authority. One neighbor cannot cross over his neighbor's boundary without being in trespass and possibly being responsible for damages.

Regardless of the position of the surveyor, the responsibility assumed is that of creating or identifying rights and interests in land. Rights and ownership are related, and are often confused, but they are not the same. The ownership of a land parcel carries with it responsibilities and liabilities. While rights will give a person — whether a landowner or not — certain legal rights that can be addressed in the courts.

In order to have a boundary created, that boundary must have terminal points or corners. Each boundary line is controlled on each end by a corner which is usually monumented. In the event the controlling corners are unmonumented, then that unmonumented corner may have the same legal authority as one that is monumented.

The migration of Europeans to the New World caused a basic conflict between the Native American concept of "land ownership" and its use. Native Americans had no known concept of written title. Although tribes did recognize areas of specific claim or use, they held the belief that no individual or individuals could own land. Individuals only had the right to use land and land was composed of certain rights of usage. The English brought with them the concept of written title. Title, as we know it, was unknown to the original Native Americans. Possession was paramount.

Today we assume that most boundaries are defined in some sort of title document: a deed, a will, etc. Yet this is not entirely true. The law provides for and permits boundaries by several other means. Title, as the surveyor recognizes it, may be considered as originating from several varied sources. These are: (1) royal grants from a foreign power, (2) grants of original crown lands from one of the original states or from another state, (3) grants or patents from the United States from land considered as the Public Domain, and (4) lands in the form of newly created lands.

Regardless how title to an individual's property originated, potential problems could be uncovered by the surveyor that could cause problems in the location or relocation of boundaries. Several of the original thirteen states not only granted land within their original boundaries but they also granted, either legally or illegally, lands outside of these same boundaries. This situation happened between Tennessee and North Carolina, Virginia and West Virginia, Connecticut and Massachusetts, and Virginia and Ohio.

In any one particular case the surveyor or attorney must consider if the question is one of title (who owns it?) and how much of a question of boundary (what is the boundary and where is the boundary?). This permits the court to determine that a person owns or has better title to a parcel of land but it is unsurveyable or unlocatable.

A person or landowner can legally convey only the quanity and quality of interest they have title to. The attitude of the landowner is much different than is the surveyor's or the attorney's. The surveyor's responsibility is to collect evidence of past boundaries described in documents, to collect evidence of possession and use, and to create new evidence to be left for future surveyors to recover. In questions of title or boundaries, the surveyor can then be called upon to testify and give opinions to help the court or jury understand complicated areas. Usually, an expert is not required if the facts are within the capabilities of the jury to understand. Surveyors should not be considered as advocates for a particular client or individual.

Attorneys, on the other hand, are the means of presenting legal questions to the courts. They are advocates, espousing the position of their clients, right or wrong. At times it may seem that surveyors are advocates, but one must differentiate between honest differences of opinion between surveyors and advocacy of a surveyor.

The courts are present to apply the various laws — both statute and common — to the facts presented. If there is a question as to the facts, then this is in the province of the jury to decide what facts to believe and apply.

In most states, "*what* boundaries are, is a question of law; *where* boundaries are, is a question of fact." In applying this statement, courts will ascertain the application of common law doctrines such as adverse possession, estoppel, and agreement to boundaries, while juries will determine which of the two surveyors is to be trusted in testimony and how much weight

should be given to any facts. Surveyors will ascertain the interpretation of words in a description contained in a deed and the jury will determine which of the two is correct; the courts and the judge will determine if the deed meets the requirements for legality and sufficiency. A court or legislature cannot bestow this authority on any person or agency.

Because the court's exclusive right to determine the meaning of words contained, in a conveyance being questioned and then determine where that parcel is located according to the description, it is necessary for surveyors to know and understand how courts interpret these meanings and what order of importance to place on them.

In most instances there is no federal law of real property rights. Real property rights are determined according to the laws in effect in the particular states where the land is located *(lex loci).* Although there is no federal law of property, there exists federal survey law that is applicable to those lands that originated from the GLO system of surveys. The first federal law enacted still in effect today is the Land Act of 1785. It was this act that created the entire GLO survey system. The act was modified and supplemented with subsequent federal laws still in effect today.

Although few states have enacted statutes to direct and control state surveys most states apply common law principle to the location of boundaries. While there are several states which enacted surveying statutes to control surveys of their lands (such as Georgia and Texas) the majority of the states in this category have relied on common law.

In this modern era, many states have enacted statutes to control the creation of boundaries for subdivisions and other surveys of large parcels. Although most surveyors are not involved in having to determine the effect of an estate on his survey, the modern surveyor should be familiar with what constitutes an estate. This is important in that the average surveyor usually recovers more and much older documents than does the attorney. The surveyor may uncover documents which may have a great legal effect on the final determination of the case.

One of the responsibilities of land ownership is the requirement to pay taxes. A landowner will find there will be numerous governmental agencies to which taxes will be necessary; taxes for the operation of governmental services, taxes for police, taxes for waste disposal, school taxes, and even income taxes can affect the ownership of property.

Although of a legal nature, these various aspects coincident to land ownership should be understood by the practicing surveyor. At times, the surveyor may be asked to create such elements as a result of the work, or the surveyor may be asked to ascertain the extent, location, or possible effects such elements may have on a parcel being surveyed.

When creating or relocating boundaries of servitudes, of which easements are but one area, a surveyor will be working in three dimensions. An easement may be on the surface of the ground or it may be located in the air. A company may require an easement or right-of-way for an underground pipeline. A rapid transit line may be located on, under, or elevated. These all require boundaries. A surveyor locating mineral rights may find the minerals he is to locate thousands of feet below the surface of the earth. The simple construction of a building, or the building of a wall on or near the boundary line, may all require accurate, precise surveys, adequately described, sufficiently monumented, and legally described. ⊕

Court Rules for Property Owners in Dispute With State

Ownership of Waterfront Lands

By John Briscoe, Esq.

THE CALIFORNIA Court of Appeal ruled late last year that waterfront landowners, and not the state, in most cases own land that gradually forms along the banks of navigable waters. Such land forms either by accumulation of material (known as "accretion") or by a recession of the water ("reliction"). Property upland of a stream is called "riparian" (from the Latin word for "bank"); property adjacent to a lake, a bay, or the ocean is called "littoral" (from the Latin word for "shore"). The state has appealed the decision, State of California v. Superior Court (Lovelace), to the California Supreme Court.

The state, which in general owns the bed of navigable waters in the state, has long maintained that any accretions caused in any way by man's activities do not vest in the upland property owner, but remain state "sovereign lands." For example, the state has long maintained that any accretions to lands along the lower Sacramento River or the shore of San Francisco Bay are the property of the state (thereby cutting off the upland owner from the water); the state's theory is that some of the sediment forming the accretion came down the river as a result of hydraulic mining activities in the Sierra Nevadas during the last century. The state's position has created two problems for property owners:

1) Boundaries of riparian properties have been uncertain, since the state maintains that virtually all waterways in the state have been affected by man; according to the state one must look to the date of statehood (September 9, 1850) to define the last natural condition of the ordinary high-water mark boundary on navigable waters.

2) Since virtually all water bodies, in the view of the state, have been affected by man's activities, virtually all accretions are claimed by the state. The result is that where there has been a recession of the water (most major rivers in the state have been dammed), or accretions have formed along riverbanks, the state typically claims to own a strip of land between the water and the upland properties.

In the recent Court of Appeal decision, private parties owned land along the Sacramento River. Substantial accretion had attached to the land, clearly as a result of deposits of sediments flowing downstream from the hydraulic mining of the mid-1800s. The state claimed these property owners were not entitled to these accretions, citing Civil Code section 1014. That section provides that "where, from natural causes land forms by imperceptible degrees on the banks of rivers or streams," the land belongs to the owners of the bank. The state maintained that the phrase "natural causes" means that any man-induced impact denies the upland owner the benefit of the accretion. The landowners and the California Land Title Association, represented by Washburn, Briscoe & McCarthy, argued that "natural causes" means only that the accretion was deposited by the water, as opposed to an outright fill, and does not restrict the rule of accretions through wholly natural events.

The Court of Appeal accepted the landowners' and title insurers' views. According to the court, to do otherwise would be to effectively deny all landowners the benefit of accretions, since waterways in California have, for the most part, been affected to some degree by man.

If the decision stands, its impact will be significant. The owners of riparian properties that have experienced a recession of the ordinary high-water mark due, for example, to the damming of streams can now enjoy the full benefits of their ownership to the present high-water mark. Shorefront properties that have extended waterward due to accretion will likewise retain their waterfront character. In short, the court's decision will generally mean that the waterward boundary of waterfront lands is located at the present ordinary high-water mark. Thus, the onerous and often impossible task of having to reconstruct history to determine former shorelines will largely be obviated.

JOHN BRISCOE is a senior partner in the San Francisco law firm Washburn, Briscoe & McCarthy, which also has offices in Sacramento and Juneau, Alaska. The firm specializes in land and natural resources issues. Mr. Briscoe has argued before the United States and California Supreme Courts, has tried cases in federal and state courts, and has published two books dealing with land and boundary legal issues. His clients include the states of Hawaii and Alaska, the Territory of Guam, the Port of Oakland, several municipalities, title companies, and land owners large and small. He served as a consultant to the State of Georgia in its boundary dispute against South Carolina in the United States Supreme Court, and from 1972 until 1980 was a deputy attorney general of the State of California.

*Low-Cost STAR*NET-LIGHT Released!*

Now a Least Squares for You!

With the release of our brand-new STAR*NET-LIGHT program, you'll find a version just perfect for your survey operation!

STAR*NET-LIGHT Full 2D/3D plane adjustments of survey networks up to 200 stations. Fully independent weighting.

STAR*NET Adjusts up to 1000 stations with reductions to NAD27/83/UTM. Preanalysis and Instrument Library.

STAR*NET-PLUS High speed/capacity edition for your really big jobs. Coming with GPS Vector processing soon!

Call 1-800-446-7848 today for free information on our StarNet editions, the StarLev level network adjustment package, or to order $10 full-featured working demo programs.

60-Day Money Back Guarantee!

VISA/MC

STARPLUS SOFTWARE 1-800-446-7848

460 Blvd. Way, Oakland, CA 94610, 510-653-4836, Fax 510-653-2727

CLSA PUBLICATION ORDER FORM	CLSA Member Prices	Non-Member Prices	Quantity	Total
1994 Complete Package including PLS Roster, Pre-'82 CE Numerical Listing, PLS Act & Board Rules, Subdivision Map Act, and Binder	$ 22.00	$ 38.00		
1994 Refill Package including PLS Roster, PLS Act & Board Rules, and Subdivision Map Act	$ 16.00	$ 32.00		
PLS Act and Board Rules – (1994 publication) (5½" x 8½")	$ 5.00	$ 10.00		
Subdivision Map Act – ('94 publication) 8½" x 11" looseleaf)	$ 6.00	$ 12.00		
Pre-'82 CE Numerical Listing	$ 9.00	$ 18.00		
Binder with index tabs for PLS Roster, Pre-'82 CEs, LS Act & Board Rules, Subdivision Map Act, and Misc. Statutes (*text of Misc. Statutes will be available at later date*)	$ 6.00	$ 6.00		
California Coordinate Projection Tables – NAD '83	$ 6.00	$ 12.00		
Right of Entry Cards (*minimum order is two*)	2/$ 3.00	2/$ 6.00		
Corner Record Forms (*min. order is 25*) (FORM PWA-102) (8/88)	25/$ 10.00	25/$ 15.00		
Land Surveying Brochure (*minimum order is 100*)	100/$ 15.00	100/$ 30.00		
Standard Contract – Agreement for Prof. Services	$6.00 / pad of 25	$12.00 / pad of 25		
Land Surveying for the Land Owner and Real Estate Professional	$ 5.50	$ 11.00		
Easement and Related Land Use Law in California, Second Edition *by Donald E. Bender, J.D., L.S.*	$ 20.00	$ 30.00		
Cadastral Survey Measurement Management System Three-ring binder documentation & three disks	$ 50.00 / set	$100.00 / set		
NGS 1983 California Horizontal Control Coordinates, Data Disk	$ 20.00	$ 30.00		
NGS Search Program (for use with NGS data disk)	$ 20.00	$ 40.00		
MEMBERSHIP ITEMS (not available to non-members)				
Label Pin with CLSA logo	$ 6.00	not available		
Decal of CLSA logo (*minimum order is two*)	2/$ 1.50	not available		
Shareware Disk #2 – BLM – SPC & UTM Conversion	$ 3.50	not available		
		Subtotal		
		7½% Sales Tax		
		Shipping Charge		
		TOTAL		$

SHIPPING CHARGES

Up to $10.00	$ 2.50	$30.01 to $40.00	$ 4.50
$10.01 to $20.00	$ 2.75	$40.01 to $50.00	$ 5.00
$20.01 to $30.00	$ 3.75	Over $50.00	Add 10%*

**Add 10% to a maximum of $10.00 shipping*

- Make your check or money order payable to California Land Surveyors Association (CLSA)
- Mail your order form and payment to:
  CLSA Central Office
  P.O. Box 9098, Santa Rosa, CA 95405-9990
  Phone: (707) 578-6016 Fax: (707) 578-4406
- Minimum order for Master Card or Visa is $20.00.
- If you are paying by Master Card or Visa, you may fax your order to (707) 578-4406 between 9:00 a.m. and 5:00 p.m., Monday through Friday.
- Member prices are only available to members of the State California Land Surveyors Association.

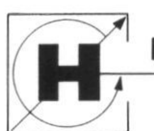
NAME	PAYMENT ENCLOSED: ☐ CHECK ☐ MASTERCARD ☐ VISA DISK SIZE: ☐ IBM 5-1/4" ☐ IBM 3-1/2"
COMPANY NAME (if company is mailing address below)	ACCOUNT NUMBER (minimum charge card order is $20.00)
STREET ADDRESS (we cannot ship to P.O. Box)	EXPIRATION DATE
CITY/STATE/ZIP CODE	NAME ON CARD
DAYTIME TELEPHONE	AUTHORIZED SIGNATURE

KNOW YOUR SUSTAINING MEMBERS

TOPCON CALIFORNIA officially opened for business on March 28, 1994. Topcon California is a full service facility offering a full line of field supplies, rental instruments, and a complete repair facility for electronic and optical repairs. Located in the heart of Northern California, the goal of Topcon California is to provide the surveying industry with the most professional products and services available at competitive prices.

The staff at Topcon California has 70 years of combined experience to the surveying industry. Anything from flagging and spray paint to full service on your total station, Topcon California has the personnel and resources to help you. The aim is to be a complete supplier of all of your field supply needs and instrument requirements.

As your supplier, Topcon California has the desire and resources to bring you products that are on the forefront of technology, such as Servo Total Stations, Electronic Levels, and high performance Total Stations. Topcon California will keep the future in **focus** for you.



HASELBACH

SURVEYING INSTRUMENTS

HASELBACH SURVEYING INSTRUMENTS, INC. was founded in 1978 by Hans Haselbach, Sr., and Hans Haselbach, Jr. Upon retirement from Wild Heerbrugg Instruments (now Leica), after 30 years as the manager of the U.S. Service Dept. for surveying and photogrammetry, Hans Haselbach, Sr., moved west with his son and began servicing the needs of Northern California surveyors. The company specialized in the sales and service of Wild equipment, a practice which continues today. They emphasize customer service and support for all the surveying and GPS systems that they sell. They have stayed current with the sweeping changes in surveying equipment by establishing and continually upgrading a full electronic service department. Recognizing the potential of the GPS system for surveying applications, they have represented Trimble and Leica equipment since these manufacturers produced their first survey grade units.

SURVEYORS SERVICE CO.

SURVEYORS SERVICE CO. was founded in 1926 by George A. Greenewald, Sr., a mechanical craftsman who emigrated from Germany around 1900. Our first location was in downtown Los Angeles where we specialized in surveying instrument repairs only. We later moved to a larger facility in Los Angeles and offered sales of instruments and field supplies as well. In 1950, Servco signed an exclusive marketing agreement with Wild Heerbrugg Instruments for distribution of their products for the eleven Western states and that agreement remained in effect until 1978.

Today we offer a variety of products inculding GPS, total stations, data collectors, software, and field supplies to meet the needs of the surveying, construction, and industrial (primarily aerospace) markets. We represent a number of different product lines with our two primary manufactures being Leica (formerly Wild Heerbrugg) and Topcon. Servco prides itself on providing the hightest quality products, service, and technical support to these challenging and competitive industries.

LEWIS & LEWIS ENTERPRISES is "Dedicated to Serve the Land Surveying Profession." From its beginning some half century ago as a land surveying and engineering firm, Lewis & Lewis has been a family owned and operated company dedicated to **quality customer service and support.**

Whether it be in past businesses of land surveying, offshore surveying and navigation, or our current business of sales, rentals, and service of land surveying equipment and computer products, our goal is to maintain an unparalleled level of customer satisfaction.

Our atitutude is: "Anyone can sell this stuff; it's how you do it that counts." We choose to try and do it with a high degree of professionalism, integrity, and commitment to our customers.

CALIFORNIA SURVEYING AND DRAFTING SUPPLY, INC. (CSDS) is one of the largest, full-service surveying and drafting suppliers in California. Co-owned by Bruce Gandelman and Thomas Kubo (who have a combined 32 years of experience in the industry), CSDS is a certified, small, minority-owned business with 14 knowledgeable representatives to serve its customers. Satellite offices are located in Fresno, Marin, and Redding.

Serving Northern California since 1986, CSDS offers a full line of surveying, engineering, and drafting equipment, as well as rental and repair. Manufacturers include: Sokkia, Lietz, Trimble Navigation, Pentax, Zeiss, Planhold, Post, Azon, and Oce, to name a few. Additionally, CSDS is a Sokkia Premier Distributor (SPD) — one of only three in the state — and has had the honor of receiving their President's Award on six different occasions.

If service is a concern, consider CSDS. We boast one of the most sophisticated repair departments in the western United States, providing authorized warranty repair for most brands of surveying and drafting equipment.

So let CSDS fill your next order. Our low prices will attract you, but our incomparable service and selection will keep you returning. ⊕

Surveyors Service Company

QUALITY SERVICE SINCE 1926

Leica RENTAL EQUIPMENT

Servco features Quality Leica products. "If you're going to rent,why not rent the best?"

GPS SYSTEMS	ACCURACY	DAILY	WEEKLY	MONTHLY
DUAL FREQUENCY SYSTEM 200 W/ SR299 SENSOR	STATIC..........10mm+1ppm RAPID STATIC..........5-10mm+1ppm REOCCUPATION.......5-10mm+1ppm KINEMATIC..........10-15mm+1ppm AROF KINMATIC......10-15mm+1ppm STOP AND GO.........10-15mm+1ppm DIFFER.CODE..........0.5m+1ppm RTDGPS..........0.5m+1ppm	$180.00	$875.00	$3000.00
DUAL FREQUENCY SKI SOFTWARE (L1/L2)		60.00	385.00	1200.00
SINGLE FREQUENCY SYSTEM 200 W/ SR-261 SENSOR	STATIC..........10mm+2ppm REOCCUPATION..........10mm+2ppm KINEMATIC.......... 15-20mm+2ppm STOP AND GO........ 15-20mm+2ppm DIFFER.CODE..........1-2m+2ppm RTDGPS..........1-2m+2ppm	80.00	490.00	1590.00
SINGLE FREQUENCY SKI SOFTWARE (L1 ONLY)		30.00	175.00	600.00
TOTAL STATIONS	ANGLE #PRISMS RANGE			
TC-1610 VIP TOTAL STATION	1.5" 1 1.6 MILES 3 2.2	110.00	630.00	2100.00
TC-1010 VIP TOTAL STATION	3" 1 1.2 MILES 3 2.2	75.00	455.00	1500.00
TC-500 TOTAL STATION	6" 1 .43 MILES 3 .68	40.00	245.00	810.00
DATA COLLECTION				
GIF10 INTERFACE	N/A	10.00	56.00	150.00
RECORD MODULE	64K	5.00	28.00	75.00
LEVELING EQUIPMENT				
NA-3000 DIGITAL LEVEL	0.4MM INVAR ROD 1.2MM DUAL FACE ROD	45.00	245.00	800.00
NA-2002 DIGITAL LEVEL	0.9MM INVAR ROD 1.5MM DUAL FACE ROD	30.00	154.00	500.00
INVAR BAR CODE ROD /STRUTS	N/A	40.00	20.00	600.00

GPS RECEIVERS
INCLUDE BATTERIES, CHARGERS, CABLES, TRIBRACH AND TRIPOD.
TOTAL STATIONS
INCLUDE TRIPOD, PLUMB POLE AND SINGLE PRISM ASSEMBLY.
DIGITAL LEVELS
INCLUDE FIBERGLASS BAR CODE ROD AND TRIPOD.

WE ALSO RENT:
THEODOLITES, EDM'S, TRANSITS, DATA COLLECTORS INTERIOR/EXTERIOR LASERS, AUTOMATIC LEVELS, MAGNETIC LOCATORS, TWO-WAY RADIOS, PRISM ASSEMBLIES, TRIPODS, AND RODS. CALL US TODAY !

CALIFORNIA
2942 CENTURY PLACE
COSTA MESA, CA 92626
800-938-0606 714-546-0606
714-546-9724 (FAX)

ARIZONA
4317 NORTH 16TH ST.
PHOENIX, AZ 85016
800-938-0608 602-274-2052
602-274-3740 (FAX)

SURVEYORS SERVICE COMPANY

SPECIALISTS TO THE SURVEYING INDUSTRY FOR OVER 65 YEARS.

Sustaining Members

ASSOCIATION ADMINISTRATORS & CONSULTANTS, INC.

Serving the Business Insurance needs of Land Surveyors since 1972.

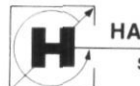
3 Park Plaza, Suite 1200 (714) 660-4700
Irvine, California 92714 (800) 854-0491

SURVEYORS SERVICE CO.

800-938-0606

P.O. Box 1500 COSTA MESA, CA 92628

HANS I. HASELBACH (Jr.)



SURVEYING SYSTEMS • SERVICE • GPS

WILD HEERBRUGG

(800) 462-8181
(415) 348-7247
1447 Rollins Road
Burlingame, CA 94010

CALIFORNIA

Steve Carlon
Branch Manager (800) 500-8575
3380 Industrial Blvd., Suite 105 (916) 374-8575
West Sacramento, CA 95691 FAX (916) 374-8329

Trimble*Navigation*

David Paul Johnson, P.L.S.
Survey and Mapping
Technical Support

645 North Mary Avenue
Post Office Box 3642
Sunnyvale, CA 94088-3642
(408) 481-2207 Phone
(408) 481-6885 FAX

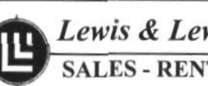
Western Engineering Supply Company

SURVEYING AND LASER SYSTEMS

Ed King
Principal

4511 Willow Road, Suite 2
Pleasanton, CA 94588-2709

1 (800) 762-6880
TEL (510) 734-0234
FAX (510) 734-0266



Lewis & Lewis Enterprises

SALES - RENTALS - SERVICE

Call Toll Free (800) 342-3607

Qualilty
Products Service & Support TOPCON

HEWLETT PACKARD Authorized Dealer **Trimble***Navigation*

P.O. BOX 1328 1600 CALLENS RD VENTURA, CA 93003
(805) 644-7405 FAX (805) 642-3970

Hunsaker & Associates
Riverside/San Bernardino, Inc.

Planning • Engineering • Surveying • GPS

Bruce F. Hunsaker
President

1285 Columbia Ave., Ste. A-1 • Riverside, California 92507
(909) 369-7200 ext. 203 FAX: (909) 369-3110
Pager: (909) 341-7077

SOKKIA **Trimble***Navigation*

Sacramento • Fresno • Marin • Redding
(916)344-0232 • (800)243-1414 • FAX (916)344-2998

Robert A. Trimble

585 North Mary Avenue
Sunnyvale, California 94086
(408) 730-2916 Telex 6713973

The California Surveyor
Published Quarterly by the
CALIFORNIA LAND SURVEYORS
ASSOCIATION
Post Office Box 9098
Santa Rosa, Ca 95405-9990

ADDRESS CORRECTION REQUESTED

BULK RATE
U.S. POSTAGE
PAID
Permit No. 635
Santa Rosa, CA