



SURVEYOR CALIFORNIA

ISSUE #187
SUMMER 2018



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Fall: September 1

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

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**, unless otherwise noted.



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SURVEYOR CALIFORNIA

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The *California Surveyor* is a bi-annual 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 members of the 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 protection 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 Land Surveyors and their work.



PRESIDENT'S MESSAGE

Ronald J. Nelms CLSA 2018 President

The joke goes, "Two Surveyors were in agreement." How often does that happen? We Surveyors have more than our share of disagreements. Why is that? Is it due to the demands on our profession that we have to get it right? Or is it a personality trait of stubbornness? I think it has more to do with our being practitioners.

As practitioners we combine methods, techniques, and science to come to our conclusions. If this combination differs then it can lead to disagreements. It is ok to disagree as long as it is with respect and proper decorum.

We may not agree on the proper method of replacing a property corner but we can agree that the monument to that corner needs to be preserved. We may not agree on the actions of our legislators but we can agree that we need an advocate to speak on our behalf. We may not agree on the surveying curriculum but we agree that we need education.

We have our disagreements but we can find common ground. We should enhance our profession to the highest standards of ethics and practice. We can agree we need to do what is best for our Members, our Association, and our Profession.

This year we have several opportunities to move forward on common ground in a positive direction. One being the need to occupy benchmarks in California for the 2018 Geoid model before August. CLSA is stepping forward to organize an effort to make sure this happens. NOAA has identified approximately 100 monuments that are strategic to this new model. We ask that each Chapter identify these benchmarks in their areas and make plans to occupy. CLSA has set up a central location for you to send the data. By doing this it will not only be beneficial to our practice but more importantly to the orderly development of our society. E-mail gpsonbms@californiasurveyors.org for more information.

Another positive move is to recognize those who have contributed to the preservation of survey monuments. CLSA has developed a certificate for the Chapters to present to any person who they feel has enhanced and promoted the cause. Recently, the Bakersfield Chapter had the privilege of presenting one to Bob Wren with the City of Wasco at their Council Meeting. This is an excellent way to honor those who promote the cause and at the same time explain its importance to the public and elected officials.

This year's Conference theme was "A Commitment to Professionalism: Going for Gold." The Conference was a big success due largely in part by all who attended, the vendors, students, and the speakers. We had over 350 attendees with 100% vendor participation. This happened because of a concerted effort by the Conference Committee and CLSA Headquarters.

At the Conference, the Orange County Chapter was honored for their hard work by being the Chapter, Newsletter, and Website of the Year. This happened because of their abilities to work together. Armand Marois was honored with Member of the Year because of his ongoing dedication to CLSA. Deservedly, Mike Butcher received the "Dorothy Calegari Distinguished Service Award" because of his willingness to serve not only as the Legislative Chair but twice as President. All of the aforementioned people stepped forward to do what was best for the profession.

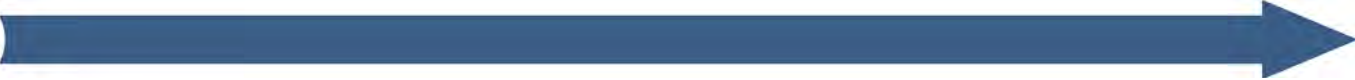
During National Surveyors Week I had the privilege of receiving a proclamation from my State Senator Jean Fuller. It was an absolute thrill to be on the Senate floor as Senator Fuller noted famous

individuals who were Land Surveyors such as Washington, Jefferson, Lincoln, Lewis, Clark, and Thoreau. She also noted our relevance and importance to the world we live in. I'm happy to report that the vote was unanimous. It was with great pride that Marta Alvarez, Gina Ciampaglia, Ralph Guida, Steve Wilson, and I accepted the proclamation on behalf of CLSA, ACEC, BPELSG, and all surveyors in California.

CLSA is moving forward in positive directions and on common ground that we can all agree on. By doing this our Members, Association, and our Profession will benefit. Hmm.... Maybe two Surveyors can agree on somethings. 🍷

Ron Nelms
CLSA President 2018





EDITOR'S MESSAGE

Landon Blake
California Surveyor Editor

Welcome to Issue #187 of the *California Surveyor Magazine*! This issue covers a number of topics related to land surveying and the business of land surveying. It also provides highlights of this year's annual conference.

Kidd Immel has contributed an article to this issue that discusses a few of the tricky aspects of right-of-way surveying. It includes tips for researching details of right-of-way in the

road register or County Board of Supervisor minutes. Greg Jeffries hits the business side of things with an article that asks the important question: "Why do surveyors undervalue and undersell their services?" We've also got a highlight of the award that went to Central California Surveyor Warren Smith. Warren was given recognition as the 2017 CEAC Surveyor of the Year.

I've also contributed three articles to this issue. The first

is a review of the court decision *Stevens v. Peyton*, in which a land surveyor complicates a fraudulent attempt to occupy land by performing a "possession survey." The second is a reminder to appreciate the good work done by land surveyors at public agencies, despite the unique challenges they face. The final is a short article that shows how you can determine if a client is a good fit for your company by listening carefully during a short phone conversation.

I'd like to thank Mr. Immel and Mr. Jeffries for their contributions to this issue. I'd also like to thank Paul Mabry, John Berkowitz, and Jared Serpico for their help getting this issue put together.

We are already working on Issue #188, which should include additional information on UAVs from Dan Katz over at Aerotas!

Enjoy your summer. Stay cool and work safe! ☺





LEGISLATIVE REPORT



Michael Belote
CLSA Legislative Advocate

Sacramento: Politics Rage as Bill Move Forward

In Sacramento, the legislative process works with an interesting sort of compartmentalization: even as Democrats and Republicans fight like, well, Democrats and Republicans, the business of legislating moves forward with a surprising degree of civility. But as we approach the June primaries, and the end of Jerry Brown's second tenure as Governor, the political side increasingly moves to the fore. One big question looms: will Republicans remain relevant in California?

Before moving to a report on legislation, consider some of the political intrigue. Will Republican John Cox manage to finish second in the primary election for Governor, or will the "top two" primary system put two Democrats on the ballot to face each other? Can a Republican make the top two for what is clearly the second-most powerful statewide elected office, that of Attorney General, or will Democratic incumbent Xavier Becerra face Democratic Insurance Commissioner Dave Jones? Will a gas tax repeal on the November ballot bring out Republican voters, as the party hopes, and will that stem the Democratic tide? Will Republican registration continue to slide to third place, *behind those who favor neither party?*

And further consider what it means that the era of Jerry Brown is coming to a close: in his second iteration as Governor, Mr. Brown has evolved into one of the most

practical, moderate Democrats in Sacramento. All of the Democrats running to replace Governor Brown are to the left of him politically. Right now groups on both sides of the political spectrum are deciding whether to cut their best deals with this governor this year, or wait and see what comes next year. But Jerry Brown has been governor almost ten percent of the entire history of the state, and his departure has enormous political implications regardless of who is elected.

As noted above, though, even with all of the inter- and intra- party feuding politically, the process of legislating moves on. Every year approximately 1000 bills are presented to the governor for signature or veto, and some 800-900 become law. Just about everyone agrees that the total is unnecessary and excessive, but the total number of bills introduced was actually *up* this year from recent years.

Over three dozen bills have been identified this year of potential impact on CLSA. Legislative Chair Mike Butcher and his committee work diligently to evaluate the bills and make recommendations to the Board of Directors. Anyone who has done it knows that reading and evaluating bills is not glamorous work, but it is important and the committee works hard for the members.

As was true last year, housing continues to be a major focus of

the legislature. Tellingly, the author of last year's recording surcharge bill, SB 2, has now become the President pro Tem of the Senate, one of the legislature's two most powerful members. And the new pro Tem, Senator Toni Atkins from San Diego, remains fully committed to addressing the state's housing shortage.

This year, several bills have been introduced on the SB 2 surcharge issue, and one has been enacted. AB 1765 would exempt from the surcharge documents recorded in connection with the repair or replacement of properties damaged in declared emergencies, and AB 1915 would exempt mining claims. The latter bill illustrates one of the problems with SB 2: what exactly is a real estate document? Fifty-eight independent county recorders and their counsel are tasked with answering this question, and opinions on many documents are far from unanimous.

For surveyors, are records of survey real estate documents? The law says that "maps" are among the documents subject to the surcharge, but recently the legislature passed and Governor Brown signed AB 110, a "budget trailer bill" which amends the Government Code surcharge statute. The language in AB 110 exempts from the \$75 surcharge any instrument, paper or notice recorded by the federal government pursuant to the Federal Lien Registration Act, or "any instrument, paper or notice

recorded by the state, or any county, municipality or other political subdivision of the state."

What does this mean for surveys "filed" with counties for recordation? Again, opinions differ, and some recorders are now taking the position that AB 110 should be interpreted to exempt survey documents from the surcharge. The state Attorney General has been asked for an opinion of the whole survey question, and CLSA will be submitting input.

Another issue for CLSA this year is the ability of land surveyors, architects and engineers to form limited liability partnerships. This form of organization, which conveys some of the benefits of incorporation without the awkward formalities, has been authorized for design professionals for many years, but the authority to form LLPs will expire, or "sunset," at the end of this year. CLSA is co-sponsoring SB 920 (Cannella) to extend the authorization, and the bill is presently moving through the legislative process. At this point, the chances of enactment look good.

Finally for now, on a more ceremonial note, SR 93 was recently passed on the Senate floor to recognize National Land Surveyors Week. Senator Jean Fuller authored the resolution and presented it on the Senate floor. CLSA President Ron Nelms accepted the resolution on the floor of the Senate, and represented the profession with distinction. 🌟



CENTRAL OFFICE REPORT



Kim Oreno
CLSA Executive Director

Greetings!

First, I'd like to thank and welcome the over 130 new members who have joined CLSA for 2018 that were not members last year. Thank you for joining us! We hope that you find this organization a valuable tool for

excelling in your profession. You'll get more out of your membership if you get involved. Please join a committee and attend your local CLSA chapter meetings. You can find the dates and locations on the CLSA website calendar.

Second, I'd like to thank and acknowledge our advertisers

for this issue. Publication of this magazine would not be possible without their support. I encourage you to read their ads and reach out to them when you're in need of their products and services. Please tell them you saw their ad in the *California Surveyor* magazine!

We've gotten off to a busy start here at CLSA Headquarters and I'd like to share some of the items that the CLSA Board of Directors are working on, on your behalf.

CLSA Affiliates With the American Association for Geodetic Surveying

At the April 2018 Board of Directors meeting, the Board voted to become an affiliate member of the American Association for Geodetic Surveying (AAGS). Affiliating with AAGS costs our state society nothing and provides our members with additional benefits if they wish to become AAGS regular or affiliate members. The AAGS vision is to lead the community of geodetic surveying, surveying, and land information data-users through the 21st century. In this vein, AAGS is working to develop educational programs through presentations, seminars, workshops, and online videos related to the topics of geodetic surveying. In the future, AAGS will be providing a Geodetic Certification program, which will be available online. All CLSA members who become affiliate members of AAGS will get the instructional videos and Geodetic Certification materials at regular AAGS member

prices. Find more information by visiting the "Partners" page of the CLSA website.

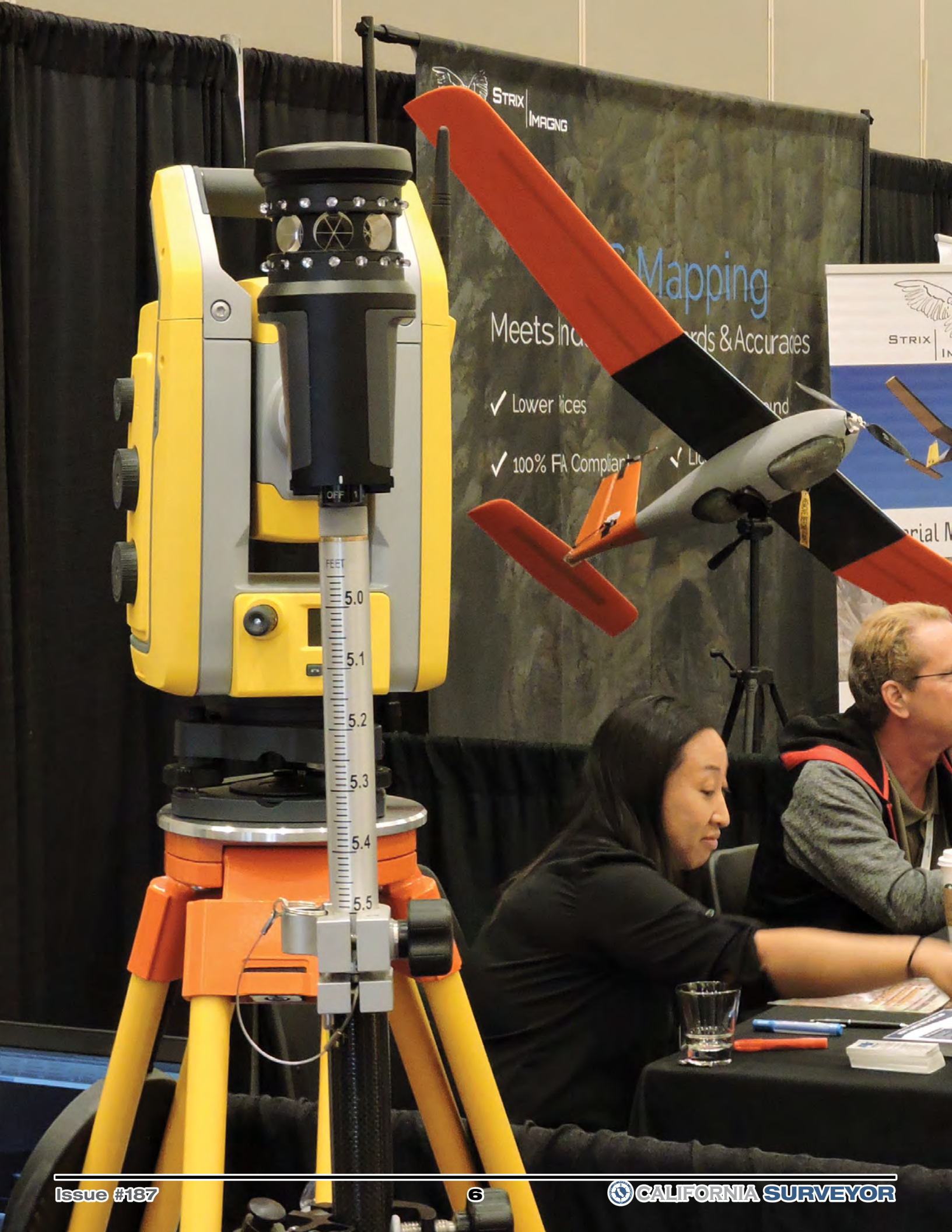
GPS on Benchmarks Initiative 2018

The CLSA is proud to support the National Geodetic Survey's "2018 – GPS on Benchmarks" program. The program is simply a crowdsourcing call to citizen surveyors to collect GPS observations on NGS NAVD88 benchmarks and share these data with NGS. These collected data will be used to create the next hybrid-Geoid 18, then be the basis for the future conversion tool(s) to the upcoming 2022 datum and gravimetric geoid. This effort is an essential component in tying recent GPS observations and solutions to the current national vertical datum – NAVD88. CLSA recognizes the importance of this program, is tracking progress and actively mobilizing our community. With your help, we can contribute to better heights for years to come. Our goal is to densify the data, hopefully avoid NGS extrapolating geoid data over very large distances uncontrolled. We can get this done! Please e-mail [gpsombms@californiasurveyors.org](mailto:gpsonbms@californiasurveyors.org).

I'm looking forward to seeing what the rest of 2018 has in store. Thank you for reading this issue of the *California Surveyor*. Your association is here for you. Please feel free to contact CLSA Headquarters with any questions, comments or suggestions. 📍

— Welcome New Members! —

- | | | |
|----------------------|-----------------------|------------------------|
| Zeinab Aboukhalil | Gerald L. Hammond | Robert Rista Reljin |
| Eric R. Albanese | Steve Hannig | Zachary Ricker |
| Alejandro Anaya | Chris Heliotas | Misty Rickwalt |
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| Mitchel Bartorelli | Jeremiah Herman | Dennis W. Rose |
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| Adam Bishop | Daniel Katz | Michael Alan Sanchez |
| Sharon Blakley | William Kaufman | Nohemi Sanchez |
| Benjamin M. Blazek | Vanessa Langsfeld | Lorien A. Sanchez |
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| Marco Castaneda | Zachary Mann | Russell Snell |
| Carl CdeBaca | Timothy McKinney | Jeff S. Steffan |
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CLSA 52ND ANNUAL CONFERENCE:

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A Commitment to Professionalism: Going for Gold

Thank you to the over 370 participants who came together for CLSA's 2018 Annual Conference at the Hyatt Regency Sacramento. Conference goers enjoyed an expansive continuing education program, a sold-out exhibit hall, the ever-popular CLSA Education Foundation Live Auction and Party, a golf tournament at Teal Bend Golf Club and bowling tournament at Capitol Bowl.

continued on page 8





The conference curriculum began with a full day pre-conference workshop featuring Gary Kent discussing "California Easements and Rights of Way." Sunday's opening ceremonies and general session featured a presentation on the impact that drones

are having on accuracy and precision in surveying from George Southard of GSKS Associates LLC. Sacramento City Councilmember, Eric Guerra was present to welcome everyone to Sacramento. Following opening ceremonies, attendees

chose from over 40 breakout sessions, from Sunday to Tuesday, featuring topics that encompassed the wide diversity of surveying practice issues in California.



The 2018 CLSA Conference was fortunate to welcome the support and expertise of nearly 30 companies in a sold-out conference exhibit hall, featuring the latest tools and resources available to

California's professional surveyors. The conference also welcomed the backing of generous sponsors AeroTech Mapping, Inc., EPS Group, Inc., GeoWing Mapping, Professional Engineers in California

Government, Vertical Mapping Resources, Inc. and Tait & Associates. CLSA's 52nd Annual Conference could not have materialized without the collaboration of these terrific businesses.



The CLSA Education Foundation again played a significant role in the conference. The Foundation's silent auction offered a vast array of donated items for attendees

to bid on, and Monday night's annual banquet featured a live auction and presentation of scholarships to students. The 2018 Conference was a tremendous

success for the Education Foundation, raising over \$18,000 in scholarship revenue for surveying students here in California.



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Thank you to the 29 students who worked so hard to make sure that conference events ran smoothly and congratulations to CLSA Conference Committee Chair, Bill Hofferber and the entire committee including Daryl Christian, Nora Gutierrez, Michael LaFontaine, Rob McMillan, Joe Padilla and CLSA President, Ron Nelms for a job well done delivering a successful event. 🌟



Orange County Chapter President, Michael LaFontaine receives the Chapter Website of the Year award from CLSA President Ron Nelms.



Orange County Chapter Vice President, Jonathan Maddox receives the Chapter Newsletter of the Year award from CLSA President Ron Nelms.



Orange County Chapter Past President, Steve Slocum receives the Chapter of the Year award from CLSA President Ron Nelms.



Rick Coffman accepts the CLSA Member of the Year award on behalf of Armand Marois from CLSA President Ron Nelms.



Michael Butcher receives the Dorothy Calegari Distinguished Service Award from CLSA President Ron Nelms.



Attendee Testimonials

“ I have been to many Easement workshops over my 35 year career but I still learned something and found (Gary Kent’s preconference workshop) interesting. ”

“ Love seeing old friends and making new ones! ”

“ Fantastic job on the Conference! Already looking forward to next year! ”

“ Ian held interest and created the desire to hear more. He’s a gifted orator. ”

“ Great job in putting this very successful event together. I heard from lots of surveyors who attended that they had never seen this many attendees to such an event so hats off to you guys for making this happen! ”



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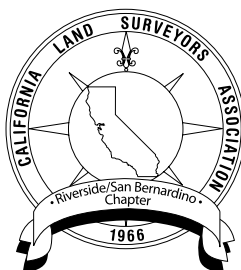


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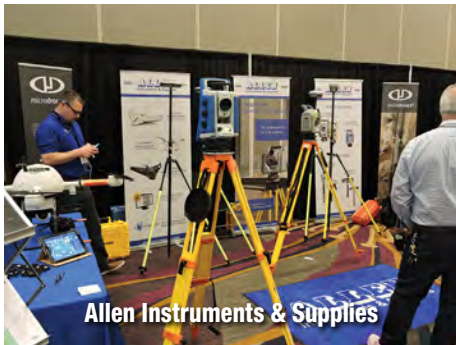
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Righting a Right-of-Way

By Kidd Immel

Where is the road right-of-way (ROW)? Having a dozen years of road and bridge engineering experience while working for three rural California counties, Yuba, Mendocino, and San Luis Obispo, ROW determination continues to be a specialized area of my work. My current employer, San Luis Obispo County, is the steward of some 5,000 acres of ROW – a substantial amount of land indeed! In my work, great effort and expense has been made establishing ROWs. This work was necessary for acquiring and appraising property; the expense and effort incurred in determining ROW lines far exceeded the value of all of the lands acquired. In some instances, inconsequential ROW acquisitions resulted in weeks of ROW research, and multiple ROW meetings, involving real estate professionals, surveyors, and legal counsel. The scenarios encountered are too numerous to even vaguely address in a single article. To wit, the current discussion is limited to the investigation and retracement of ancient county roadways, created by the early pioneers, and not created by map, but declared public highways by the county government. The aim in writing this article is to help future surveyors by documenting some of the ROW laws, terminology, and history gleaned during these exhaustive ROW investigations so that future surveyors might have the correct tools and knowledge to determine the correct location of a roadway ROW line.

The roads discussed in this article were initiated by citizens petitioning the County Board of Supervisors (the elected legislative body of each county) that a new public

highway be created. These types of roads comprise most of the rural road projects I have worked on in the counties of San Luis Obispo, Mendocino, and Yuba. Upon receipt of petition, the County Board of Supervisors (BOS) would determine if there was a public need for the ROW, appoint citizens to investigate the proposed road, and determine if the public need and expense of the proposed road was justified and, if so, the BOS would declare such road a public highway. This article will outline some of the applicable state laws that govern the creation of county roads, present some common problems and solutions, and recommend tasks for the ROW researcher to undertake to justify the establishment of these ancient right-of-way lines. The right-of-way researcher is tasked with determining the original width of the ROW as well as whether the original described ROW could or should be retraced by a field survey. This article will not address roads created by the state legislature in Sacramento, nor will it discuss roads created by the California Division of Highways, roads created by rancho maps or tract maps, or roads created by acts of congress, such as the Mining Act of 1866 (RS 2477) or that act pertaining to toll roads in an act of congress on August 4, 1852. This article will also not cover applicable case law, such as the *County of Colusa v. Charter* (1989), or that portion of case law pertaining to the tremendous public rights and interests conveyed to the public in a public highway, which includes the rights of public utilities and corporations to use the ROW, see *Bello v. ABA Energy Corp.* (2004). Lastly, this article will also not cover “prescriptive” rights in a roadway (being, typically, implied dedication) or

the research necessary to justify rights by prescription. No! This article will only describe the procedures and concerns of a ROW researcher in determining the widths of old county roads and the potential for accurate retracement of rights-of-way.

At the county government level, the legislative body of each county is its elected county Board of Supervisors (BOS), the BOS were established five years after statehood, in 1855, and exist to this day. The 1855 act installing the BOS also included provisions for petitioning for and acceptance of new county roads. After citizens petitioned for the road, the BOS could appoint viewers to locate the road and report back to the BOS, at which time the BOS could consider the petition and report of the viewers, take public comments, and if so inclined, declare the route a public highway. The 1855 act required at least two viewers, and the certification provided by the viewers to the BOS is commonly called a “viewers’ report.” The viewers’ reports are general descriptions of the route the road will take through the various lands, terrains, and properties, what types of structures and improvements will be needed for the road, as well as costs, private property acquisitions, etc. Viewers’ reports are not land surveys, nor legal descriptions, and the reports vary widely in style and particulars. Viewers’ reports were not recorded, and may or may not have been misplaced or lost, or even inadvertently thrown away. If viewers’ reports are available, they will likely reside with the county public works department or the clerk-recorder, but also could exist in a museum, library, or some other place.

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Researching county BOS-created roads prior to 1883 is often more difficult, due to a lack of records. Prior to 1883, public road conveyances were not recorded, and the counties were not required to keep an official inventory of the public roads. An act of 1883 required that the conveyances for public highways be recorded and another act of 1883 required that the clerk of the BOS keep and maintain a road register *“in which must be entered the number and name of each public highway in the county, a general reference to its terminal points and course, also the date of the filing of the petition or other papers, a memorandum of every subsequent proceeding in reference to it, with the date thereof, and the folio, and the volume of the minute book where it is recorded.”* The road register is an invaluable tool for researching old roads. Viewers’ reports, deeds, miscellaneous public works road files, and BOS meeting notes will all help the researcher fit the pieces together.

How wide is the road? If the ROW researcher is lucky, the BOS minutes and deeds will declare the roadway’s width, but often this is not the case. Often no width is stated anywhere in the record, or there is such ambiguity between the various segments of road acquired at various times that it is unclear what width, if any, applies to a specific segment of the modern day road. The current Streets and Highways Code requires that a public highway’s minimum width be 40 feet. The 40 foot width is a potential last resort for assuming the minimum width of a public road. If no roadway width is specified in the historical records, but the date of highway adoption is known, a minimum roadway width may be determined by the law in place at the time the segment of public road was created. Prior to 1872, the road laws of the state consisted almost entirely of special and local acts. Determining the act applicable in a specific county at a specific time is a small research project unto itself, the acts are too numerous to be addressed by a single article. For instance, an act of 1860, applying to San Luis Obispo County, specifies minimum road widths of 60 feet, and an act of 1868 in Mendocino County (repealed in 1874) specified road widths of 66 feet. Statewide, in 1872, the California Political Code, the predecessor to today’s

Streets and Highways Code, declared a width of at least 50 feet for all newly created roads, and later in 1880 the Political Code revised the minimum allowed width to 40 feet, which is perpetuated by today’s Streets and Highways Code.

A brief word of caution on using fences as ROW sidelines. Old fences can be an excellent clue as to the width and approximate location of the ROW. However, often there are no old fences, and an entire article could be written on the misuse of fences as highway ROW sidelines. I cannot recall having ever worked on a public roadway project, or reviewed any public highway capital improvement plans, where the fences were actually constructed on the ROW lines. Even when the fences are constructed by the county’s roadway contractor, there is always some sort of specified offset from the fence to the ROW sideline. On old rural, unmapped pioneer roads, where the right-of-way has been retraced and old fences exist on both sides of the ROW, the fences have generally encroached at least a few feet, at a minimum, into the ROW – thus, making use of the otherwise wasted land. The ROW researcher must be wary of the field surveys and plats that rely on and accept fences as the true ROW lines. Obviously, using a line of occupation to determine the sideline of an easement, a public easement, intended for a specific use, and intended to be a specific width is, if not a mistake, at least a large and difficult leap; particularly, as is most often the case, when there is no indication of acquiescence in acceptance of the line of occupation that could justify estoppel on the part of the sovereign.

Many old surveys were merely determining the route along which the road would be constructed, so that the BOS could approve the route, public notice given, acreages determined, and just compensation paid to the property owner. This is another instance of where an entire article, or even book, could be written on the misinterpretation of old road surveys. “Just” compensation is required for government takings by both Amendment 5 of the U.S. Constitution and by Article 1, Section 19 of the State’s constitution. The old time surveyors, when surveying roadways

or proposed roads, were in a “meander” mode of surveying. The courses and distances given in most pioneer type road descriptions lack the high-definition resolution expected of modern surveys. The pioneer surveys are long straight courses and angle points, even through mountainous terrains where construction along such a route, as described, would be nearly impossible. All too often, in my experience, an existing road’s location has been discarded in lieu of a line that is of record or some sort of line reestablished by a survey, when in fact the existing highway as laid out should have been used for establishing the ROW; this has also caused unnecessary future confusion where the road is also the boundary line dividing properties. The road is a monument, much more than fences because it is beholden by all, and most of all, by the property owners and the public. The present existing road centerline preserves the harmony amongst the adjacent property owners, and in most plats and legals is the intent, see *Broadsword v. Kauer* (Ohio 1954).

In conclusion, this is a narrowly focused article. The main points are that most county roads in California were created by the county’s BOS. Roadway creation was initiated by citizens petitioning the BOS for the roadway, citizens were appointed by the BOS to view and make a reconnaissance report (viewers’ report) of the proposed route and report back to the BOS. Upon the BOS reviewing the “viewers’ report,” considering the costs and expense of the proposed roadway, and acquiring the necessary ROW via just compensation to the affected property owners, the BOS would declare the roadway a public highway. The ROW researcher must diligently review the BOS notes, including the road register, viewers’ reports, deeds, road files, and any other available documentation. Of great importance is determining the true width of the roadway. If a width of roadway is not stated in the historic ROW documents, then the researcher may default to the minimum public highway width allowed by state laws or the applicable special act in-force at the time of the road’s creation. Finally,

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if the date of highway creation isn't found, then the presumed ROW width is the 40-foot minimum width currently allowed for a public highway, per the Streets & Highways Code. In reviewing the record, the ROW researcher is wary of surveys and plats that accept fences as ROW lines. The ROW researcher is extremely wary of those that want to place some record description or other survey line on the ground, particularly those that are far and away from the road's true centerline. The "rebuttable presumption" of the competent ROW researcher is that the road has not changed since its original location, and that the current location is the best evidence. Many of the early route descriptions are "rough" and preliminary. Furthermore, in my experience, subsequent changes that altered the location, but not the net area of the roadway taking or the general location of the route, and where the property owner wanted the new roadway, were rarely written and never recorded – perhaps the parties considered them adjustments? This article covered some of the basics of ROW

research relating to roads petitioned for by citizens and declared highways by the county BOS, being the main method of highway creation from 1855 to 1935. The author sincerely hopes that your future surveys recognize the practical limits and costs associated with reestablishing an old ROW line – after all, there is a reason why title companies will exclude any interest in a public road from a property's

insurance policy. The goal of the surveyor is to provide the public benefit for years to come, by protecting both the adjacent property owners and the public ROW. ☺

*On a foggy cold December day,
he died maintaining his right of way.
He was right, dead right, as he sped along,
But he's just as dead as if he'd been wrong.
— Anonymous, 20th century rhyme.*



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A Review of Stevens v. Peyton

By Landon Blake



Introduction

In this article we review a case from the Kentucky Court of Appeals that was decided in 2017. This case involves a boundary dispute between two adjacent land owners that both acquired title to the disputed property via quitclaim deeds. It also discusses issues of adverse possession and involves a “possession survey.”

Timeline

Here is a summary of the events in the timeline of this dispute:

????: Stevens becomes aware of the existence of Parcel #26 (a five-acre parcel adjoining his land shown on the tax assessor records).

2004-03-26: Stevens obtains a quitclaim deed for Parcel #26 from Island Creek Coal Company.

????: Stevens begins cutting timber on Parcel #26 and erects fencing.

2010: Surveyor Whitledge performs a “possession survey” of Parcel #26.

2012: Peyton becomes aware of the encroachments by Stevens and sues.

Undisputed Facts

Both parties in this dispute agree on the following facts:

- 1) Island Creek Coal Company denied any ownership of Parcel #26.
- 2) The tax assessor showed the size of Parcel #26 as 5 acres.
- 3) The quitclaim deed from Island Creek Coal Company to Stevens was for a 20-acre parcel.
- 4) The possession survey showed Parcel #26 as 34 acres.

5) There was no parcel in the record that exactly matched the 34-acre disputed tract of land.

Party Claims

Stevens makes the following claims in this dispute:

The trial court made an error when it granted Peyton title to the disputed land. The trial court made an error when it ruled that Peyton was not estopped from asserting title to the disputed land.

Narrow Legal Questions

Here are the narrow legal questions raised in this case:

- 1) Did Stevens provide strong enough evidence of color-of-title to successfully quiet title to the disputed 34-acre tract?
- 2) Did Stevens have title to the 34-acre tract through a claim of adverse possession?
- 3) Was Peyton prevented from asserting title to the disputed 34-acre tract by the legal principle of estoppel?

The Appeals Court Decision

In this section we will review the decision of the appeals court on the narrow legal questions raised in this dispute.

Question #1: Did Stevens provide strong enough evidence of color-of-title to successfully quiet title to the disputed 34-acre tract?

No. The court found Stevens evidence of color-of-title insufficient to quiet title to the disputed land.

The court identifies Stevens claim to the disputed land on the basis of 4 assertions:

- 1) Hopkins County property value assessment records showed Island Coal Creek Company as the owner of Parcel #26.
- 2) Island Creek Coal Company provided Stevens with a quitclaim deed for Parcel #26.
- 3) Alleged problems with Peyton’s claim to title of the disputed land.
- 4) The testimony of Stevens’ land surveyors.

The appeals court addresses the first two of these assertions directly. It addresses the fourth assertion indirectly

It finds Steven’s reliance on the tax assessment records unpersuading. It says: “Insofar as Stevens relies on the property valuation administrator’s records, those records do not establish title. Its records are for the purpose of assessing property within the county for taxation.”

The court then notes that a quitclaim deed “only transfers the interest of the grantor, if any.” It follows by stating that “Island Creek (Coal Company) admitted to having no knowledge or record of ownership of the initially claimed 5-acre tract, and no deeds of record, no surveys, no maps, and no historical accounts of any kind...” that documented its ownership. The court also says that “We also note the complete absence of any (attempt by Stevens) ... to prove Island Creek (Coal Company’s) title.”

The appeals court doesn’t appear to comment on the alleged problems with Peyton’s title in its decision. We know from the trial court decision that Peyton also claimed title to the disputed tract through

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a quitclaim deed from Chevron. However, Peyton’s title through that quitclaim deed was found to be much stronger than the quitclaim deed from Island Creek Coal Company to Stevens. (See the side bar, below, for more information.) The appeals court doesn’t dispute this trial court finding.

The appeals court doesn’t directly discuss the assertion that the work of Steven’s land surveyor supported his claim of title to the disputed parcel. It does, however, say the following in its decision: “The resulting survey, now 34.2 acres bore no semblance to any historical description.” This seems to indicate the appeals court wasn’t impressed by the survey Stevens had obtained. (See the side bar for more information.)

Question #2: Did Stevens have title to the 34-acre tract through a claim of adverse possession?

No. The appeals court finds that Stevens didn’t acquire title to the disputed tract through adverse possession. It says: “Stevens makes a half-hearted attempt to

fit his claim of adverse possession based on his and Island Creek (Coal Company’s) paying of taxes on the property. Mere payment of taxes, however, is insufficient to establish a claim of adverse possession.”

Question #3: Was Peyton prevented from asserting title to the disputed 34-acre tract by the legal principle of estoppel?

No. The appeals court found Stevens failed to claim the legal principle of estoppel and prevented Peyton from gaining title to the disputed land.

The court cites a prior court decision to show that proving estoppel in this case would require Stevens to show Peyton committed actual fraud or negligence that amounted to fraud. It quotes the case *Embry v. Turner*: “The party attempting to raise it (estoppel) must show an actual fraudulent representation, concealment, or such negligence as will amount to a fraud in law, and that the party setting up such estoppel was actually misled thereby to his injury. In all instances a clear strong case

The Ever-Growing Parcel

The judges in this decision seem horrified by the audacity in the way Stevens enlarged the size of the parcel he was claiming in each step of the process. Parcel #26 was shown by the county tax assessor with an area of 5 acres. However, the quitclaim deed Stevens obtained from Island Creek Coal Company was for 20 acres. Stevens then occupied and fenced a 34-acre parcel on the ground.

The judges appear to view this as at least disingenuous and possibly as evidence of unethical behavior on the part of Stevens. It certainly raised questions in my mind about Stevens’ intentions and ethics from the very beginning of this dispute. 🗺️

of estopped must be made out in order to pass title...”

In this case, the appeals court finds the inaction by Peyton when the encroachments were made by Stevens was at most “mere acquiescence” and not fraud.

A Review of the Court’s Decision

I believe the Kentucky Appeals Court made an excellent decision in this case. Stevens was clearly up to no good, and the court recognized this. It also demonstrated a thorough understanding of land title issues, including color-of-title, the significance of property tax assessment records, and the mechanism of quitclaim deeds in its decision.

Lessons

What lessons do this court decision hold for land professionals?

Lessons for Land Surveyors

Tread carefully when you are asked by a client to perform a “possession survey.” Understand why you are being asked to do that and how your survey of the possession relates to the title to the underlying parcel being surveyed. If there is a difference

Quitclaim versus Quitclaim

It is worth considering the details of the two quitclaim deeds involved in this dispute. First, let’s consider the defects in the quitclaim deed from Island Creek Coal Company to Stevens as it relates to establishing color-of-title:

- 1) Island Creek Coal Company made no claim of ownership of the parcel conveyed by the quitclaim deed.
- 2) The quitclaim deed was for a parcel of 20 acres, while the tax assessment records showed the parcel area as 5 acres.
- 3) The quitclaim did not have a quality land description.
- 4) The parcel described in the quitclaim deed didn’t match any other deed, map, or land record.
- 5) The parcel described in the quitclaim deed didn’t match the area Stevens was occupying on the ground.

Now consider the aspects of the quitclaim deed from Chevron to Peyton:

- 1) Chevron claimed to have some rights in the land conveyed by the quitclaim deed to Peyton.
- 2) The land description for the quitclaim deed contains metes and bounds that could be placed on the ground by a competent land surveyor.
- 3) Peyton’s land surveyor had related the description in the quitclaim deed to other deeds in the chain-of-title, coal mine maps, farm maps, and maps of other surveyors.

Clearly the quality of the quitclaim deed to Peyton was far superior to the quitclaim to Stevens as it related to the issue of proving color-of-title to the disputed property. 🗺️

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between the possession and the title to the underlying parcel, describe this difference with a note on your survey.

If your survey is based on a quitclaim deed, make that clear with a note on your survey. There is a reason people use quitclaim deeds instead of warranty deeds, and it typically indicates either uncertain land title or uncertain boundaries.

Lessons for Land Title Professionals

It doesn't seem likely that Stevens had title insurance on his purchase of Parcel #26 from Island Creek Coal Company. The record doesn't tell us if Peyton had title insurance when he purchased his parcel. If he did, was the use of a quitclaim deed an issue for the land title company? Was the title company concerned about the lack of monuments or physical occupation along the parcel boundaries that allowed Stevens to create such a large encroachment?

Lessons for Land Attorneys

This lesson holds a couple of great lessons for land attorneys. These lessons include the following:

- 1) If your client is buying or selling property with a quitclaim deed, understand why. Quitclaim deeds may be appropriate for a narrow set of circumstances, but they usually indicate some type of problem with land title or boundaries. Understand what these potential problems could be and ask hard questions about any seller who wants to use a quitclaim deed to transfer title. Understand how the use of a quitclaim deed might impact the future ability of your client to assert title to his land.
- 2) Understand the legal principle of estoppel and how it may come into play during a land dispute. Determine what actions (or lack of action) might be used by the opposing parties to assert or defeat a claim of estoppel.
- 3) If you represent a business, understand what real property your client is paying taxes on. Are those property taxes being properly assessed? Does your organization hold clean title and actually possess the land being assessed? 🌱



The Problem with the Possession Survey

In my opinion, there are a few problems with the possession survey performed by Surveyor Whitledge in this dispute. These problems are:

- 1) The possession survey "bore no semblance to any historical description" and wasn't based on a land description in the record.
- 2) The possession survey showed an area of 34 acres. This size was far larger than the 5 acres shown by the tax assessor for Parcel #26 and was also larger than the 20-acre area described in the quitclaim deed to Stevens.
- 3) It doesn't appear Surveyor Whitledge indicated the relationship between the lines of possession and any lines of ownership based on the land records.

These problems with the possession survey performed by Surveyor Whitledge allowed Stevens to make a misleading claim of ownership to the disputed parcel. If Surveyor Whitledge understood how the survey would be used as part of a claim of ownership, he failed in his professional duty to protect land owners of parcels adjacent to the Stevens parcel. 🌱

Unanswered Questions

There were several interesting questions I had when reading this court decision that were unanswered by the record or the appeals court. These questions include:

- 1) Why did the county tax assessor show Island Creek Coal Company as an owner of Parcel #26?
- 2) How did Parcel #26 as assessed by the county relate to Parcel #31 in the quitclaim deed from Chevron to Peyton?
- 3) What deed or land description did the county tax assessor use as the basis for Parcel #26?
- 4) Why did Island Creek Coal Company give a quitclaim deed to Stevens for land it didn't think it owned?
- 5) Why did Island Creek Coal Company prepare a quitclaim deed for a 20-acre parcel when the tax assessor records showed it only owned a 5-acre parcel?
- 6) What exactly was Surveyor Whitledge asked to do by Stevens? Did he know the area he was surveying in the "possession survey" had no real basis in the record? Did he know how Stevens would use his survey as part of his ownership claim? 🌱

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Why Do We Complain About Our Public Agency Clients?

By Landon Blake

I know it's happened to you. While sitting around a table at a lunch or dinner event for engineers or land surveyors, a story begins. A member of the dinner party relates a horrifying experience with a government agency involved in their project. This story could be about a government agency approving the project, or it could be the government agency is the project owner. Soon everyone at the table is sharing their own similar story.

Why does this happen? For a few of reasons:

- 1) Many consultant engineers have local government agencies as their main type of client.
- 2) There are public agencies that work to be good clients, and there are public agencies that are bad clients.
- 3) At times even good public agency clients act bad, especially when their municipal attorneys get involved.

Our relationship with public agencies is like a marriage in this important way:

We spend a lot of time working together. As a result, we get to know each other very well. This includes each partner in the relationship dealing with flaws and imperfections in the other partner.

The intention of this article isn't to sugar coat the situation. In my 16 years as a land surveyor, I've seen people in public agencies do very bad things. This includes breaking the law and engaging in unethical behavior.

The temptation as private consultants is to use this bad behavior by a few public agencies as an excuse. We use it as an excuse to lump all public agencies into the same pile of horrible clients.

What challenges do great engineers and land surveyors in public service face?

The engineers and land surveyors working in public service face several challenges that we don't deal with in the private sector. These challenges include:

- 1) The burdens of laws and regulations that make their organizations less flexible and adaptable.
- 2) Mandates from the state and federal government that are unfunded.
- 3) Ridiculous strings attached to federal and state funding for their projects.
- 4) Unreliable sources of funding for infrastructure design and maintenance.
- 5) Bands and factions within the group of citizens they serve. These groups often have very strong, and opposing viewpoints.

In addition, the leaders of the agencies in our local governments face these additional challenges:

- 1) Restrictions on their ability to hire, fire, and promote workers.
- 2) The demands of their agency legal team or elected leaders. Often these lawyers and politicians understand very little about land surveying or engineering.

- 3) A hostile regulatory environment. These rules and regulations have only made maintenance and construction more difficult over the past few decades.

When we recognize these challenges as private consultants, we begin to understand why it is so important to recognize great work by engineers and land surveyors in the public sector.

Why is it important to recognize great work by engineers and land surveyors in the public sector?

Most of us appreciate a little bit of recognition for our hard work and accomplishments. Engineers and land surveyors in the public sector are no different. In many situations, citizens fail to notice their work or fail to appreciate it. In the worst situations, we brand these professionals as leeches on human society taking advantage of the tax payer.

Why is it important for us to recognize the great work by engineers and land surveyors in the public sector?

I will give you a few reasons:

- 1) These surveyors and engineers set a great example for their peers.
- 2) Outstanding examples of hard work in the public sector provide a sharp contrast to the laziness and abuse of public funds that also occur.

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Why Do Surveyors Undervalue and Undersell Their Services?

By Greg Jeffries

(Reprinted with permission from the *Florida Surveyor* magazine – January 26, 2017)

For years I have been witness to surveyors undervaluing and underselling their services and I don't understand why. (To be fair, the simple answer is; "Market Conditions," but it goes way beyond simple answers.). I have been in this business sector for 30+ years now and it seems like survey pricing has remained about the same since the 1980's, without even an adjustment for inflation. The profession, for the most part, seems content to sell their services for barely more than what it costs to perform, not counting or calculating what the value of their knowledge and expertise is worth. Further, it seems that many do not take into account what the service is worth to the end user.

With all the technologies available today, collecting a measurement should be a snap and yet, very often it is anything but. Results on-the-fly, right? Well, as long as everyone showed up for work, the truck didn't break down, you can access the site, have Right of Entry, good GPS signals and fully charged batteries right? Even our wisest clients (who know better) will fall prey to the bottom line on occasion. It's always about the money with no thought to the hereafter until ugly manifests. In their minds, a surveyor (real or purported) is a surveyor sanctioned by the State, and, in metropolitan areas there is one on every corner from every part of the country (palpable sarcasm).

Staff is the make or break element in our profession. The practice's culture should be motivational in nature so that we can instill skills and caring. In surveying, everything we do is field derived in a team atmosphere and therefore a practicum required. People who do not enjoy being outside should not apply. The theory and practice of surveying is paramount in daily duties and should be preached at every occasion. Pride of practice should be encouraged. Being able to push the right buttons does not equate to a correct measurement. Our business practice demands the correct answer. We face a quandary every day, we can provide our clients with service with three choices, cheap / fast / good, but they can only select two of the three choices. If they want it cheap and fast, it won't be good, cheap and good, it won't be fast and of course fast and good won't be cheap.

A number of years ago, while working at a previous firm, we were introduced to the GPS world for surveying. The promises of this new technology were immense; tighter, more accurate control, quicker deployment, and easier, more rapid data collection were just a few of the key benefits even before the advent of private CORS and VRS. The acquisition cost for this equipment, at the time, was significant ... crazy money even, but the ROI looked fantastic, we could continue to sell survey services at our established conventional rates while benefiting from the efficiencies and

expedience of GPS data acquisition. We were an early adopter and I was certain that the efficiencies gained would contribute to the rapid pay off of the acquisition costs. Wishful thinking.... Almost immediately, our survey department managers began quoting projects based on the newly expected efficiencies gained from the deployment of the GPS systems instead of maintaining, what was theoretically, the higher cost conventional pricing formula. Survey prices dropped overnight! What had not dropped were all the other costs associated with doing business; labor, benefits, vehicles, fuel, maintenance, rent, utilities and insurance. Okay, computer technology costs dropped a bit, but those costs were easily offset by the purchase of new and more complicated software to keep up with the new GPS capabilities, so let's call that a wash.

Next came VRS and a private CORS Station on top of our office building. Welcome to RTK and further efficiencies. These newly implemented systems would virtually eliminate the need to localize, now our survey crew could hop out of the truck, fire up the GPS and start working. What do you think happened to survey prices? You guessed it, they went down again! Our survey group was bound and determined to exploit these new efficiencies by further reducing the time billed for performing the

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Don't Become an Engineering Talent Farm for Your Competitors

By Landon Blake

Introduction

At a recent CLSA chapter meeting I attended every single public and private organization in attendance was looking to hire skilled land surveyors. This is one of many current signs, that in land surveying, we are in an extremely tight labor market. My goal for this article is to share a lesson I've learned from my employment at multiple civil engineering firms. I'd like to start with a couple of short stories that highlight the topic for this message: how to avoid becoming a talent farm for your competitors.

Both stories involve land surveyors that recently left their employer to start new career opportunities.

The first story is about a protégé of mine. He spent several years with me at a civil engineering and land surveying firm in the California Central Valley. I recruited him right out of college and devoted time and energy teaching him as much as I could about land surveying. This protégé made rapid progress, and after a few years become a licensed land surveyor. One thing that made this protégé special for me was his ambition, moral integrity, and his knack for understanding business. There was no doubt in my mind he was a future leader of his firm. Sadly, after almost a decade with his employer, my protégé made a switch to a Sacramento engineering firm. I saw in his exit a similar pattern of my own exit from the very same firm 5 years ago. This pattern included a failure by the management team to recognize the level of professional growth that had occurred, the corresponding lack of competitive compensation, and a failure

to provide this team member with a clear path to leadership within the organization.

The second story is about a long-time friend and peer of mine. He recently walked away from a partnership in a small civil engineering and land surveying firm to become a partner at another Central Valley civil engineering company. This exit left the small civil engineering firm with no licensed surveyor. Why did this dramatic exit (at a high-level of the organization) occur? The same pattern from my first example is again evident. This land surveyor started his career in surveying at the small firm. There was a failure by the civil engineering partner to recognize the level of growth in the licensed land surveyor. There was inadequate compensation considering his skill set and contribution to profit at the company. There was no clear leadership transition in place.

In both these stories the land surveyors involved obtained a large increase in their compensation package and a marked improvement in their working conditions.

Both of these civil engineering firms had become talent farms for their competitors. They were making large investments in the training and mentoring of these surveyors, but failing to lock down the returns of those investments in the long-term.

Common Mistakes of Talent Farms

In the two examples I provided, I identified a pattern that talent farms in civil engineering and land surveying commonly make. Let's restate those for clarity:

- 1) Talent farms fail to recognize the professional growth their employees have made. This failure is more common with employees that join the organization at a low-level position. The failure becomes more dangerous the longer the employee is working at the organization.
- 2) Talent farms fail to fairly compensate their mid-level talent. These are employees that have moved well beyond the entry level, but who are not yet owners of the firm. This includes senior project managers. I would place in this group any licensed professionals (especially those who are salaried and not hourly).
- 3) Talent farms fail to make a place for future leaders. This failure often has two components. The first component is a failure to craft and communicate individualized leadership plans for key team members. The second is a broader failure to plan and communicate the broader leadership transition plan for the organization as a whole.

Three Best Practices to Avoid Becoming a Talent Farm

Employee retention is complicated and has multiple facets. However, what three best practices can help your civil engineering or land surveying organization avoid becoming a talent farm?

- 1) Design and execute a plan to regularly evaluate the professional growth of all your employees. This should be done on at least once a year.

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Make Sure That Prospective Client Is a Good Fit for Your Land Surveying Organization – It Only Takes Three Minutes

By Landon Blake

I got a couple of phone calls last month from prospective clients. (I suspect as the economy has picked up pace that your phone has been ringing more frequently as well.) Both of these calls stood out to me as examples of how we need to make sure the clients we pursue and engage are a good fit for our land surveying organizations. (In this message I refer to land surveying organizations, but the principles apply to many engineering organizations as well.) Let me tell you a bit about both phone calls. Then consider if the potential clients on the phone would have been good fits for your organization.

The First Phone Call

The first call came from a real estate agent. She informed me that she needed an elevation certificate. She told me that she only had a budget of \$300 and she needed the elevation certificate completed the very next morning for a deal that needed to close the afternoon the same day as the survey. She was frustrated that none of the other land surveyors she had left messages for had called her back.

The Second Phone Call

The second call was from a general contractor in Arizona. He was calling to follow-up on a “request for bid” that his company had sent to my office a couple of weeks before. The bid was for the work to provide construction staking for a new bank being built in Santa Cruz, California. I patiently explained that my company was located almost a three-hour drive from Santa Cruz and that I wasn’t going to be the cheapest surveyor he would find to

perform this work. He responded to my explanation by saying: “So you are telling me you don’t want to give us a bid?”

Both of these phone calls were short. They lasted no more than five minutes. Yet in that short period of time I learned a great deal about these two potential clients, and quickly identified that neither were a good fit for my land surveying organization. What client characteristics did you glean from my description of the phone calls?

What We Learn From the Real Estate Agent

Let’s think about what we learned from the phone call with the real estate agent that indicates she was a poor choice of a client for my land surveying organization:

- 1) She was trying to obtain a survey the night before her closing. This indicated she was very inexperienced or was very bad at her job. In either case, it meant she was disorganized and not a good planner.
- 2) She already had a set price for the cost of the elevation certificate, which she obviously hadn’t gotten from a surveyor working anytime after the arrival of the steam engine. This indicated she was using bad information that she hadn’t verified.
- 3) She had no idea how long it took, or how much it might reasonably cost, to perform an elevation certificate. She also had no idea how this cost could vary from parcel to parcel. Both of these factors meant she had no appreciation for the value a land surveyor brought

to this part of a real estate transaction, and no concern for the quality of the survey product she received.

- 4) Our real estate agent wasn’t the one paying for the survey, and was clearly viewing the need for a survey as an obstacle she needed to remove so she could check a box on one of her forms, close her deal, and collect her commission.

What We Learn From the Call with the General Contractor

Let’s think about what we learned from the phone call with the contractor that indicates he was a poor choice of a client for my land surveying organization:

- 1) He was calling from Arizona for a job in Santa Cruz, California. I’m not sure what this company was doing on a pursuit of work so far from home, but it indicated that they were likely competing at a disadvantage because of travel costs, didn’t likely have strong relationships in the city, and probably weren’t worried about their long term reputation among the local business community.
- 2) He didn’t know how far it was from Santa Cruz to my office in Manteca, or he didn’t care. This likely meant he had sprayed out a “bid” from every surveyor within 300 miles of the project location. This indicated he didn’t care about quality or local relationships, he only cared about one thing: finding the lowest price. (I’ll note he didn’t ask at all

continued on page 31

2017 CEAC Surveyor of the Year

The annual CEAC Surveyor of the Year award shall be presented to an “Active Member” who has made an outstanding contribution to the County Surveying profession and to CEAC activity.



2017 CEAC Surveyor of the Year Recipient

Warren Smith, County Surveyor, San Joaquin County

Warren Smith has been the San Joaquin County Surveyor for three years. Prior to this he was the Assistant County Surveyor for two years, and the City Surveyor for Oxnard for 22 years. He is a licensed surveyor in four states including California, Washington, Arizona, and Nevada. He is the current Chair of the CEAC Surveyor Policy Committee, and has been a longstanding member of CLSA and the League of California Surveying Organizations where he has been the Vice Chair since 2014. He maintains a list of all County Surveyors in California and is the primary contact for distribution of important survey discussion topics.

At the local level, Warren has been a tireless champion of monument preservation. He collaborates with the Executive Officer of the Board of Registration for Professional Engineers and Land Surveyors on outreach efforts to local agencies on

the importance of and methodology for monument preservation. Warren has helped tremendously in the education of San Joaquin County staff, contractors, and members of the public on the importance of preserving the historical framework of property boundaries in San Joaquin County. He has further instilled this message to County Surveyor staff throughout the state.

Warren spearheaded a survey of Mt. Boardman, one of only two places in California where four counties converge at one point. He coordinated the efforts with County Surveyors from Alameda, Stanislaus, and Santa Clara to retrace previous surveys and calculate the coordinates of the historic location. Subsequently, the coordinates were utilized by the respective GIS divisions of the four counties for use in their baseline mapping and for purposes of commonality. Corner records were filed in each of the

four counties. Following this effort, Warren wrote an article about the expedition in the *California Surveyor* magazine, entitled “Mt. Boardman Expedition.” Warren also wrote a different article for *California Surveyor*, entitled “Surveyor Land Records GIS Website.” 📍

Award Recipient History:

- 2017: Warren Smith, San Joaquin County
- 2016: Gordon Haggitt, Lake County
- 2015: Michael Goetz, Monterey County
- 2014: Greg Jones, Santa Cruz County
- 2013: Gwen Gee, Santa Clara County
- 2012: Dave Ryan, Humboldt County
- 2011: Steven Steinhoff, Los Angeles County
- 2010: Stuart Edell, Butte County
- 2009: Mike Emmons, Santa Barbara County



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Undervalue and Undersell – continued from page 23

work and, instead of realizing the gains in additional revenue, margins, and bottom line performance, they factored these reduced costs directly into their proposals and the prices went down again. Frank and terse discussions ensued, the survey department was again reminded that the costs of doing business were not going down and, in fact they were going up even more so with the costs of operating and maintaining a CORS station and subscriptions to VRS systems and updated GPS receivers and cellular modems and new, improved software.

So, while volume of work increased, we could now complete more survey work in less time, income from these services remained flat. Operational costs increased; more technicians to process the field work, more licensed surveyors to review and certify the end product, more training to keep up with the latest development in hardware and software. We had to invest in new, more robust computers capable of

running ever more complex software so that we could continue to take advantage of the capabilities all this new technology provided. All of the training and advances created a much more knowledgeable and valuable surveyor and those costs increased, but the fees did not increase commensurate with the costs. Instead margins narrowed further. To think our firm was the only one experiencing these issues would be crazy. Every firm was complicit in the stagnation of prices. Many firms were downright responsible for lowering fees to the point where no one could make a profit. Everyone had bills to pay, had to keep the doors open, lights on and staff employed on top of paying for all the new technology so undercutting was the name of the game. Keep the work coming in, we're robbing Peter to pay Paul, but hey, at least everyone is employed, right?

Along the way, surveyors seem to have forgotten that what they do is valuable, extremely valuable. Land cannot be sold,

buildings cannot be built and highways cannot be constructed without a survey. It is the very foundation of everything we do in this industry, why is it not revered as such? The path to licensure gets a little tougher each year. Education requirements increase. Gone are the days when practical knowledge would let you sit for the exam. Today, a four-year degree is required. More areas of specialization have developed; Aerial surveying, UAV/UAS, LiDAR, photogrammetry and GIS are prevalent and all require special skill sets and knowledge. These are all worth something. The skill and expertise it takes to perform a proper survey, verify its accuracy and transform it into a deliverable that meets the needs of the client, are all worth something ... something more than they are being sold for. We need to recognize that and stop calculating the value of a survey project on what it costs, we need to price our services for what they are worth. 🍷



Public Agency Clients – continued from page 21

- 3) These surveyors and engineers are delivering good value to the taxpayers. This is a group in which all private sector engineers and land surveyors are members.
- 4) Hardworking engineers and land surveyors in the public sector are often our best clients. They understand our work, and they value the flexible services we provide.

All of the reasons I listed above merit recognition by private consultants in the engineering and surveying community.

How can you recognize local agencies in California that are setting a good example in the way they handle the engineering and surveying aspects of their organization?

What can you do to recognize great engineers and land surveyors in public service? Here are a few suggestions:

- 1) Thank them in person for their work.
- 2) Recognize their dedication and accomplishments in your local professional associations and publications.
- 3) Publish a profile of their recent projects or programs on your company web-site.
- 4) Send them a thank you note from your team. Include personal signatures from your team members.

Conclusion

Don't forget to consider (and thank) engineers and surveyors you know doing a great job at our local government agencies in California. 🍷





Talent Farm – continued from page 25

- 2) Monitor the mileposts in the professional growth of your team members. Obtaining certifications and licenses are very important mileposts. Ask yourself if these mileposts merit an increase in compensation or another form of recognition. (I obtained my land surveying license in California and Nevada, as well as my Certified Federal Surveyor Certificate, all without a bump in compensation.)
- 3) Identify your key team members and sit down with them to tailor a professional development plan. Explain to them how they can align their professional goals with your organization’s purpose and strategy. Set goals. Update these professional development plans at least once a year. Make sure the team member gets to participate in these updates. Show your team member how

you will help support their professional growth and don’t be a hypocrite. Keep your promises.

- 4) Assess the financial impact the departure of each key team member would have on your organization. Ask your management team these important questions about each of these key team members:
 - a) What would it cost us to replace this team member in the current labor market?
 - b) What would the costs be to train a similarly skilled team member on our company processes and culture?
 - c) How does this team member increase the value of other team members? Is this reflected in the compensation package?

d) What external data have we used to confirm that we are paying this team member competitively?

e) Why might this team member leave for another organization? Are there unique turnover risks with this team member that we have failed to consider?

f) What steps have we taken to support the professional growth of this team member? Have we clearly and regularly communicated that this team member has a future with our organization.

Take good care of your people. Communicate about the future regularly. Pay fairly. Don’t become a talent farm for your civil engineering and land surveying competitors. 🌐



Is Your Client a Good Fit? – continued from page 27

about my scope-of-services or ability to perform the work. He was only worried about my fee.)

- 3) This contractor had no desire to learn about me or about my company. He had no desire in building a long-term business partnership. In his mind, one land surveyor was like any other. He probably spent more time deciding where to eat lunch that day than he did

on choosing which professional would provide a key service on his project.

I don’t regret passing on these two people as clients. It puzzles me that I get these calls in the first place. That wouldn’t happen if other land surveyors weren’t taking these people on as clients. Perhaps people like this may be a good fit for other land surveying organizations. It is more likely

that they are a poor fit for every land surveying organization, and that land surveyors aren’t skilled enough at business to recognize this.

It Only Takes Three Minutes

It is amazing what you can learn in three minutes on a phone call with a potential client. Be on the look out for words like “bid” and “tomorrow.” They are signs of trouble.

Perhaps people like this may be a good fit for other land surveying organizations. It is more likely that they are a poor fit for every land surveying organization, and that land surveyors aren’t skilled enough at business to recognize this.

Think about who you want to work for, and what type of clients are a good fit. Teach your business development staff to do the same thing. Work for people you know, or people from your local community that care about their reputation and the quality of the services you provide. Take care of business partners that want more than a one-night-stand. 🌐





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