



INTERNATIONAL RIGHT OF WAY ASSOCIATION

Kachina Chapter 28

Newsletter

APRIL, 2007

www.irwaaz.com

2007 Kachina Chapter Executive Board

President:
Caroline Tillman, R/W-RAC
623.516.1052
carolint@acqsl.com

President Elect:
Cate Chamberlain
602.367.9322
cate@irwaaz.com

Secretary:
Doug Estes, MAI
480.345.4111
dougst@hotmail.com

Treasurer:
Kathie Sholly, SR/WA
623.930.3652
ksholly@glendaleaz.com

International Director:
Michael "Doc" Sterling
623.546.8266 X211
doc51s.ent@cox.net

PDC Chair
Mark Keller, SR/WA
602.236.8164
mark.keller@srpnet.com

Region 1 Vice Chair:
Chris Banks, SR/WA
602.236.8175
chris.banks@srpnet.com

April Board Meeting & Seminar Meeting



Wednesday, April 3, 2007



4:45pm



3rd Floor Conference Room



Az State Land

Confirm your attendance with
Caroline at carolint@acqsl.com

May Board Meeting & Seminar Meeting



Wednesday, May 2, 2007



4:45pm



3rd Floor Conference Room



Az State Land

Confirm your attendance with
Caroline at carolint@acqsl.com

APRIL LUNCHEON

Doubletree Guest Suites / 320 North 44th Street / Phoenix, AZ 85008

Tuesday, April 10th; 11:00am – 1:30pm

\$25.00 per person for members and guests (please have exact change or your check made out to: IRWA Kachina Chapter 28)

MENU: Desert Fiesta Lunch Buffet
Fresh Field Greens with Chayote Squash
Radishes, Tomatoes, Cucumbers, Fire Roasted Peppers, Lime, Cilantro and Spanish Onions
Carne Asada with Soft Harina Tortillas, Queso Fresco, Homemade Salsa, Sour Cream, Guacamole and Fresh Shredded Lettuce
Chicken and Cheese Enchiladas
Frijoles Charros with Poblano Peppers
Mexican Style Rice
Dulce de Leche Cheesecake
Freshly Brewed Iced Tea, Coffee, Decaf and Hot Tea

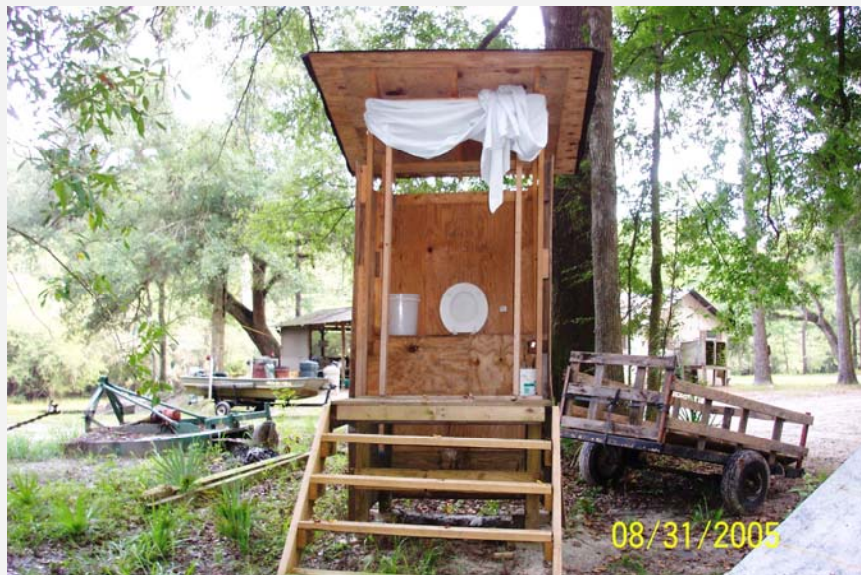
RSVP DEADLINE: 5:00pm, Thursday, April 5th, 2007

PRESIDENT'S MESSAGE
Caroline Tillman, R/W-RAC, Chapter President



The Region 1 Spring Forum was a big success and we even managed to get some business done as well. On March 24, 2007, I, Chris Banks and Doc Sterling attended the Forum in Laguna Beach, CA as representatives for Chapter 28. There was a lot of talk about the Annual Conference coming up this June in Sacramento, California. Our chapter will again be donating a large Kachina to the Auction. The Auction proceeds are donated to the Right of Way International Education Foundation (RWIEF) which provides support to IRWA Educational programs throughout the year. This year the IRWA will be sponsoring a Book Drive for an orphanage located in Sacramento. They are in need of books for children from kindergarten to age twelve (K-12). So if your children are all grown and you are in need cleaning out some space, please consider bringing a book or two to our April 10, 2007 luncheon and I will make sure they get to Sacramento.

IRWA now has a recruitment video and brochures available for members to use when discussing membership with potential new members or maybe for use by your agency to encourage membership of their staff. If you would like any of these materials please contact our membership chairwoman Debra Carter.



Name this contraption...



A View From Both Sides Condemnation Summit, March 29, 2007

Submitted by
Chris Banks, SR/WA, Region 1 Vice-Chair

On March 29, 2007 I was very privileged to be a guest at what has become an annual event hosted by Gallagher and Kennedy, P.A. Attorneys at Law at the Arizona Biltmore. The customary invitees are attorneys, judges, and paralegals from both private sector and governmental agencies. Next year, Bob Kerick of Gallagher and Kennedy has promised to invite some appraisers to the Summit.

At the Summit, several Condemnation Pioneers were honored for their extensive experience and contributions. These Pioneers are well known and respected by the members of the right of way profession and are also highly respected by their peers. One of these Pioneers is a gentleman that I was honored to be sitting with, Attorney and retired Judge of the Superior Court, Stanley Z. Goodfarb. I was really pleased to learn that Mr. Goodfarb was a Past President of our Chapter over 30 years ago. (I am going to invite him to our Past Presidents' Breakfast at the Fall Seminar in September.) Other Condemnation Pioneers honored were Messrs. Bob Stubbs, Jay Dushoff, Jim Redpath, Dick Allemann, Charlie Ayers and Marvin Cohen. I was truly honored to be in the company of so many giants in the condemnation field!

The first speaker at the Summit was Judge Janet Barton of the Civil Division of the Maricopa County Superior Court. Judge Barton's topic was "Observations from the Bench." Judge Barton is a dynamic speaker and very informative. I learned a lot of things that relate to the actual business operations of the Court.

Did you ever wonder how someone knew in advance how long a condemnation trial would last? The judge determines that from the number of witnesses that will be called. And each side is given a time allotment. It was Judge Barton's rule of thumb to divide trial time 55% Plaintiff, 45% Defendant - other judges may approach trial time management differently. Side note: In condemnation cases this is usually reversed because the defendant has the burden of proof which typically takes longer. If an attorney's presentation exceeds the time allotted, the judge can cut them off. I didn't know that!

Did you know that Maricopa County Division has only 18 judges to hear civil cases, 13 are downtown, 3 are in the Northeast Court and 2 are in the Southeast Court? In the calendar year 2005 - 2006 there were 36,691 cases filed - you do the math, $36,691 \div 18$. Most legal resources are allocated to family and criminal cases. Civil cases are lower priority.

After Judge Barton's presentation, the Summit agenda focused on the impact and implementation of Proposition 207 (when government passes land use legislation and regulations that affect adjacent property owners). This Proposition does not appear to be causing the massive wave of lawsuits that everyone expected. It may be that the Proposition will dissuade a lot of agencies from filing future land use regulations. Since its passage, a lot of municipalities (neighborhoods) have become quiet on the issues. Perhaps this is because they feel that the law is in place now to protect them from the "big box" type stores and other types of objectionable development.

Continued on next page....

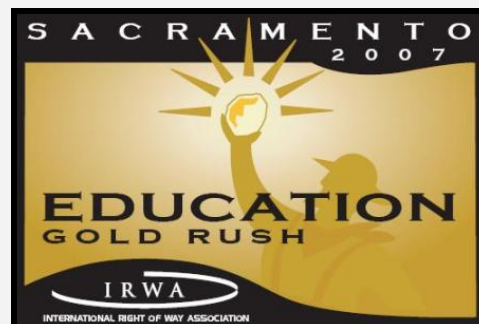
The attorneys from the municipalities in attendance were asked if they had any cases filed in their jurisdictions. No one knew of any actual filings except in Pima County. One case that may be pending is in Phoenix regarding the designation of an historic preservation area in the downtown area. Apache Junction has heard several "threats" but no actions. Pima County had 2 suits that were dropped because the legislation was passed before the law came into effect. Unlike Oregon (the law was patterned after their law), Proposition 207 is not retroactive. The League of Cities is watching what is happening in Oregon – the estimate is that to date over \$10,000,000,000 in claims have been filed.

What kind of alternative is being utilized? Developers are being asked to sign waivers. Waivers sidestep the liability that may arise from governmental implementation of Proposition 207. But, obtaining waivers from property owners/developers creates problems with the uniformity of zoning regulations. This Proposition also affects the use of Master Plans and overlays that cities have come to rely so heavily upon.

The Summit continued after a short afternoon break with discussions of Rule 26.1, the Disclosure Rule (Mr. Kerrick called it a "script") and the Expert Witness Rule (only one expert witness on each side can testify as to a *particular* issue – i.e. highest and best use of land – an appraiser or a marketing expert can testify as to the highest and best use, but BOTH cannot testify as to it). There was a lot of animated discussion in the room over these two rules. Also discussed were the standards of jury instructions (RAJI) and other legal procedures. I am not an expert on legal matters so if I am reporting this wrong, I'm hoping someone will let me know. But I can honestly say as a fact that I know a whole lot more now than before I went to the Summit.

Don't forget to get registered for the June conference. Refer to the International website for more info.

REGISTER NOW



MINUTES
Executive Board Meeting
IRWA Kachina Chapter 28
March 7, 2007

Those in attendance included:

Cate Chamberlain	Kathie Sholly
Caroline Tillman	Roger Ottaway
Carrie Lundin	Melita Hillman-Potter
Doug Estes	Kaye Bockmann
Sharon Dyke	Debra Carter
Doc Sterling	

The meeting was called to order by Caroline Tillman at 4:50 pm in the 3rd floor conference room of Arizona State Land. An attendance sheet was circulated for everyone to sign in.

Officer Reports

Minutes for the January executive board meeting were submitted. Motion by Cate Chamberlain to approve. Seconded by Roger Ottaway. Approved.
Treasurer's report for January was submitted. There was discussion on whether the deposits for the C-140 (Wireless Communication) course had been made. The deposits were made. Motion to approve treasurer's report by Cate Chamberlain. Seconded by Roger Ottaway. Approved.
President Elect: No report
International Director: No report

Committee Reports

By-Laws: Chairperson Absent. Mark Keller submitted a written report prior to the meeting. Mark has all the chapter bylaws in Region 1 and will go through all of these in the next week and make suggested changes to our current by-laws for approval.
Education: Kaye Bockmann did an excellent job on our February courses. She has identified two courses (703, Real Property/ Asset Management and 220, Cultural Awareness) that have not been offered by the Kachina Chapter in a few years. The courses will be offered at the 2007 seminar. The instructors will be Henry Hansen (703) and Valerie Shangreaux (220). She indicated that there has been interest in additional courses between now and the September seminar. There was discussion on how quickly a course could be adequately promoted to ensure sufficient attendance. She will attempt to arrange a course for June or July.
Education Certification and Real Estate Credits: Melita is waiting on the Arizona Department of Real Estate for course approval to send out certificates for recent courses. When she receives approval, the certificates will be sent out. Responsibility for education certification and real estate credits will be transitioning from Melita to Vance. Updated resumes for instructors are needed for the Arizona Board of Appraisal.
Environmental: Chairperson absent
Ethics: Chairperson absent
LPA: Chairperson absent
Luncheon: The February luncheon was successful. Some who registered for the luncheon didn't come due to conflict with the course that was held the same day. Efforts will be made in the future to minimize conflicts between luncheon and courses. April luncheon will be at the Doubletree and not at the Hilton as previously planned. The Hilton was not available for the date of our luncheon in April. Carrie Lundin will attempt to book the Hilton for our June meeting, however, they will only book 30 days in advance. The April luncheon will be more expensive at \$25.07 per person. There was discussion on how much to charge members. It was concluded that the price should be \$25.00 and the chapter will absorb the difference.
Marketing/Public Relations/Awareness: No report
Membership Committee: Debra Carter pointed out that international is accepting and approving applications before the applications are accepted by the chapter. This is due to the fact that applicants are sending their applications directly to international. It was decided that the free lunch offered to new members will only be given after the applications have been approved by the board.

Continued on next page....

The following people were read for approval:

Deborah Walters
Michelle R. Tellez, SRP
Beverly J. Pitchford, O.R. Colan Associates
Linda Killian, City of Scottsdale
Laura Cordasco, SRP
Linda K. Hippe, Yavapai County Public Works
Thomas David John Roberts, UFS
Kay L. Carlo, UFS
Susan Woods, Bureau of Reclamation
Ian T. Zuleger, UFS
Chris Childers, UFS
Kevin A. Minnihan, APS
Donald E. Bloodworth, APS
Barbara J. Heimer, APS
Ryan J. Jagels, APS
Timothy B. Blumentritt, APS

The following people were read for consideration:

Fred M. Bilazzo, Jay Christopher & Associates
Richard Nonack, MCDOT
Karol Grzesik, SRP
Alicia H. Gallardo, City of Phoenix
Anita Zubia, City of Phoenix
Gwen Morris, UFS
Mathew A. Rohbach, GE Capital Solutions, Franchise Finance

Newsletter-Website-Job Bank: JOB BANK: The job bank currently has 3 job posted – all in February. Old jobs have been removed and currently posted jobs will be removed after 30 days. NEWSLETTER: The March newsletter is posted to the website and the February newsletter has been moved to the archives. Chris Banks and Cate Chamberlain are working diligently to collect interesting articles, pictures, etc for future issues. WEB SITE: The website is updated and Cate continues to work with our web developer on correcting and updating back end programming. Cate recently mailed the developer a CD with pictures (provided by Roger Ottaway) that he will incorporate into the index page of the site. Kathie Sholly has also submitted photos of projects in Glendale for the website. Cate is also developing some ideas for Chapter Advertising (for the website) that she will present to the board at a future meeting. Right now she is gathering information from other organizations on their advertising so we can make an informed decision.

Nominations and Elections: Chairperson absent

Property Management: No chairperson

Relocation: Roger Ottaway discussed the impact of Proposition 207. He plans to monitor the new law and reaction from industry experts. There was discussion on the potential law suits against municipalities due to the new law. Some cities are using waivers to get around the law.

Seminar: The seminar committee will have a seminar planning meeting immediately after the executive board meeting.

Survey: Chairperson absent (Greg Tuttle has been submitting articles or the newsletter.)

Transportation: Chairperson absent

Title and Escrow: Sharon Dyke has arranged a speaker for the April luncheon, who will speak on the different title policies available. She has also arranged Dick Barry to speak at the Seminar about resolving probate issues. Melita suggested a newsletter article subject regarding what can be done when a litigation guarantee identifies an item that one of the parties (such as an attorney) does not think should be identified in the title report. There was another suggestion for an article on lending fraud/mortgage fraud.

Utilities: Chairperson absent

Valuation: Chairperson absent

Region 1 Business: Chairperson absent

Continued on next page....

Old Business

There was discussion regarding what months we need luncheon speakers. The only remaining month is November.
AAI Presentation by Chris Robertson - 8/7/07, no further discussion
Why Pay a Lawyer Presentation - Sharon Dyke, no further discussion
Title Presentation - Sharon Dyke, no further discussion
By-Laws revisions update, discussed earlier in the meeting, no further discussion

New Business

The establishment of one checking account rather than three: There was discussion of the advantages and disadvantages of one versus three separate checking accounts. It was decided that all three accounts will be retained and that the treasurer will be responsible for making deposits and payments for all three accounts. The education chair will not be responsible for the education account. This is a temporary arrangement to see how it works. If it is determined that this does not work, changes will be made in the future.

Travel expense discussion: Due to time constraints, this discussion will be held in the next board meeting.

Seminar Courses: Already discussed under education committee, no further discussion

Board meeting for April changed to Tuesday April 2, 2007 due to IRWA class in Tucson, no further discussion

Cate has completed the tax report for 2006 and sent it to headquarters.

Projector Bulb: Roger Ottaway is continuing to research the cost of a replacement bulb for the projector. The cost is believed to be between \$200 and \$300.

Motion to Adjourn by Doc Sterling, Motion seconded by Kathie Sholly. Meeting adjourned at 6:00 p.m.





Gregg Tuttle, Manager
SRP Land Department
Surveys Division



Surveyor's Corner

This is a continuation of the MARCH 2007 article about the Fictitious & Fraudulent land surveys of the PLSS in the later half of the 19th Century in western America.

We will also continue with our sharing of parts of the 1991 articles "The Era of Fictitious Surveys" and "Following in the Footsteps of a Fraudulent Survey" by ["Lin"] Livermoore. Then, we have a short discussion about some known situations here in Arizona, and muse on future situations as related to lands currently in the AZ State Land Trusts.

Excerpts from the article:

A common misconception is that when a fraudulent survey was encountered that the solution for the General Land Office (GLO) would have then been to cancel the survey and conduct an independent resurvey. However the courts have consistently held:

"After the government has sold lands according to a survey and plat it cannot dispute the truth of such survey and plat." (49 N.W. 303, 26 Minn. 31, 1879).

That statement concisely and clearly states the legal doctrine that once rights have been obtained, based on an approved survey, everyone, including surveyors, has to live with that survey, with all its discrepancies and problems.

A proper resurvey requires that surveyors find all available original evidence.

Trying to find a marked rock or stone in rough terrain that is covered with vegetation is hard enough without having to decipher where the blunders occurred. The difficulty in locating this evidence when there is large blunder in the original survey is obvious. The harm to clients, the public and the liability faced by surveyors when they fail to locate available can be devastating. All surveyors and their clients (and, associated Land Professionals) should be aware that the problems increase dramatically when surveyors encounter surveys of record similar to what is being discussed in this series of articles.

Considerable proof is required before any court will overrule the prima facie evidence (evidence which, if unexplained or uncontradicted, will prove a case) that an official survey record is correct. The primary evidence necessary to prove that a survey is fictitious exists in the field, not in the records. Survey records can only supplement the primary evidence, they can never replace it. This premise is predicated on the fact that the basic rules of resurveying remain when encountering a fictitious survey. This includes the use of original evidence in reestablishment of the original survey. The only way to locate original corners and other on-the-ground evidence of a survey is to go to the field and find it. A surveyor can never be confident or successfully convince a court that survey evidence does not exist without first performing a careful search for it in the field. In addition to proving that a survey is fictitious, a surveyor is also expected to justify any alternate procedures used in lieu of primary survey procedures during the execution of all resurveys. This requires proving that alternate procedures are the best methods to protect all affected rights.

The protection of rights when resurveying fictitious surveys can become very, very complex (and, by extension, very, very expensive); and the factual situations vary with each resurvey. It is impossible to predict all possible situations and variations created by fictitious surveys and therefore, impossible to define any specific rules for all or even the majority of the situations. The 'normal' rules for restoration of lost and obliterated corners cannot be elaborated to reconstruct a grossly erroneous survey or a survey having fictitious field notes.

Arizona surveyors will have to research WAY beyond the Arizona Boundary Survey Minimum Standards to even begin to find any appropriate solutions to problems created by fictitious surveys. Sources of background insights and information on procedures to be applied to these types of specific problems include (but, are NOT limited to) official surveys, decisions issued by the U.S. Department of Interior's Interior Board of Land Appeals, federal and state court decisions, and the policy positions issued by the Bureau of Land Management (BLM), among others resources.

Continued on next page...

Surveyor's Corner continued

Note – the most important factor to keep in mind is that surveyors need to prove conclusively that original evidence did not exist for (in some cases) entire townships, entire sections, or portions thereof, when surveyors are reestablishing original surveys. It is not enough for surveyors to compare topography and state that fraudulent surveys were common in a certain era and area. *If the original surveyor set just one monument in his entire survey, it is incumbent upon present day surveyors to find that corner monument.*

NOTE – Most surveys during the era of *fictitious surveys were ONLY PARTIALLY Fraudulent!* If they had been *totally* fraudulent then the job of present day surveyors would be somewhat easier and much less problematical. However, in following in the footsteps of the original surveyors *it must be determined where they surveyed and where they did not.*

Just a few examples of discovered ARIZONA situations:

In the year 2000, the SRP LAND-Surveys Divisions was requested to perform land boundary - property survey and engineering survey services to locate proposed water wellsites and associated pipeline alignments in Township Thirteen (13) North (T13N), Range Twenty-six (26) East (R26E), of the Gila and Salt River Meridian (G&SRM), in Apache County Arizona. The community of Concho Arizona is located on the western end of the southern boundary of this township. The Township and Range geographic designations are derived from the U.S. Public Land Survey System (PLSS) as originally established on public domain lands by the U.S. General Land Office (GLO), and as perpetuated by the GLO's successor agency, the Bureau of Land Management (BLM) in the U.S. Department of Interior (DOI).

T13N/R26E is one of several dozens of such *townships* in northeastern Arizona in both Apache and Navajo counties that are recognized to contain what have been referred to as "*erratic surveys of the public lands.*" These problem townships are in an area between Show Low to Concho, from Ranges 22 East to 27 East, and from Townships 13 North to 14 North.

In this general area, the Arizona Department of Transportation, ADOT, spent three months during the summer of 1971, searching for any evidence of original GLO/PLSS monumentation. They were able to recover only twenty-six (26) monuments out of the possible thousands of PLSS corner locations searched for, yielding a recovery rate of fewer than two percent (02%).

This scenario - of multiple PLSS townships which are 'missing' their interior section and 1/4-section corner monuments – is surmised to be as a direct result of fraudulent and/or fictitious land surveys of the 1870's and the 1880's. During that time period the GLO was under great political pressure to complete the governmental land surveys defining the public domain so that the land could be patented for homesteads, ranches and mining claims, among others. The GLO entirely contracted out the field surveying to private individuals and companies. In many areas of the western states and territories, significant portions of those contracted surveys of the public lands were in some parts partially fictitious and totally fraudulent.

This problem of the 'missing' PLSS boundary corner monuments has been *somewhat* known and occasionally documented by various state agencies throughout the 1970's and 1980's. Entities, with *some* knowledge of the problem, included: ADOT; the Arizona State Land Department, (AZ/LD); BLM; the U.S. Forest Service (USFS); the (former) Arizona Mapping Advisory Committee AZMAC, (now) the Arizona Geographic Information Council AGIC; the Arizona Professional Land Surveyors Association (APLS); and SRP, among others, including a small percentage private local surveyors in the northeastern Arizona area. SRP Surveys exercised all necessary steps in making diligent searches for all existent or obliterated original GLO interior sectional monuments. SRP Surveys did not locate *any* acceptable evidence within the township's boundaries relative to either existent or obliterated GLO section corner monuments, purported by plats, on record with BLM, as alleged established in the 1870's or 1880's. SRP Surveys evaluated all of the locally established private survey corner monumentation, and its professional opinion was that those local, non-governmental monuments met the criteria of the BLM guidelines in The BLM Manual of Surveying Instructions (1973), as related to the corners of the sections in question. Those local corner monuments, as accepted, were adequately monumented, in good condition and identified on the recorded SRP Results-of-Survey drawings, filed with the Apache County Recorder's Office (ACRO) document 2001-001754, [see the "Surveyor's Narrative" on the last two sheets of the Results of Survey drawings for a very detailed explanation of the situation and as to the resulting solution for reestablishing corner locations.]

Continued on next page....

Surveyor's Corner continued

Another township, [entirely owned by the Arizona State Land Trusts], is that of T9S/R9E.

In the mid 1980s your "Survey Corner" author was the Chief of Surveys for office of the U.S. Bureau of Reclamation, (USBR), working on the Central Arizona Project, (CAP).

The USBR surveyors proved that the township was devoid of any interior section or ¼-section corner monuments. Further investigations showed that the topographic notes from the original GLO (contract) survey notes of 1882 did not, in any way, match the existing topography found within that township. Naturally, the State Land Department wanted their standard ROW descriptions and easements created "section by section" for the CAP canal (which bisects this township from northwest to southeast at about a NW to SE bearing of 45°). What they ended up receiving (within that township) was a metes & bounds strip description referenced only to the northerly western boundary were it entered the township and the southerly eastern boundary were it existed that township.

The AZ/LS approached the BLM about the discovery and were [re]informed about the "as-is" qualifier of the transfer from U.S. Public Domain to the State. The AZ/LD requested estimates from both the BLM and the USBR for [re]establishing the interior township subdivisional monuments.

The BLM wanted over one million dollars (+\$1,000,000), and, the USBR wanted over one-hundred-thousand dollars (\$100,000) *all in 1985 dollars*. The BLM would have performed a complete, independent resurvey based on a federal township [re]survey. The USBR theorized that since the land was no longer part of the U.S. Public Domain, and because it was all under one ownership, (AZ/LD) that the [re]subdivision survey could be accomplished by using modern survey technologies & methodologies, all of which were considered unorthodox and beyond the pale by BLM.

As it turned out the AZ/LD could not receive appropriate authorization or funding to engage the USBR, as so this township remains without any interior monumentation.

The last I checked, the remaining portions of that township were still under agricultural and grazing leases from the AZ/LD, but someday in the [near?] future, urban expansion will cause the State to consider auction off portions of, or the entire township.

Another set of possible / potential [probable?] "*suspect*" townships, currently still in the possession of the AZ/LD, are those that are southerly of U.S.-60 and westerly of state routes 60/79, [southwesterly from Florence Junction]. These have NOT (yet) been conclusively proven to be of the fictitious / fraudulent variety, but they are [highly] suspected to be so by certain professional surveyors "in-the-know."

State Trust Lands and the potential for discoveries of "*erratic surveys of the public lands*."

Now why do some [knowledgeable surveyors] think that the Arizona State Land Department may possess a high(er) percentage of those townships that may have been part of the fraudulent survey problem? It is based on a hypothesis that was shared by a very knowledgeable former BLM Cadastral Surveyor. He opined the following possible scenarios:

As noted the GLO had realized as early as 1885, (if not before), that it had a major problem concerning fraudulent land surveys in the western states and territories. By the early 1900s the public outrage had reached a fever pitch.

Progressive and Populist candidates were being elected to Congress, and, Theodore Roosevelt had been elected President. There was much pressure building on Congress to rectify problems by enacting legislation authorizing the GLO to perform RE-surveys on problematic townships.

One action taken was to end the [good-ole-boy] contracting out for PLSS surveys and create a cadre of direct federally employed surveyors to continue surveying the public domain in the west, and, as directed to perform RE-surveys. This culminated in the year 1910 with the complete switch to internal federal employees performing the GLO PLSS surveys. The GLO spent much time and energy selecting competent and ethical individuals to become federal surveyors. They set up a massive inspection and review process necessary before any final plat approval. A process that is still in place today.

Continued on next page....

Surveyor's Corner continued

The (Arizona) State Enabling Act, passed on June 20, **1910**, allowing the Territory to prepare for statehood, and added millions of additional acres allocated for various Arizona public institutions.

By then the GLO had 25+ years of increasing knowledge (and heartache) about which townships may be the most problematic, in (probably) suffering from "*erratic surveys of the public lands*."

In 1929 another Act of Congress authorized additional acreage, upping the total to about 10,900,000 acres (about 17,031 square miles or equivalent to 473 townships of public land).

The GLO was the agency directly negotiating with the State Land Department in the transfer of almost ELEVEN MILLION acres of federal public domain lands to state ownership.

The State acquired lands in four types of transactions.

1. School Sections (four in each township; 2, 16, 32, and, 36).
2. "In Lieu" Selections when and where school section lands were not available because they had been previously claimed by homesteaders or miners or because they fell within a Federal reservation or national forest or park or Indian Community Lands, the State was given the right to select equal acreage of public domain as indemnity in lieu of the school sections that the State should have received.
3. Quantity Grant Selections: The State selected the specified acreage of Federal lands for the County Bonds and each of the individual (State) institutional Trusts.

Land Exchanges: After acquiring title to the Trust lands, the State traded many of the lands for other Federal lands of equal value in order to relocate or "block-up" Trust Land holdings.

The state chose the lands acquired in the Indemnity in Lieu Selections, Quantity Grant Selections and the Land Exchange processes. Most of the selections were made starting in 1915 and thereafter.

Note, that in many areas, the state was *granted entire townships of land (from the GLO)*.

Is it not possible that GLO may have influenced the state as to which townships to accept?

Would not the GLO have had motivation to rid itself of townships know to be suspected of being fraudulently surveyed?

Remember, during this same timeframe, there was building political pressure to have the federal government perform RE-surveys to correct problems found existing on federal lands. But, *IF* the lands were no longer federal public domain, then the responsibility is shifted to the new owners (private or other (non-federal) entities.

This ancient - (i.e., "older than Gregg") - former BLM Cadastral Surveyor shared the following caveat: "whenever you discover any township which is entirely owned by the AZ/LD - that fact should, at the very least, raise a caution flag with any professional Arizona land boundary surveyor."

He also noted: "surveyed after 1910 is alright - surveyors' delight; surveyed before 1910, start your mourning - surveyors take warning." J

As the State Land Department found out from the BLM in 1984, concerning the discoveries made in T9S/R9E by the USBR, that once the AZ/LD accepted the lands from GLO it was with an "as-is" agreement. The State discovered that they had no authority or cause for action to go back to the GLO or the BLM and demand any type of RE-Survey when it was discovered that there were actually no township subdivisional monuments (sections and 1/4-section corners) existing (nor had there ever been). The state would have to handle that situation itself. . . (or would it?)

How will these latent problems be cured? Who is responsible for correcting the problems discovered on State Lands?

The developer who obtains the property via a successful bid? Those utility companies who networked facilities must traverse State Lands?

Continued on next page....

Surveyor's Corner continued

The ultimate answer may well be that the PUBLIC will eventually bear most of the financial burdens, through higher prices for residences, and higher utility bills and, or course, higher taxes.

That insight does not cover the immediate increased inefficiencies and un-timeliness and unanticipated costs encountered by clients directly impacted by the discoveries of latent land and land-rights issues evolving out of and resulting from fraudulent actions occurring in the 1880s through the 1900s. It appears to be a case of some (fictitious/fraudulent) chickens coming home to roost.

The laws of unintended consequences, and "Murphy's Laws" are still active and in full force.

Well, that's it for this issue from the "Surveyor's Corner."

If anyone has feedback or comments, please feel free to share them.

As always, I am interested in the opinions from, the readers of the Kachina Chapter 28 Newsletter.

Please keep sending in those questions.

Until next time, Thanks for reading about land surveying & land surveyors. -

Gregg Tuttle, AZ/RLS # 11121; Manager, SRP LAND-Surveys Division

