

Course 3: Survey Evidence Analysis Study Guide

COURSE DESCRIPTION:

This set of videos and other teaching aids addresses one of the most complex tasks in cadastral surveying, the analysis of the field evidence and it's correlation with the written record. The course is essentially presented with three unique sessions on the subject from instructors of varying backgrounds and experiences. Practical on-the-ground advice is offered, as well as a thorough discussion of the legal concepts and issues involved in the analysis of corner evidence.

COURSE OBJECTIVES:

Upon completion of this course, students will be able to:









- Provide legal and historical backgrounds for evidence analysis procedures
- Discuss proper use of evidence, including confusing evidence situations
- Practice reading of and interpretation of field notes and plats
- Present proper markings on monuments

COURSE INSTRUCTOR(S):

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VIDEO LECTURE TITLE:

Evaluating Corner Evidence – Part 13 (15 minutes)

ICON LEGEND							
 WEB COURSE	 EXERCISE	 DIAGRAM	 READING ASSIGNMENT	 PROBLEM	 HANDOUT	 2009 BLM MANUAL	 QUIZ

EVALUATING CORNER EVIDENCE – PART 13

So, Where Do I Put the Corner?

Now that you have completed the portions of this course on corner evidence. We've looked at gathering the evidence either in the field, we looked at gathering the evidence through records, we've looked at situations where the evidence maybe is conflicting or we have conflicting evidence.

All of this we have to put together and eventually we have to decide to we where you are going to put the corner in the field. Where are you going to put it? Here is a situation where you can see the original record original record called for a post and pits. Four pits and a post in a mound of earth.

You can see its still there today. This is probably an 1870's survey or so. And we have the original evidence of this. But where are you going to put the corner? Well if it were me, one of the things, I would look at is this situation at least. I would be very careful in excavating this area and probably will find evidence of the original post either discolored soil or maybe even traces or remnants of the post itself as we get a little deeper in the ground so this corner you probably will be able to actually find the original monument or at the least the remains of traces of that original monument.

Sometimes we are a little too quick to monument a position without really looking carefully all the information. I just wanted to talk briefly about some things that might help us to determine where we are going to put the corner.

Where Are You Going To Put The Corner?



EVALUATING CORNER EVIDENCE – PART 13

First of all make sure you have all the evidences, make sure you gather all the evidences and all of the records that you need. We aren't just talking about field evidence, we need to gather that and there's going to be physical evidence there in term of fences, in the terms of location, in the term of roads, original monuments, and stone, posts, bearing trees, accessories.

All of that information, we need to gather that make sure we done a thorough job of researching, a thorough job of determining where to look. Because in the public land surveys, sometime there are some fairly significant errors and if you're not looking in the right place you are not going to find the evidence. Sometime evidence that is very evident can be missed because we have not analyzed the records properly and not actually looking in the right position.

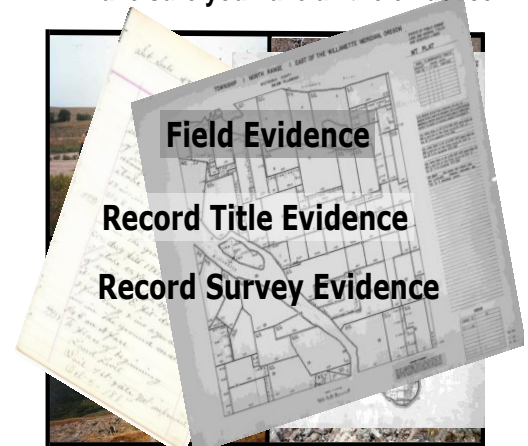
Of course, the records evidence makes sure that we gather all the record evidence and we are not just talking about the original GLO survey plat and field notes. But you need that. But let me say here that it's really important you get both documents the plat and the field notes. It is important that when you get the field notes you get the cover page and introductions.

You get the pages that deal with your portion of the survey and you get the general descriptions and the pages at the end, read those thoroughly make sure you got all the information there. But other record information such as other surveys filed in the county or the state. Adjacent legal description and adjacent land descriptions that are contained in adjacent deeds -- sometime that will shed light on where the corner might be.

There sometimes there court actions if you talk to local land owners they may tell about a disputes that went to court and we get those records and we may find evidence about corners. All of the records information make sure we do a thorough job there. Large lands holders such as timber companies, ranchers may have records that are available about the corner evidence.

And of course title evidence, and again this an area where when we are dealing with a parcel it's important to know what that title of the parcel I'm dealing with. But also the adjacent parcels. What's happened there? And what kind of descriptions and what

1. Make sure you have all the evidence



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kind of goings on that happened out there to the adjacent parcel?
We make sure we have good records of what happened with the title in these area also.

Make sure you apply the proper principles, use the proper standard of evidence. We talked about that earlier. Don't reject the previously reestablished corner unless it wrong. Sometimes we may have what we think is a better solution to a problem but the existing monument – the procedures that the surveyor used is not wrong.

Often time in land survey there may be more than one acceptable solution maybe one solution appear best to us but there are more than one acceptable solutions. If a previous surveyor has used an acceptable procedure and acceptable solutions then we are bound to accept the work and build our survey from that. We don't want to reject previous survey. We only are going to reject previous monument or previous survey if there something is actually something wrong with it so keep that in mind.

Make sure you identify the proper procedures. We don't want to be double proportioning double a corner in. When here in a mineral survey note is a two chain tie to a corner. So make sure you are using the proper procedures and we do that by gathering all the records, analyzing them carefully and making sure we know everything that gone on -- that's going to protect us from using some procedure that really is not the best procedure that not going to give us the good answer make sure we know that and use the proper procedure in identifying our corner points.

Discrepancies in the Record

Let's talk a little about the discrepancies in our records because often times we going to find discrepancies in the record either sometimes in the original records plat itself, field notes and plat they don't agree. There are discrepancies in the original field notes. That is just the GLO record. Often though there are discrepancies in the local records there may be surveys that disagrees. Bearings and distances to the bearing trees -- obviously in error, there's sometime wrong there and has to be worked out. What do we do with those situations?

2) Make Sure You Apply the Proper Principles.

- Use the proper standard of evidence.
- Don't reject a previously reestablished corner unless it's wrong.
- Make sure you have identified the proper procedure.

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Well the courts given us some direction and I just want to talk a little about that. In **Beaty vs. Robertson**, the court told us the plat controls. It a case in Indiana and it involved situation where the field notes and the plat don't agree and the court said the plat controlled.

In **Whiting vs. Gardner**, the courts told us that notes control. So in the Beatty vs. Robertson said plat control and Whiting vs. Gardener, the court said notes control. Another court cases **Erickson vs. Wick** said the plat control and a fourth case **Harrington vs. Boehmer** it said the notes control. What's going on here?

Two of these cases said the plat control two say notes control. I can bring out several more that would say either plat controls or the notes control. However if you read these cases carefully, you will find that the courts made basically pretty good decisions. And they made decisions based on the information they were provided on the unique circumstance of each situation.

What really happened is the facts control. If the facts controls that means we have to gather all the facts and we have to assemble the facts accurately into a good picture of what going on to leads us to the correct decisions. If we don't gather all the facts then we may not end up with the right decision -- and in some of these cases I just cited that actually what happened.

All of the facts was necessary to come to a conclusion that was rendered and a couple of situations one side just didn't do a very good job of gathering all of the facts and one side did. So the decision was made based on not all the facts and they ended not doing a good job on deciding where the boundaries are. So if the facts controls then we have to gather all the facts and when you gather all the facts, then you have then a much better chance of making a good decision and getting corner in a proper and defensible position.

Discrepancies in the Record

- Beaty vs. Robertson – plat controls
- Whiting vs. Gardner – notes control
- Erickson vs. Wick – plat controls
- Harrington vs. Boehmer – notes control

What does control?

The facts control!

EVALUATING CORNER EVIDENCE – PART 13

Utilize your resources and by this I mean people resources. First of all, if you surveying in Indian country – the **BILS**.

Those surveyors, those BLM surveyors that are located in the regional office make contact with those guys, make sure you get to know those people. They're experienced, they're knowledgeable and their job is to help maybe as sort of a liaison between you the CFED and the cadastral chief and they are there to provide you with help, with advice and with resources. Get to know them. The other one of course is the State BLM Cadastral Office.

Many of you I'm sure have already have worked with the cadastral office on various issues and are familiar with them. But when you're doing official CFedS works and when you are trying to determine where is a corner of trust land. You gathered all the information and there no clear answer these are the people you may want to talk to. And then last your fellow CFedS, these people are experienced like yourself they have gone through the training that we provided and we're hoping that this build the community experience boundary surveyors who will rely on each other to make good decisions about placing corners and about how to reestablish or monument corners -- good survey decision -- so use all of these resources.

Don't just rely on yourself out there to make decision. Maybe a second set of eyes and a little discussion may reveal a different way to go.

Documentation!

Next documentation, I think we really can't say too much about documentation. It is important that we document our surveys. They have to be well documented so that they can stand up to the test of time so if challenged they'll prevail. We just need to do a good job with that. The first thing, you got to document the information you gathered. The facts... what's the information you gathered put that in your documentation.

3) Utilize Your Resources

- The BILS
- State BLM Cadastral Office
- Other CFedS

EVALUATING CORNER EVIDENCE – PART 13

Next, solutions you considered. Not just the solutions you chose, all the solutions that you considered. It is important for someone coming after you to know you considered certain things. And then why you chose not to follow that path -- why you chose to go a different way. So always not only documents all the information but document all the approaches you have solutions considered and then you will come back and document the final decision you will justify that final decision you chose and why you chose it.

So your documentation should have these three elements in it. Always in of course, when we talk about all the information you gathered we talking about that plat having good information about the measurements you made, the control you used, the method you used, the corners you found, and the corners you set. All of that information documented right there plat itself and completely and thorough. Basis of bearing that you are reporting true bearing for every line. All of those things should be right there on that plat. So what are you going to put the corner?

How many of you seen one of these? We have the original stone and beside the original stone you have a pipe which is the corner. Where are you going to put the corner? I think if you follow the process we that we have outlined you use the information and the knowledge you gained in this training when you gathered all the facts, when you analyzed all the facts, when you look at all the records, there's are going to be information there that tells you where you going to put the corner.

And you are going to make a good decision and document that decision well so that the next person that follows you is going to build on that survey that you have built.

4) Documentation

- Information you have gathered
- Solutions you considered
- Justification for your final decision



QUIZ

It's time to take the Course 3 Quiz which you can access from the CFedS website.