

## 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

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**VIDEO LECTURE TITLE:**

Evaluating Corner Evidence – Part 8 (28 minutes)

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| <br>WEB COURSE | <br>EXERCISE | <br>DIAGRAM | <br>READING ASSIGNMENT | <br>PROBLEM | <br>HANDOUT | <br>2009<br>BLM MANUAL | <br>QUIZ |

## EVALUATING CORNER EVIDENCE – PART 8

### Introduction

Welcome back to the final video lecture for this module that I'm doing on corner evidence analysis. And what we did was talk about, you know, the use of some of the evidence in corner search techniques in the previous one and kind of ended it talking about, hey, reality of time and the elements and that maybe things weren't just exactly how they said they would be. That's life. That's the way it is. We have to be realistic about it.

### Confusing Evidence

Now what I want to do is talk about conflicting evidence. And that is you find evidence out on the ground, but it doesn't make sense. What do we do with that? So, let's think about this for a moment. Bottom line, you will not be able to totally resolve everything. Sometimes you're going to have to just make a call of what you're going to do with it. But, I believe we can resolve most evidence confusion.

Usually it lies in the notes, and you can see some examples here of transcribed notes. Let's understand that the original surveyor kept his information in what you and I would call field books. They called it a **field tablet**. And when they were done, that was transcribed out of the field tablet into the handwritten or typed notes that you and I actually have. And those official handwritten or typed notes are the ones that are officially approved and the field tablets almost always were destroyed. So, recognize that no matter what, you are dealing with transcribed notes.

Now, if they were real careful things are ok, but you know you can't read your own handwriting sometimes. I can't. And here the guy is doing this maybe he is in a rush to get it done. It's, you know, it's beer-thirty at the GLO and he's trying to get it done. Well, just recognize that things can happen. And because those transcribed notes, then we end up with possibly reversed numbers. 76 links was 67 links. That's transpositions as well. All right. That's what that is. Reverse numbers I'm thinking more of the bearing, you know, he went North 76 degrees East and he gave us the wrong quadrant really. Or sometimes maybe they measured

#### Keys to conflicting evidence

- We cannot totally resolve all, but we can resolve MOST evidence confusion
- Usually lies in the notes:
  - Transcribed notes
  - Reversed numbers
  - Transpositions
  - Horiz v. Slope
  - Wrong quadrants
- Or it lies in a field discrepancy.....

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slope instead of horizontal and, hey, those things happen and we need to track those out, trace that out if things don't make sense. All right.

However, it could also be a field discrepancy something in the field isn't right, you know, or a combination of the field and the notes. That's really what we're talking about here. You know, you don't know right off the bat. Things just don't make sense and I can't answer all those, but what I do want to give you is some of the more common questions that I've been asked over the years or maybe I think a couple of them I've asked myself.

So, let's take a look at the five common questions that I want to address.

### Common Questions about Confusing Evidence

**Question One.** Where is the actual corner point when the stone does not have a cross on it?

Well, understand and this is just a picture out of one of our older training things. It's a standard corner. SC stands for standard corner not section corner. This could be, see, this is a standard corner quarter corner. It's on a standard parallel is what that means. But, generally there is no cross up here on this, ok. The GLO wasn't setting crosses.

The center of the stone is considered your actual point, so that's what you want to use. The GLO didn't set a mark, so what does that mean when you find a mark? That tells me that somebody, since the GLO, put a cross on it so they had a definitive point that they could measure to and from, and you know I don't have a problem with that but just recognize that that's not a big deal when you don't have a cross on it. Hey, it wasn't supposed to have one anyway.

#### Let's look at 5 common questions

**Question 1:** Where is the actual corner point when the stone does not have a "+" on it?

**ANSWER:** The center of the stone is considered the actual point. Most of the time, GLO did not set a mark; thus indicating a previous retracer placed it on the stone



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**Question Two.** What if two or more accessories indicate a different position than the monument?

All right, let's say you've got two bearing trees you measure in, and neither one of them comes to the monument. Well, here's probably what that is.

The validity of the monument needs to be established. See if somebody moved, people do this people move survey monuments. But they don't understand about accessories, and of course that's one of the beauties of having accessories, so it's possible, you know, that someone has moved it.

It's also possible the accessories are written wrong in the notes. I've seen places where he wrote the accessories for a quarter corner that was actually for a mile north of there at another quarter corner. They did that sometimes.

But you need to you know you actually you want to figure out is the corner monument has it been disturbed? Has it been moved? Has someone reset it that maybe wasn't authorized to do that? That's what you're looking for. And so you want to consider the other evidence that you have.

Maybe you've got some topal calls coming into that corner which would make it really clear whether the monument is in the correct position or not. I have experienced that where people have moved corners, moved monuments from the corner point, and the accessories didn't come there.

And of course you don't want to jump to the conclusion, that well the monument's right or the trees are right, because there's possibilities here either way. But you want to gather what other evidence you have. Topal calls, fences, take a look at what's going on out there.

Here's one that I did on an old homestead survey up near the Grand Canyon many years ago. They called for memorials underneath the stone; and I was pretty sure these stones had been moved, and I couldn't find the memorials under the stone. I found them where the bearing trees put the corner, which the stone

### Question 2

Question: What if two or more accessories indicate a different position than the monument?

ANSWER: The validity of the monument needs to be established. It is possible the accessories are written wrong in the notes, but this usually indicates your corner mon has been disturbed, moved, or re-set by someone unauthorized to do so.

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wasn't there anymore, so I proved that someone had moved those monuments, and I don't know what their purpose was in that.

All I know is that, I figured out what the confusion was by looking at all the evidence that I had. And I've seen other times where you couldn't figure something out; but there were some line trees or a blazed line coming in to it and where the monument is is way the heck out of position from that. And yet, where the bearing trees bring you or whatever accessories they are bring you was right in the line with the blazed lines.

So, you know, you start looking at those kinds of things, and it helps tip the scales which way you're going to go with that.

**Question Three.** What if the monument is gone, but the accessories do not come to the same place?

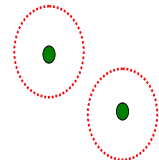
All right. Well, obviously you want to look at your record very closely. You're going to try every combination transpositions, maybe horizontal versus slope on the distance, or wrong quadrants. Let's realize that, you know, the solution to a bearing tree is a distance-distance intersection even though its name is bearing, ok?

So, let's say that these two green dots are the trees that we have, all right, or whatever they are accessories. And the red dots that I have, or red lines the circles around them, are where their distances would be. Now, you notice if the distances never meet, by you know a significant amount, I mean if it's just an inch or two or three, well, I wouldn't worry about it. But, if they never meet then obviously one or more of the distances are wrong. Right? One of those distances is probably bad.

If the bearings, let's say the bearings for this tree goes out this way and the one for this tree goes out that way so they never intersect either well then obviously one if not both of those bearings are bad. Now, again the way to use trees technically is to go distance-distance intersection, and you use the bearings that are given to tell you which intersection, right? Because we discussed this earlier, you have two solutions for a distance-distance intersection, but this tells you which one by using those bearings.

### Question 3

- Question: What if the monument is gone, but the accessories do not come to the same place?
- ANSWER: Examine the record closely, try every combo of transpositions, H v.S, wrong quadrants. If no D-D intersect, then one distance is bad. If no B-B intersect, then a bearing is bad.
- Closest is best?



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But if they never meet either distance or bearing, then its obvious which one it is so you need to play with those numbers. Try to figure out what's going on. I've been in situations where played and transposed the numbers and all that; and still couldn't figure it out. And yet once again I have found other evidence out there including blaze line and topal calls and fences and things that made it very clear, you know, this fence corner is exactly at the bearing and distance you know I'm exactly but at the bearing and distance from that one tree but not the other one. That, you know, if you're in a 6 or one half dozen another that may just tip the scale.

There is a general rule and it actually came out of one of the old versions of Clark on Boundaries and that is the **closest is best**. That's simply saying, well look ok, if you've tried every possibility you don't have any other evidence to help figure it out you've tried all the transpositions all that stuff. You can't figure it out. Then it's kind of a, you know, punt, you know, fourth down and 90 yards to go to first down, you know. It's kind of a bad situation.

That rule, and this isn't something from the Bureau, but that rule was closest is best. Meaning, that well if you've got one bearing tree or accessory of any kind that's, you know, 50 links away, and the other one's 3 chains away; we'll use the one that is 50 links away, because the odds are if there was a mistake as he was writing it down the deputy surveyor would have noticed it on a shorter distance where as a longer distance you wouldn't as likely to catch it.

That's a real loose rule and policy and I'm not saying that's an absolute, but closest is best is one possible solution if you have tried all the other possibilities. Understand, you need to look at all the evidence first. Be surprised. Usually the answer will pop out for you, it may take a little time, but usually the answer will pop out.

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**Question Four.** Is it safe to set a corner from a single remaining accessory?

Well, yes it is. The Manual 6-11 said if we found the monument or it's accessories even just one accessory that's an existing corner, but we need to be concerned about a couple of things. First of all, the reason you cannot find the monument or the other accessory could be due to this accessory having an error in a dimension. I'm going to show you an example of that here in a minute.

Recognize that if all you do have is one remaining accessory then you really need to think about your basis of bearings. And if we haven't made it clear in this program yet, your basis of bearings needs to be true meridian. And also some possible indexing which we will discuss in the restoration of lost corners course which is yet to come.

We'll give you a few ideas about indexing. But so you need to think about your basis of bearings and indexing for distance or bearing for that matter in the setting of one of these.

But what happens you know this is a true story I want to show you over here on the elmo of what happened. I went out on the ground; and I'm looking for a quarter corner stone, and I found this bearing tree. Now in the record, it said South 88 degrees, 10 links which is just a little distance here. And I came over here, this has never been disturbed, it's out in sagebrush country up here in northern Arizona never been disturbed. So I'm wondering, well why isn't that stone here? By the way, that's a good question to ask sometimes, you know? Why isn't that stone here? I mean, who would have taken it? There's never been even a fence built out there.

So, you know I was kind of suspicious, and there's another tree, so you know I came out my 10 links then went up to the bearing and distance to the other bearing tree. Well, I couldn't find, in fact I fell on exposed bedrock where there hasn't been a tree since Adam you know, so I get a little nervous here and so I wandered back up into the woods here to the North of this a little bit. And I found two or three blaze trees. And this is a North-South section line, so I knew there isn't even a chance of that being on the random line

### Question 4

Question: Is it safe to set a corner from a single remaining accessory?

ANSWER: Yes, but we should note a couple of concerns:

1. The reason you cannot find the mon or the other acc. could be due to this acc. having an error in a dimension
2. Use of one really requires some thought on Basis of Bearings and possible indexing

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it's going to be on the true line.

So, I found those and I kind of compassed back and it brought me down through here, and I found the stone. And I was just shocked. I found the stone, marked one quarter, so I measured from the stone out to the tree. And guess what? The notes say 10 links. It was 110 links. He just wrote it down wrong. And once I found the stone, then I measured up here and sure enough I did find that tree, it had fallen over, but it was, you know, it was 66 feet from where I had been looking for the other one.

So, now you might say this is Murphy's Law, you know. If you only find one accessory, it's the one with a mistake in it. I don't know if that's totally true I mean Murphy I believe Murphy used to be a surveyor until he got a good job. But just think about this, I almost set a cap here with 1-slash-4 on it. That would be pretty embarrassing to have set it exactly one chain away from a stone that's been sitting there waiting to be found for over a hundred years.

So, that's a true life story of setting a corner from one remaining accessory. It turned out there were two accessories it was just that one was the one that had a mistake. So, what's the bottom line answer there? Wander around out in the woods there for a few minutes.

Take a look, kind of think it through. Ask yourself, when a stone isn't there or whatever the monument is you know, wonder why that's not there? That's a good question to always ask yourself and try to answer it. If it's a busy place a lot of activity's gone on, well you understand why your evidence may have been disturbed or destroyed. But you know there is a lot of situations' where just asking yourself that common sense question helps you realize, that you know something? Something just is a little fishy here. Let's check it out.



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### Stone and Brass Cap

**Question Five.** You've found the original stone and it's in place and you found a General Land Office brass cap, because that was done back when the GLO was first starting to do dependent resurveys, and it's sitting right along side of it. It may just be, you know, a couple feet or, you know, even less than that in some cases. I've seen them 3 or 4 feet away because of the size of the stone. But you know the real question here is which is the corner, the stone or the brass cap? Now you need to, as always, read the record very closely.

Generally here's the rule. If the cap setter, ok in other words the GLO doing the dependent resurvey, if they said, "At the corner point I set this cap." Well, then the general rule is we're going to use the brass cap instead of the stone. Now, sometimes not often, sometimes you can prove that that's not what they did, but what that requires is that the stone and the brass cap are, you know, more than a couple feet apart, generally I'm saying, and you've got an accessory there.

Let's say that you had a bearing object 20 feet away; and so you measure the 20 feet, and it hits on the stone. It doesn't hit on that brass cap. You know there is 2 or 3 feet there. Well that might be an exception to that. But, the general rule that the bureau has used is if they use the term at the corner point then they really clearly they're telling you the intent of that resurvey was that the brass cap at the corner point I set this brass cap stamped this way. They are saying that our intent is that's the corner point. And so, what we're saying is you may be able to occasionally disprove that, but most often not. That's just one of those reality things about confusing evidence.

### Question 5

Question: You have found the original stone in place, and the GLO BC from a dependent resurvey is right alongside it. Which is the corner?

ANSWER: Read the record closely. If the cap setter said it was set "at the corner point", we generally use the cap. Sometimes this can be disproved with the use of close and accurate accessories, but otherwise the cap is the policy in these cases

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### Un-called for Evidence

Now, when we go out on the ground it happens a lot, more and more as time goes by, we don't find the original evidence.

We find something we don't even expect. There's no record of it and this is what the textbooks on surveying call the uncalled for monument. We find a monument that is not in any record. What do we have to do? We have to determine these things. Was it a faithful re-monumentation of the original? How are you going to figure that out? Was it a properly performed proportion to set a lost corner?

You know somebody was there and couldn't find the section corner, quarter corner so they reset it. See we don't have a record. We don't know. Or is this some bogus position set by someone as a best guess? And so now are we going to treat it as a lost corner now? Or what are we going to do?

The uncalled for monument; it really is a complex thing. I mean we could spend 8 hours. I've done seminars for 8 hours on that one subject. But, let me give you a clue of something we already read and looked at and it kind of helps us put two and two together here just a little bit.

When you think about the issues here, and especially how you are going to analyze this evidence that you've found, is it not true that the uncalled for monument could very likely be the same as an obliterated corner 6-17 in the Manual?

I think that's true because see the obliterated corner the original evidence is there, but you found something else and now you have to weigh it based on the general, but I think important terms or tests, that we're given to us in 6-17, especially in that second paragraph.

### The Uncalled-for Monument

- We often find a monument not in any record. We must determine if it was:
  - a faithful re-monumentation of the original
  - a properly performed proportion to set a lost corner
  - A bogus position set by someone as a best guess
  - A lost corner now?

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The uncalled for monument truly is the obliterated corner, so in my mind from an analysis point of view those are one and the same. And we should treat it that way. So, read 7-2 again. We read it a little while ago. Read it again as for clues on how to assess it.

The courts will ask all the time, even out in metes and bounds world when you find an uncalled for monument, you don't automatically accept it and you don't automatically reject it.

The courts ask this. Does it meet the **intent of the parties**? And you and I need to think about what the intent was of the public land system, something we covered in the first course that you took here in CFedS. And, does the parties at the time that that was set or they hired a surveyor, say 1950 they hired a surveyor, and he stuck this pipe in. We don't know who he is. We don't know how he did it, but what was the intent of the parties at that time? Was it for an absolute perfect survey?

Well, you couldn't get a perfect survey in 1950. I mean I suppose you could pay enough money and get a first order geodetically produced product out there, you know what I mean?

But, you know what was the standard of care back and what was the standard method and **misclosure** allowance? I mean even today surveys aren't required to be perfect, because believe it or not, they're not. You can't measure perfectly even with our GPS and all of our adjustments.

So, you know we need to be somewhat broad-minded and look back in time and see, well what was the intent of the parties then? I mean here's the public land system we've been talking about where you know everything's measured to the nearest link.

Well I'll tell you what, that means the distances are all to the nearest half link rounded, so I'm not going to argue about an inch. I'm not going to argue about it. It's irrelevant. So, you know somebody says, "Well, I measured out. I'm saying I'm metes and bounds, you know, I measured out here and it's measured to the nearest foot and I missed it three-tenths so I can't accept it." You've got to be kidding me. You miss it by three-tenths and the distances are to the nearest foot. It's right on the money. So, think

### Uncalled-for vs. Obliterated

- Really one in the same in analysis
- Read 7-2 for clues as to how to assess it.
- Courts ask "does it meet the intent of the parties?" What would you say is the intent?
- Beware of doing a pass/fail on it solely by proportioning or math analysis
- More in other sessions on this!!

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about this intent of the parties because I believe that is a really broad question. It's not a well there intent was to have it right there right down to, you know, an ant's eyebrow. No, that was not their intent because that was not the norm and that was not the standard of care at the time. So, don't hold them to that. So, in other words, you need to be careful. And here's my warning. Beware of doing a pass/fail on whatever evidence you found solely by proportioning or by a math analysis.

Let me put it this way. This might surprise you. But you know, if you find a pipe, let's say it's a section corner, you find a pipe and it's supposed to be a wood post or a stone or something, so you haven't found any of the original evidence but you find a pipe.

What a lot of people do is they'll go out and they'll go to the other quarter corners each way and they'll do a double proportion, which you're going to learn later in these courses exactly how to do that by the book. So, they do a double proportion and see how close it comes to that pipe, and then they decide whether they are going to use that pipe.

Now, there's nothing wrong with using it as part of your analysis; but what I'm concerned about, and this is what's happening a lot in our profession today, that is the sole test. It's the litmus test that here's this pipe.

Well, let's do a proportion. If we hit on it, or you know within whatever you want to say a few tenths, then that's it. Well, I've got a real problem with that. First of all, in spite of what the law says, in reality when you proportion in a corner because it's lost that becomes its legal position.

But if you think that's the original position, you don't understand proportioning or the reality of the measurements and the assumptions in proportioning.

So, I'm really careful about that, because frankly, if you find the pipe. You don't know where it came from. You do a proportion on it and you hit on the pipe. All you've proven is that you have the same measurements that guy did, and you proportioned it the same as he did. In other words, the original evidence may still be there.

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This is just somebody's proportion, because they didn't bother to look for it. So, you want to be very cautious about that. So, let's flip that coin over. So, you proportion it and you miss it by 12 feet. Is that a reason to reject it? I don't think so.

Let me give you a test you can do. You find some place where you have found, you know, quite a few section quarter corners in an area, and I'm talking original evidence or what you consider to be original evidence.

And you've got say a section corner that you've found and all four quarter corners out from it. Just use your quarter corners and do a double proportion and see if you hit that section corner. You won't hit it. I mean the odds are, you know, a million to one that you're going to hit it. What does that prove? See, well it proves that the assumptions that proportioning is based on are not realistic. We have to do them. It's part of the equity of how we resolve lost corners. I'm not talking about that.

What I'm talking about is you testing an obliterated corner. Don't let did I hit on it or hit within a few tenths of it be your pass/fail, because in reality I believe doing that actually proves the exact opposite of what most of us think we're proving. So, be aware of that. And you will hear some more in other sessions about that on the uncalled for monument, the obliterated corner situation, and using that as evidence.

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Now, I've got the ultimate question here that needs to be asked. How long should you search? And I'm not going to tell you the answer to that. I don't know the answer. But consider these points.

First of all, I think it's just dumb to have set time frames. I've worked for private organizations that had a policy you look for every corner for an hour. Well, you know what? Sometimes you're wasting your time out there, and other times if you had stayed another half hour and really thought about things and put it together, you would have found the evidence. You know those set time frames, you know company policy or whatever, that's foolish.

You are required as the Manual talks about in 7-1 to exhaust the reasonable possibilities. And where do we come up with the reasonable possibilities? Well folks, I think you come up with it by researching the record, and having a realistic approach to this. Also, you need to identify who does the best corner search in your organization, and I'm going to tell you something. It may not be you, registrant.

You may have a technician working for you, who is better at it and more persistent and more common sense and hey, use that person and give them a raise too. Identify who does the best corner search, and it may not be you, registrant, and let's just face it. That's the way it is. Now, I'm ok at corner search but I've had people working for me that are far better than me, and man just turn them loose. That's what they're good at. Let them sniff out that evidence.

### The Keys to Finding Evidence

But frankly folks, the real key to finding evidence; evidence that other surveyors do not find, and I'm not saying we're doing that to you know conquer them and be smarter than them.

I'm saying because you want to do the survey right. The real key to finding evidence that others do not find is simply this.

### How long should you search?

- Age old question, but consider these points:
- Set time frames are foolish
- Exhaust the reasonable possibilities
- Identify who does the best corner search in your organization
- But the real key to finding evidence others do not find is.....

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If you have properly researched the record, and if you have a positive attitude about corner search, and if you use your common sense, you will find evidence the average surveyor never will.

And yeah, like this gentleman here smiling, it's always a good feeling, isn't it? It's always a good feeling when you come up with that evidence, and when you discover something. Not just because someone else didn't find it, but because it's your job. It's your job to find that evidence and to put it to use.

The government, the taxpayers of America, you know, whether it was last week or 150 or 200 years ago, invested this incredible amount of money into the infrastructure of a land net from the public land system. And why? And you know they didn't just kick a mark in the dirt. They set a monument. They took bearing trees. They gave us topal calls. They gave us all this other evidence. Why?

So we can find it. It's our job to find it. It's not our job to measure and be the greatest measurers on earth. We should be good measurers, but that's not our job. The reason you and I are licensed in the states we're licensed in is not so that we, you know, draw nice looking plats or anything. It's so that we protect the private property rights of the citizens in boundary survey. And the only way you really protect those rights, whether it's federal or Indian trust land or just private land, wherever you're surveying.

The only way you and I protect those rights, which is why we're licensed, is by researching the record and going out there and finding the evidence. And that's what this corner search course and this module in particular are about.

### How long should you search?

- If you have properly researched the record, and if you have a positive attitude about corner search, and if you use your common sense, you will find evidence the average surveyor never will!!!



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Well, we're at the end of this discussion and I want to make sure that we have met our objectives, and here were the at least the plan that we laid out for us was this.

We wanted to review the need for evidence search. We talked about the common law and case law. Read a couple things. Wanted to review some tools for records research. Little bit about analyzing those records. We discussed uses of field evidence in corner point identification. Talked about some of the ways that it's supposed to work. And then we ended it by talking a little bit about conflicting evidence and different things that, you know, just don't seem to work out, and that seems to happen quite often. Not that the surveys are bad, I'm just saying that's just human nature.

So, I wish you luck on all your corner search. This is the heart and core of what boundary surveying is about, and frankly folks, it's one of the key things, you know, when we sat down and designed the CFedS training, you know, although we have 7 courses you're taking here there's more to come in the Continuing Ed. But you know there were 2 or 3 basic things that we sat down and says you know we've got to address this.

This is where all of us as surveyors fall down, and where we need to help build the CFedS up and help them do better and better at this. And one of those key ones was the records research, and then another one was the corner search. And so we're hitting it pretty hard in these courses and I hope you've been enjoying it.

So, that concludes my discussion on this. There's some more other things you'll be doing here about evidence evaluation, but once again I just wish you luck on all that you do with corner search. It's the best part of surveying. It's what makes it fun, and makes it challenging. So, don't turn your back on it.

Don't say that we can't afford it or can't do it; don't have the time. It's why we exist. Good luck.

### Conclusion...met objectives?

1. Review the need for evidence search
2. Review tools for records research
3. Discuss uses of field evidence in corner point identification
4. Explore keys to resolving conflicting evidence

**Good luck on all your corner search!!!!!!**