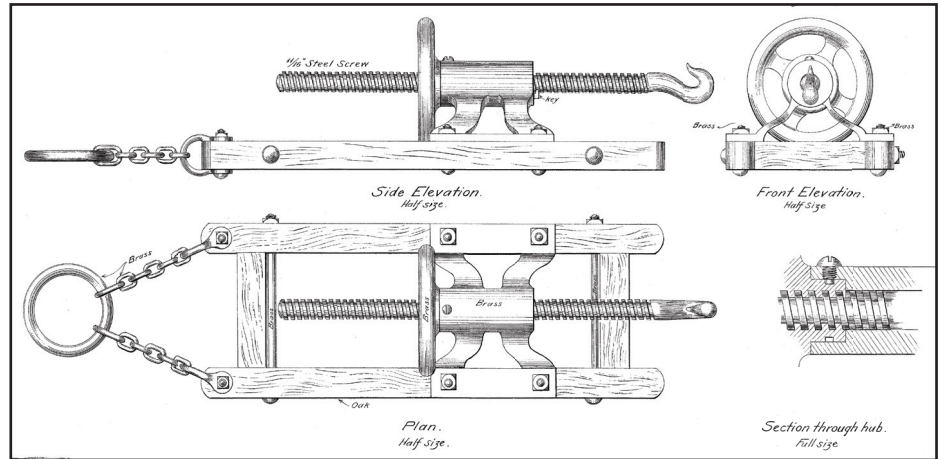


The UCLS Newsletter

What is it?



The UCLS Newsletter is published monthly by the

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IN THIS ISSUE:

- Page 2.....Board & Chapter Officers
- Page 3.....Getting to Know our Members
- Page 4.....NSPS news
- Page 5.....North Arrows
- Page 6.....Our Amazing Geomatics Future
- Page 7.....Then and Now
- Page 8-9...Monuments vs. Description
- Page 10....Dastardly Deed

“Since in a legal controversy the law as well as common sense must declare that the supposed boundary long acquiesced in is better evidence of where the real line should be than any survey made after the original monuments have disappeared.”
-Justice Thomas M. Cooley, CA 1881

From the historical vaults of the Salt Lake City Surveyor, Victoria Osterdicky provided us with an excellent diagram of well designed surveying tool. Be the first to identify what it is and what it is capable of doing and you become eligible for a free luncheon at your next chapter meeting. Answers may be emailed to Susan at srmerrill@ucls.org. The earliest received date and its time of response will determine the winner.

In This Issue: you are introduced to two more of our outstanding members, NSPS is asking for volunteers to assist them with the department of Labor’s definition of Surveying and is exploring the possibility of a “one-call” utility location system, followed by the ever-challenging know your north arrow competition.

Carl de Baca provides some hopeful and humorous insight to future geomatics; we review how the laws of surveying have changed between then and now; and have you ever wondered how those early surveyors used pen and ink?

Additionally, you may recognize our latest legal review appropriately titled Monument vs. Description. Last, but not least, another Dastardly Deed is included for your reading enjoyment.

We invite you to share charismatic photos of yourself and/or a coworker, panoramic images of Utah’s scenic wonders, or pictures of survey related tools and equipment. Additionally, we need interesting and unique descriptions or survey related stories to share with our membership. Remember, if you do not participate you have no right to complain. Please let us know your thoughts, recommendations, suggestions, or complaints.

The UCLS Newsletter is published monthly by the Utah Council of Land Surveyors (UCLS), as a service to the Land Surveying profession of the state of Utah. The publication is provided to UCLS members and similar organizations on a complimentary basis. The Newsletter is not copyright protected, therefore articles, except where specifically copyright noted, may be reprinted with proper credit given. Articles appearing in the Newsletter publication do not necessarily reflect the viewpoint or endorsement of UCLS, its officers, Board of Directors, or the editor.

Contributions are encouraged. Articles, Advertisements, Pictures, and Comments may be submitted to UCLS at ucls@ucls.org or uclsforesights@ucls.org

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Getting to Know Our Members

Jeremy Devon Davis

Residing at: **Cedar City Utah**

My spouse is **Misty Davis** and I am the parent of **5** children

My hobbies and/or interests include: **Hunting, fishing, camping with my family, wondering if a fence line is a section line when driving down a road, Dutch oven cooking**

When I retire, I want to **buy a cabin at Fish Lake and take it easy**

I have been a member of the Utah Council of Land Surveyors since **2007**

My current employer is **The Bureau of Land Management**

My position or title is **Cadastral Surveyor**

I am responsible for the **Color Country District, which includes the Richfield, Kanab, Cedar City, and St. George offices.**

I have been employed by this company since **2001**

I became a surveyor because **it is like a treasure hunt. I love looking for pre-1910 stone monuments, figuring out the field notes, and doing the math**

During the past **15** years, **GPS** has had the greatest impact on the surveying profession.

However, during the next **10** years, I believe **the future generations will have the most influence on its future.**

In my opinion, the future of surveying is: the younger generation, but we need to get out there and show them that surveying is fun and rewarding. Too many kids now days want what is easy and going to school for 4 years is hard work, and working out in the field under sometimes extreme conditions is not that inviting. We need to come out of our shells, so to speak, and fight for our profession, or the only ones left will be the old-timers.

Adam Dastrup

Residing at: South Jordan, UT

My fiance is Kati Lewis and I am a parent of one child (I call her my guardian angel) and two other children from my fiance's previous marriage.

My hobbies include traveling, listening to music on long road trips, riding my Harley, hiking, biking, running, playing guitar, and photography. I would like to get into drone technology as a new hobby. My interest and passion is in geographic and geospatial technology education, which includes surveying education.

When I retire, I would like to simplify my life so that I can travel around the world with my partner. I love visiting new places in order to experience new climates, physical landscapes, culture, architecture, land use patterns, and food.

I have been a member of the Utah Council of Land Surveyors since 2010 and wish they would look at stronger partnership between the statewide Surveying organization and statewide GIS organization. It would be an unstoppable professional, political, and economic alliance.

My current employer is Salt Lake Community College.

My position or title is Associate Professor at SLCC and I am responsible for coordinating the Geosciences Department. This includes Geography, Environmental Geology, Geospatial Technology, and Surveying/Geomatics. But in regards to the Surveying program, my primary role is to stay out of the way of Walt Cunningham and let him run the program and do his thing.

I have been employed by SLCC since 2006, but have been involved in the surveying profession since 2010 when the Geosciences Department merged with the Surveying program.

Though I am not a certified PLS, I am certified as a Geographic Information Systems Professional (GISP). I became a GISP because I have always had a strong connection with the physical and cultural environments, and geospatial technology helps me understand our world by analyzing various spatial patterns, migration and flow, land use change, and the connection between the society and the natural environment.

During the past five years, I believe LiDAR and UAVs have had the greatest impact on the surveying profession. However, during the next five to ten years, I believe cultural and gender issues will have the most influence on it's future. I would love to see a lot more focus on recruiting women and minorities into the profession. It will diversify the profession, bring new and exciting perspectives, and infuse the profession with an untapped potential workforce.

I believe diversifying the Surveying profession will have the most influence on its future.



O*NET Asks for more Participants, especially Survey Technicians

NSPS

About a month after NSPS provided the contact information for about 80 people for participation in a study being conducted by the Occupational Information Network (O*NET) to assist the Department of Labor in defining the positions of *Surveyor and Survey Technician*, O*NET has requested that NSPS attempt to get more Survey Technicians nationwide to volunteer, as well as more Professional Surveyors from the Northeastern states.

It is anticipated that there are not too many survey technicians who read NSPS News & Views so, in addition to those who have already done so, we are asking Surveyors to provide names of address, phone number, and email address of prospective participants to curtis.sumner@nsps.us.com

As noted before, the O*NET contractor will select a number of the volunteers from the name we provide, and sometime near the end of summer 2015 will contact those selected with details for the study.

NSPS explores 'one-call', 'miss utility' systems

NSPS

Are "one-call" or "miss utility" systems adequately serving the surveying profession? That is the subject of a study NSPS is launching. A brief questionnaire has been developed. Input from NSPS members in all 50 states is requested. Take a few moments and share your knowledge and experience. Go to <http://www.surveymonkey.com/s/S2JTK97>



March Where is It?

Robert Baker was the first UCLS member to respond with the correct answer to the "Where is it" from the March newsletter. Rob's email was received two minutes earlier than Kevin Despain. Grandma Peterson (you know who you are) was a close third.

The Spiral Jetty is an earthwork sculpture constructed in April 1970 that is considered to be the central work of American sculptor Robert Smithson. Smithson documented the construction of the sculpture in a 32-minute color film also titled *Spiral Jetty*.

Built on the northeastern shore of the Great Salt Lake near Rozel Point in Utah entirely of mud, salt crystals, basalt rocks and water,






Spiral Jetty forms a 1,500-foot-long (460 m), 15-foot-wide (4.6m) counterclockwise coil jutting from the shore of the lake. The water level of the lake varies with precipitation in the mountains surrounding the area, revealing the jetty in times of drought and submerging it during times of normal precipitation.

Originally black basalt rock against ruddy water, *Spiral Jetty* is now largely white against pink due to salt encrustation. Located at: 41 26' 20.26" N, 112 39'59.09" W - wikipedia.org

Picture submitted by John Keisel, son of Steve Keisel, who knew his father would appreciate a picture of an interesting survey monument. Mount Mitchell is in North Carolina and at elevation 6684 is the highest point on the east side of the Mississippi River.



Which North Arrow belongs to which company?

	A	B	C	D	E	
1 Northern Engineering						1 = _____.
2 Bingham Engineering						2 = _____.
3 Stringham & Associates						3 = _____.
4 Round Valley						4 = _____.
5 Gilson Engineering						5 = _____.

Answers on page 6

Our Amazing Geomatic Future

By Carl C. de Baca, PLS

I have recently discovered that I have psychic (or is it psychotic?) tendencies. I think I can see the future of our profession pretty clearly.

In our amazing geomatic future:

We will have GPS antennas implanted in the top of our heads so as long as we are upright we won't lose initialization. However, it must be said that this technology will likely not function correctly during survey conferences and golf tournaments.

We will all use software written by people who speak the same (or similar) language as us - eliminating such things as the apparent difference between a localization and a calibration.

Two surveyors measure a line and have results that agree.

Accessories for GPS equipment, such as cradles, pole clamps and various adapters, will not be marketed to us as though they came from Tiffany's, and don't get me started on used equipment like an old Zephyr Geodetic antenna...

Vendors will stop using the absence of necessity for our services as a selling point for machine control equipment

A Styrofoam-bodied, remote control airplane with a tiny digital camera and a single frequency GPS receiver will be a tool for a surveyor and not a replacement for a surveyor.

Geologist, armed with a hand-held GPS unit, won't tell us that our coordinates on the Southeast corner of Section 22 are off.

GIS practitioners will not feel the need to assemble geologic and/or historic data for our clients using some combination of UTM and NAD27, with an old quad map in the background, when just six months ago we provided new digital topography and orthophotography in State Plane NAD83

Contractors will rely on surveyors to set up site control and assist with digital terrain modeling and will no longer feel the need to press Wilbur, the guy with his own hand level (and a bad case of the shakes), into service in these regards. (And if Wilbur tells you he's a surveyor, he's lying through his tooth...)

Engineers, increasingly rolling out of college without so much a single semester of route surveying, will treat us as valuable co professionals and not some sort of necessary evil

A request to do an ALTA survey of an entire motel complex, complete with RV Park and the remains of a cemetery, will not carry an expectation that the lowest bidder will win the contract.

We will all one day recognize the need for continuing education, a formal degree pre-requisite for licensure and even the need for a strong national voice for the profession.

The public will treat us with respect and not sic their misshapen pit bulls on us and never will they brandish weaponry when we find ourselves searching for their neighbor's rear lot corners amongst their scrap piles and junk cars.



Then

An Ordinance creating a Surveyor General's Office

Section 6, *All surveys made in any County shall, upon the completion thereof be returned to the County Surveyor, who shall file a copy thereof, together with a copy of all surveys made by himself, in the County Recorder's office, in the County wherein the same is made; and transmit another copy of the same, together with the surveys made by himself, to the Surveyor General's office at the Seat of Government*

Approved, March 2, 1850



EDITOR'S PEN:

Old Ink

Most of us are familiar with the appearance of old iron-gall ink. It is seen in documents and deed books, in the familiar dull brown color of text and sketches. Iron-gall ink supplanted carbon-base ink in medieval times, because the ancient Chinese recipe of pine smoke soot, animal hide glue and sandalwood oil didn't adhere well to parchment. The new formulation used tannin-rich nutgalls, iron salts and gum arabic. When applied, the acid and salts reacted with oxygen and penetrated the parchment to make permanent markings. (Thrifty clerics sometimes caused old parchments to be scraped and re-used, but luckily the iron-gall ink persevered. An example is the Archimedes palimpsest, which contained two treatises found nowhere else, beneath the text of a 13th century prayer book. Modern imaging techniques revealed the original ink.) Iron-gall ink was used for hundreds of years.

During the age of exploration, surveyors, explorers and expedition notekeepers took along their supply of iron-gall ink in powdered form, keeping any freshly-mixed liquid in a stoppered jar. However, the use of ink on an expedition could be problematic at times. On September 7, 1806 William Clark noted an extreme amount of evaporation occurring along a windy stretch of the Missouri River, writing, "I am obliged to replenish my ink Stand every day with fresh ink at least 9/10 of which must evaporate." Once the weather turned cold, Meriwether Lewis closed one journal entry with, "the Ink freezes in my pen now."

When deprived of manufactured ink, substitutions could be made, with varying results in longevity and ease-of-use. One frontier recipe mixed egg whites, ashes or charcoal, and honey with a small amount of water. During the American Civil War, Virginia Clay Clopton

Now

17-23-17. Map of boundary survey --

(2) (a) (i) *Each land surveyor making a boundary survey of lands within this state to establish or reestablish a boundary line or to obtain data for constructing a map or plat showing a boundary line shall file a map of the survey that meets the requirements of this section with the county surveyor or designated office within 90 days of the establishment or reestablishment of a boundary.*

(b) *The county surveyor or designated office shall file and index the map of the survey.*

(c) *The map shall be a public record in the office of the county surveyor or designated office.*

Amended by Chapter 329, 2007 General Session



Mary M. Root

wrote, "We made our own writing fluids, our commonest resource being the oak gall, a parasite, which, next to the walnut burr, is the blackest thing in the vegetable world. Or, this failing us, soot was scooped from the chimney and, after a careful sifting, was mixed with water and 'fixed' with a few drops of vinegar. Sometimes we used pokeberries, manufacturing a kind of red ink, or, made thin with water, some bit of miraculously saved shoe polish provided us with an adhesive liquid."

Ink recipes could be found in early "household hints" books. Mr. W. Thomas of Columbus, Ohio printed his ninth such work "Containing Valuable Receipts" in 1888, titled *The Silent Instructor*. Thomas provides six different ink recipes – from "premium black ink" to "indelible ink for linens," and, for writing on colored paper, "white ink." The 1909 edition of *Spons Workshop Receipts for Manufacturers, Mechanics and Scientific Amateurs* furnishes this "Most Approved" recipe for liquid black writing ink: "12 lb. bruised galls, boiled for an hour in 6 gal. soft water, adding water to replace that evaporated; strain, and reboil the galls in 4 gal. more water for ½ hour; strain, and boil with 2-1/2 gal. more water; strain, and mix the liquors. Add 4-1/2 lb. coarsely powdered sulphate of iron, and 4 lb. gum-arabic in small pieces; agitate till the ingredients are dissolved, and filter through a hair sieve. This will make about 12 gal. of good ink." Mr. Spon advises further, "Nut-galls are introduced for the sake of their tannic acid. For this purpose they are not equaled by any other tannin-yielding substance. For cheaper inks the galls may be replaced by catechu, sumach, and a host of other astringent substances. A few drops of antiseptic (carbolic acid, etc.) may be added to prevent the formation of mould. It should be made in an enameled vessel." ■

IN THE UTAH COURT OF APPEALS
Mahan Khalsa, Plaintiff and Appellant,

v.

Jeffery F. Ward and Jon Q. Ward, Defendants and Appellees.

Case No. 20040164-CA

F I L E D

(November 4, 2004)

Fourth District, Heber Department

The Honorable Donald J. Eyre Jr.

Before Judges Billings, Orme, and Thorne.

BILLINGS, Presiding Judge:

¶1 Mahan Khalsa appeals from an order granting summary judgment to Jeffery F. Ward and Jon Q. Ward (collectively, the Wards) in a boundary dispute involving real property. We affirm.

BACKGROUND

¶2 Khalsa and the Wards own adjacent parcels of real property in Midway, Utah, both of which were owned by Homer Ellsworth prior to 1978. On July 4, 1978, the Wards entered into a purchase contract with Ellsworth for their parcel (Ward parcel). On September 12, 1980, the purchase contract was recorded; and on April 15, 1987, after completing installment payments, a warranty deed was recorded. In the purchase contract and the warranty deed, the eastern boundary of the Ward parcel is described as running along a ditch--which it is undisputed refers to the Epperson Ditch--but the stated metes and bounds set the eastern boundary just to the west of the ditch.

¶3 Khalsa purchased his parcel (Khalsa parcel) and recorded a warranty deed in June of 1999. Khalsa' warranty deed does not mention the Epperson Ditch, and the metes and bounds it specifies match the relevant metes and bounds specified in the Wards' warranty deed.

¶4 When a boundary dispute arose, Khalsa sought declaratory relief stating that he was the owner of the strip of land between the Epperson Ditch and the boundary established by the metes and bounds. The Wards counterclaimed seeking to quiet title. Both parties moved for summary judgment. The trial court granted the Wards' motion for summary judgment, ruling that reference to the Epperson Ditch in the Wards' purchase contract and warranty deed governs because the Wards' prior recording and long-term possession put Khalsa on notice that the Epperson Ditch was the boundary. Khalsa appeals.

ISSUE AND STANDARD OF REVIEW

¶5 Khalsa argues that the trial court erred by granting the Wards' motion for summary judgment after concluding that the Epperson Ditch was the boundary between the two parcels. Motions for summary judgment should be granted when "there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law." Utah R. Civ. P. 56(c). When reviewing a grant of summary judgment, we view all facts and reasonable inferences drawn therefrom in the light most favorable to the nonmoving party and review the trial court's conclusions of law for correctness. See *Lovendahl v. Jordan Sch. Dist.*, 2002 UT 130, ¶13, 63 P.3d 705.

ANALYSIS

¶6 Khalsa argues that the plain language of the two warranty deeds indicates that the metes and bounds set the boundary between the two properties. The Wards argue that reference to a landmark--the Epperson Ditch--governs over metes and bounds, and thus the Epperson Ditch sets the boundary between the two properties. We agree with the Wards.

¶7 In the trial court, both parties argued that the deeds are unambiguous. We agree, and thus interpretation of the deeds is a question of law. See *Gillmor v. Cummings*, 904 P.2d 703, 706 (Utah Ct. App. 1995) ("If a deed description is unambiguous, its interpretation is a question of law."). When interpreting deeds, "the intention of the parties as drawn from the whole deed must govern," and we look to the language the parties used to discern their intent. *Hartman v. Potter*, 596 P.2d 653, 656 (Utah 1979).

¶8 When the Wards obtained their parcel, the eastern boundary was described in two different ways in the deed--with metes and bounds and by reference to a natural landmark, the Epperson Ditch.⁽¹⁾ Because both descriptions are equally legitimate ways in which property can be described in a deed, a legal presumption has developed to resolve conflicts when two such descriptions do not match: "[F]ixed monuments or markers of a permanent nature which can be definitely identified and located take precedence over calls of courses or distances, or plats, or amounts of acreage . . . because it is reasonable to assume that the parties are more apt to be familiar with such monuments or markers." *Scott v. Hansen*, 18 Utah 2d 303, 422 P.2d 525, 527-28 (1966) (footnotes omitted). Thus, we must assume that reference to the Epperson Ditch sets the eastern boundary of the Ward parcel unless this assumption is unreasonable. See *Neeley v. Kelsch*, 600 P.2d 979, 982 (Utah 1979) (failing to apply the presumption where a general description of all land north of a county road would encompass two parcels clearly owned by someone else); *Williams v. Oldroyd*, 581 P.2d 561, 563 (Utah 1978) (holding that if using a monument as the boundary "drastically" changes what the parties intended, then the legal presumption does not govern).

¶9 There is nothing unreasonable in taking Epperson Ditch to form the eastern boundary of the Ward parcel. On the contrary, it is undisputed that after acquiring their parcel and while Ellsworth still owned what is now the Khalsa parcel, the Wards occupied the land right up to the Epperson Ditch. Therefore, the Epperson Ditch sets the eastern boundary of the Ward parcel.

¶10 Also, the deed to the Ward parcel was recorded first, and thus, the Epperson Ditch also constitutes the western boundary to the Khalsa parcel because Khalsa could not have purchased what he had notice the Wards already owned. See *Wilson v. Schneider's Riverside Golf Course*, 523 P.2d 1226, 1227 (Utah 1974) (stating that prior-recorded deed imparts notice of property boundaries to subsequent purchasers of adjacent property). Therefore, the trial court correctly concluded that the Epperson Ditch sets the boundary between the two parcels.

CONCLUSION

¶11 Because applying the legal presumption that references to monuments govern over stated metes and bounds does not ascribe unreasonable intentions to the parties, the Epperson Ditch constitutes the eastern boundary of the Ward parcel. Also, because the deed to the Ward parcel was recorded first, Khalsa was on notice that the Epperson Ditch constituted the boundary between the two parcels. Therefore, we affirm.

Judith M. Billings,
Presiding Judge

¶12 WE CONCUR:

Gregory K. Orme, Judge

William A. Thorne Jr., Judge

1. The deed reads, in relevant part: "thence South 0754'36" West along a ditch 680.80 feet (207.51 meters) to the point of beginning."

When Recorded mail to:
Steven E. Christenson
2412 East Wood Willow Circle
Salt Lake City, Utah 84109

11692383
7/26/2013 2:44:00 PM \$11.00
Book - 10163 Pg - 1221
Gary W. Ott
Recorder, Salt Lake County, UT
FIRST AMERICAN TITLE
BY: eCASH, DEPUTY - EF 1 P.

PROPERTY LINE DISPUTE

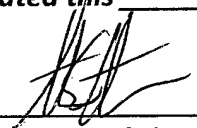
We, the undersigned, Steven E. Christenson and Stephanie A. Christenson, owners of property at 2412 East Wood Willow Circle, Salt Lake City, Utah, more particularly described as Lot 4, Willow Lane PUD, herein file a Property Line Dispute for property at 2418 East Wood Willow Circle, owned by Benjamin T. Brubaker and Stephanie A. Brubaker, on the following described property:

Lot 5, WILLOW LANE, P.U.D., ACCORDING TO THE OFFICIAL PLAT THEREOF RECORDED IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER.

SIDWELL NO. 16-27-255-005

This Property Line Dispute is given for the purpose of Benjamin T. Brubaker and Stephanie A. Brubaker, to remove several boulders off the property line owned by Steven E. Christenson and Stephanie A. Christenson so that they may put up a fence.

Dated this 26TH day of July, 2013



Steven E. Christenson



Stephanie A. Christenson

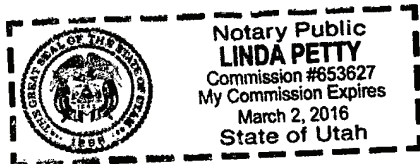
SS.

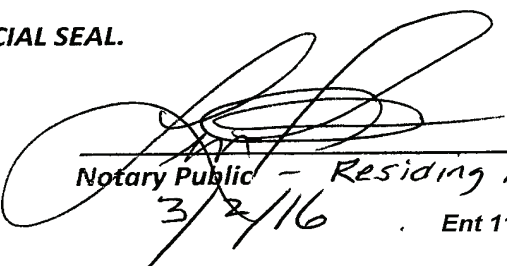
COUNTY OF SALT LAKE)

On the 26TH day of July, 2013, personally appeared before me STEVEN E. CHRISTENSON & STEPHANIE A. CHRISTENSON

the person(s) of the within instrument, who duly acknowledged to me that she executed the same in his/her authorized capacity and that his/her signature on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL.





Notary Public - Residing in Salt Lake City, UT.
3/2/16 Ent 11692383 BK 10163 PG 1221