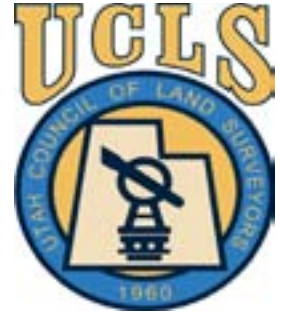


The UCLS Newsletter



Volume 4 Issue 11

March 2016

What is it



Those who have studied Utah history know the story of the Dominguez-Escalante expedition through our great state. The location of a portion of their historic journey is “monumented” by a 2-foot tall engraved granite marker. Correctly identify the location of this marker and you will be eligible for a free lunch at your next chapter meeting. Answers may be emailed to Susan at srmerril@ucls.org. The earliest received date and its time of response will determine the winner.

In this issue: We provide you with updated contact information for state and chapter officers; a real conversation between a surveyor and engineer regarding boundary surveys and filing records of survey; and a brief overview of the new boundary by acquiescence law.

Additionally, you will find another north arrow compilation, dastardly deed, and Knud Hermansen article entitled “Stranger to the Deed.”

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.

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“Each generation has a rendezvous with the land, for despite our fee titles and claims of ownership, we are all brief tenants on this planet. By choice, or by default, we will carve out a land legacy for our heirs.”
-Stewart Udall

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Google Racks Up Its First Self-Driving Accident

An autonomous vehicle being tested by Google hit a bus earlier this month, the first time the company said its self-driving technology is partly to blame for an accident.

The car, a Lexus sports utility vehicle, hit the left side of a public transit bus as it was attempting to void some sand bags on a road in Mountain View, California. The automobile had a test driver, who saw the bus approaching in the mirror but “believed the bus would stop or slow to allow the Google AV to continue,” according to an accident report filed with the state’s Department of Motor Vehicles.



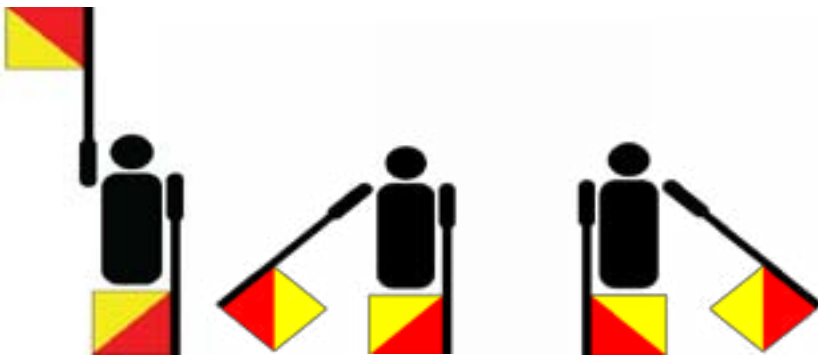
Google is betting that its efforts will lead to a future when a large number of cars on the road will drive themselves, and has been testing autonomous vehicles on streets near its headquarters for the past few years. The company acknowledged that the technology still needs work. The incident with the bus happened because the car’s software also predicted the bus behind it would yield so it could merge back into traffic.

“We can imagine the bus driver assumed we were going to stay put,” Google wrote in its February monthly report on self-driving cars, which Bloomberg obtained. “Unfortunately, all these assumptions led us to the same spot in the lane at the same time. This type of misunderstanding happens between human drivers on the road every day.

No injuries were reported, and the Google car’s left front fender, front wheel and a sensor were damaged. The car was traveling at 2 miles per hour (3.2 kph) and the bus was moving at 15 mph. Google has now made changes to its software so that its cars are less likely to believe buses and other large vehicles will yield for it, the company said.

While Google has taken partial responsibility for the collision, other incidents have typically involved the cars being rear-ended by human drivers, rather than the Google self-driving automobile driving into another vehicle.

February What is it



UCLS member Corbin Van Nest was the first surveyor to respond with the correct “Semaphore” translation of our February 2016 “What Is It” contest. Based upon internet research - specifically Wikipedia - the images equate to the numerical value of 417. However, UCLS member Dan Knowlden, Shaun Corey, Kent Nichols, and Dallas Butters claim the value to be 136. Do we have a learned professional who can testify to the validity of the flag meanings?

Flag semaphore (from the Greek, sema, meaning sign and, phero, meaning to bear; altogether the sign-bearer) is the telegraphy system conveying information at a distance by means of visual signals with hand-held flags, rods, disks, paddles, or occasionally bare or gloved hands. Information is encoded by the position of the flags; it is read when the flag is in a fixed position. Semaphores were adopted and widely used (with hand-held flags replacing the mechanical arms of shutter semaphores) in the maritime world in the 19th century. It is still used during underway replenishment at sea and is acceptable for emergency communication in daylight or, using lighted wands instead of flags, at night.

A real conversation between a Professional Land Surveyor and a Professional Engineer

Surveyor: Hey Mike, (names have been changed to protect the innocent and/or gully) how you doing?

Engineer: Good. So good to hear from you. Are you staying busy?

Surveyor: Yeah, staying busy. Things seem to be picking up for everyone. Who do you have doing your survey work now?

Engineer: We don't do much. Sometimes we send it out to Ronny (not his real name). He will make a site visit, check it over and sign the plat if we have anything that really needs it.

***NOTE: Ronny is a licensed land surveyor who has a full time job working for another firm doing survey work.

Surveyor: Who did the survey work in Logan (not the real city)?

Engineer: Up on Roundtree Avenue? We didn't do any survey work. They wanted to do some landscaping and earth work so they asked us for some elevations and site work. What's up?

Surveyor: You going to file a plat?

Engineer: A plat? I thought the lot was already platted. It's a lot in a subdivision right?

Surveyor: Yeah, it's a lot in a subdivision. Lot 15 right.

Engineer: We weren't going to create a plat or anything. We aren't doing a subdivision. the lot is already subdivided. Is there a problem?

Surveyor: Does that matter if the property is in a subdivision or not. If you set corners or do anything the public is going to rely on.

Engineer: We weren't doing anything like that. It was just a quick visit. We set them according to the recorded plat.

Surveyor: You set corners didn't you?

Engineer: No. We didn't set property corners. The owner just wanted to know where his boundaries were so he could have an idea of what to do for landscaping. They were going to build a fence and do some other stuff.

Surveyor: You set wood hubs and lath marked property corner.

Engineer: We didn't set any rebar. There are no caps on the site. We wouldn't do that. That would be surveying.

Surveyor: You set a monument at the property corner!

Engineer: No. We just marked the boundary for some landscaping.

Surveyor: No kidding! You marked the boundary. Sounds like you did some surveying. A wood hub, grade stake, rebar and cap or a paint mark on the concrete. Any mark identifying the boundary or a property corner is land surveying. The neighbors think you did survey work. They told me they hired a surveyor.

Engineer: No. That wasn't my intent. I wasn't planning on doing any survey work. I had some guys up there gathering some info so we could help with the design work. They wanted an idea of where their property was so they could get going.

Surveyor: So you didn't survey the lot? What would you call it?

Engineer: Well, I guess we did do some of that work. I wasn't trying to take any work away from you. That's not what I wanted. I wouldn't do that.

Surveyor: It's not that. There is plenty of work to go around. I just talked with the landscaper and he told me he hired a land surveyor. He got a little huffy with me. I asked him who and he told me you did it. I said "No, he's an engineer, not a surveyor." He said you were a surveyor and he has had you do other jobs. I said you worked for an engineering firm and there wasn't a surveyor on staff that worked there.

Engineer: Well, technically Ronny is on our pay role. He is an employee, at least part time or on-call.

Surveyor: So, was this done under his direct supervision? Is he going to replace your hubs with a bar and cap and file a plat? Is he going to sign and stamp it?

Engineer: No. We weren't planning on doing that. And we haven't done any other work for him. This is the first job I have done for that landscaper. I have known him for quite a while but we haven't done any work before this.

Surveyor: You know this isn't good for the profession. This is something I would have suspected from John Doe or ABC Engineering but not you. Aren't there enough problems and confusion without an engineer doing survey work?

Engineer: Are the corners wrong? Is there a conflict?

Surveyor: Not sure yet. I haven't done enough work to make a determination. The landscaper just said that he had done a recent survey on the adjoining lot and I wanted to find out who. See if I could get a copy of the plat and hopefully agree with one another. Then I find out that it was performed by an engineer and there is no plat. Then I found out it was you.

Engineer: No, you're right. What do I need to do to make this right? I don't want there to be a problem.

Surveyor: I think it's a little late for that. I am a little disappointed. I would have expected more. That is clearly boundary work, by any definition.

Engineer: So what do you want me to do?

Surveyor: Well, don't do any more survey work for starters.

***NOTE: This is a real conversation that took place on the phone between a PLS and a PE. This is not an official transcript, as the conversation was not recorded, but was typed from memory that following day.

Opinion Summary Q-2, LLV v. Hughes

At issue in this case was how and when a party acquires title to property under the doctrine of boundary by acquiescence. This case was based on a boundary dispute between Wayne Hughes and Patricia Hampton-Hughes (collectively, Hugheses) and their neighbor, Q-2, LLC and its predecessors-in-interest (collectively, Q-2). Q-2 brought an action to quiet title to the disputed property under the theory of boundary by acquiescence. The Hugheses counterclaimed, asserting that even if



Q-2 had acquired the property through boundary by acquiescence, the Hugheses had reacquired the property by adverse possession. The trial court dismissed the Hugheses' counterclaim on summary judgment and subsequently quieted title to the property in Q-2. The court of appeals concluded (1) the trial court correctly concluded that Q-2 had obtained title to the property through boundary by acquiescence, but (2) the Hugheses introduced sufficient evidence to survive summary judgment on their claim of adverse possession. The Supreme Court affirmed, holding that a party obtains title under the doctrine of boundary by acquiescence by operation of law at the time the elements of the doctrine are satisfied.

See: <https://www.utcourts.gov/opinions/supopin/Q-2%20v.%20Hughes20160216.pdf>

Hello NSPS members,

The American Association for Geodetic Surveying (AAGS) is in the early stages of pursuing development of a Geodetic Certification Program with NSPS. As part of that process, we created an online questionnaire. The purpose is to raise awareness of the proposed program and identify the required depth of geodetic knowledge.

More information can be found on the survey web page at geodetic.xyz/survey/index.php/378997

The program is being developed in cooperation with other geospatial organizations, so you may receive (or have received) additional announcements. Please forgive any multiple postings.



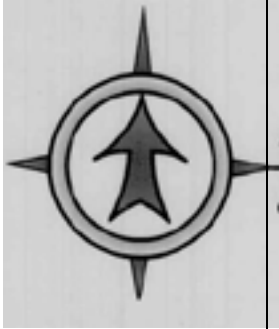

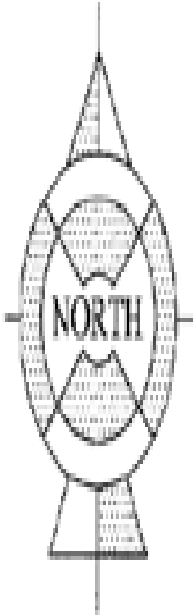
Thank you in advance for your willingness to participate in this survey!

Best regards,

Michael L. Dennis, RLS, PE

Chair, AAGS Geodetic Education and Certification Committee

Which North Arrow belongs to which company?

	A	B	C	D	E	
1 Bunker Engineering						1 = _____.
2 Foresight Surveying						2 = _____.
3 Cache Landmark Eng						3 = _____.
4 Schraut Surveying						4 = _____.
5 Buttars Surveying						5 = _____.

Answers on page 9

County Surveyor News



In 2015, 621 record of survey plats were filed in the Office of the Salt Lake County Surveyor. Of these 254 (41%) required some sort of correction, alteration, or addition.



Control Points – Number 31

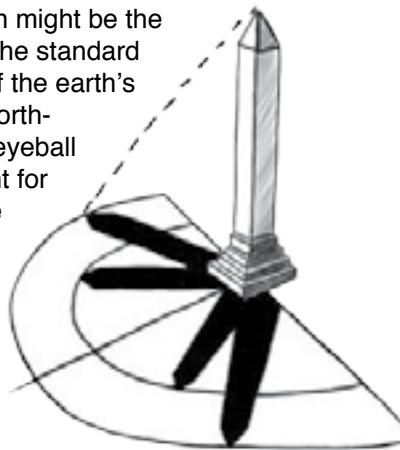
What Would You Do?

By Warren Andrews, PLS

If as a competent experienced surveyor you were suddenly dropped in the middle of nowhere with no equipment and no way of getting any, and you were begged to survey for constructing buildings and dividing up land and laying out fortifications, what would you do?

Determining direction might be the easiest start because the standard is relative to the axis of the earth's rotation as a defined north-south line. You could eyeball sight on Polaris at night for north if you were in the northern hemisphere.

If you were in either hemisphere you could determine direction by splitting sunrise and sunset by the sun's shadow at noon over a point (that's what the ancient obelisks were for) and get either north or south.



But things get a little trickier for lengths and distances. Do you want to try to duplicate a standard length by knowing you pace thirty three steps for one hundred feet? Or do you want to set up an independent standard like the metre bar in France and make everything else relative to it? Do you want to cut and try till you come up with tenths and hundredths and thousandths of your standard for ease of calculation? Or do you want to come up with halves and quarters and eights etc. for ease of splitting your standard?

That brings up another problem on your division of angles. Do you want to divide your quadrants, like the old mariner's compass, in halves and quarters and eighths, etc.? Or do you want to cut and try to divide a quadrant by ninetieths or by tenths and hundredths? (The right angle is easy from the old 3-4-5 triangle or the perpendicular to a line by geometric construction by arcs).

Running levels would be simple except for moving and setting up again, with a ten or twenty foot long grooved wooden log with water in the groove. You could tip your sight up or down across the water for whatever grade you wanted to hold. (Some of the old Roman aqueducts constructed with a chorobates (water level) were as flat as 0.02 percent but the water ran downhill!).

Without trigonometric tables the best solution for slope distance correction would be to lay out your distances full scale on a flat "surveyor's field" and measure your unknowns just like the old medieval surveyors used to do before they had tables. Of course this could also work for lengths of sides of right triangles or similar triangles when you were going in a different direction than north-south or east-west (How you described that direction would be up to you – maybe so many units north and so many units east [just like Cartesian coordinates]?)

On the whole it might not be as bad as it first seemed. To layout and construct the groined arches and flying buttresses like in a medieval cathedral or to direct underground mining might be difficult and take a lot of planning but wouldn't be impossible. The crudity of equipment could be refined and certainly multiple measurements would help. (How many thousands of measurements does a GPS receiver get in one setup for a good average?)

In other words, learn enough while you're at it surveying the easy way so you could back up and do it the hard way if you really had to.



THE CHOROBATES OF VITRUVIUS

Stranger to the Deed

by
 Knud E. Hermansen†
 P.L.S., P.E., Ph.D., Esq.

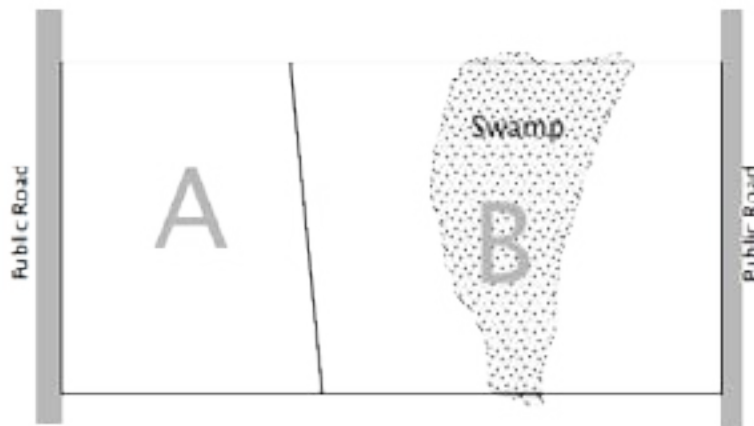
A surveyor queried me in regard to a conversation he had with a neighbor's attorney. The neighbor's attorney claimed that the surveyor's client did not have a right of way across the property belonging to the attorney's client.

The surveyor pointed out as proof positive that his client's easement was expressly mentioned within the deed of the attorney's client. How can the neighbor deny an easement does not exist when the easement is described in his deed?

Background

Here are the facts with the names omitted.

The owner of parcel B (surveyor's client) has wanted an easement for many years across parcel A (neighboring property) in order to access that portion of parcel B that could not be accessed without crossing a swamp. The owner of parcel A had always put off the request for an easement for parcel B by promising to convey an easement to the owner of parcel B at the time the owner of parcel A conveys his property. He was attempting to sell parcel A.



The owner of Parcel A, the neighboring property, entered a purchase-and-sales contract to sell his property. When the owner of parcel A conveyed his parcel, he inserted the following in his deed:

“Excepting and reserving from this conveyance a 20 foot wide easement along the northerly boundary of the above described conveyance for [the owner of parcel B], his heirs and assigns to access his property.”

Upon learning of this clause in the neighbor's deed, the owner of parcel B obtained a survey locating the easement and planned to build a road across the neighboring property (parcel A). The new owner of parcel A objected to both the survey and the contemplated road to be constructed. A dispute ensued.

Unfortunately for the surveyor's client (the owner of parcel B) the creation of the easement in the conveyance of parcel A was ineffective under the *Stranger to the Deed* Doctrine.

Foundations for the Stranger to the Deed Doctrine

Under the *Stranger to the Deed* Doctrine the law will not permit the owner of land to convey the land to one person and in the same deed to establish an easement in favor of another. In some jurisdictions, the stranger to the deed applies to all interests in property, not just an easement.

Under the *Stranger to the Deed* Doctrine the creation of an easement to an individual not a party to the deed is not a valid conveyance. There are several reasons for voiding a third party transfer.

First, there can be no presumption of acceptance on behalf of a third party when the grantee to the deed accepts the deed conveying title to the property. There is no meeting of the minds. The easement to a third party is not a collimation of negotiations.

Stranger to the Deed continued...

Imagine the havoc to title that could result if the acceptance of a grantee will bind a third party. Consider the situation where the owner of a parcel is burden by an easement of necessity crossing the middle of his property. Every attempt to persuade the owner of the appurtenant property to move the location of the road in the easement has failed. Without a requirement for a third party in a deed to accept the conveyance, the owner of the burdened property could sell the property to his spouse reserving and easement to the neighbor in a different location much more favorable to the burdened property and much less favorable to the appurtenant property. Without the Stranger to the Deed Doctrine to protect the owner of the appurtenant property, the establishment of an easement in this situation means that the “easement by necessity” no longer exists and its former location is extinguished.

A second reason for an easement granted to a third party to be void is that there was no consideration for the interest created in favor of the third party to the deed. Since there was no consideration for the interest conveyed to the third party (at least stated in the deed), the interest is not protected by the recording statutes.

A third reason for an easement granted to a third party to be void is that the easement conveyed will not be indexed and not found during a typical title search.

Consider the following ramification if the stranger to the deed doctrine did not exist.

If the creation of an easement to a third party in a deed of conveyance were permitted, the result would thwart notice of the easement during a title examination of the appurtenant property. Referring to the first scenario, the examination of the title to parcel B would never reveal the existence of the easement. A title search of parcel B's title documents would never reveal a conveyance from the owner of parcel A to parcel B. Even if an abstractor, searching parcel B's title were to look in the grantor/grantee index for title documents involving the owners of parcel A, the abstractor would never see a listing in the index where the owner of parcel A conveyed an easement to an owner of parcel B. It is not a reasonable and typical procedure for a title search of parcel B's title documents to also examine each and every title document for the surrounding properties.

The fatality arising under the Stranger to the Deed doctrine could have been avoided if the grantor had first made a conveyance of the easement to the owner of parcel B by deed, followed immediately (if so chosen) with the conveyance of parcel A.

Some jurisdictions have abandoned or modified the Stranger to the Deed doctrine. Why shouldn't the grantor be allowed to accomplish in one deed what can legally be accomplished in two? Is it much different from what the law has long permitted, for the grantor to convey, using just one deed, a life estate to one person and a remainder to another person?

Unfortunately for the surveyor who made the query that started this discussion, the jurisdiction where the properties reside continue to recognize the Stranger to the Deed doctrine. Even though the easement is cited in the neighbor's deed, the neighbor is under no obligation to recognize the easement.

Knud Hermansen is a licensed surveyor, engineer, and attorney at law. He teaches in the Surveying Engineering Technology program at the University of Maine and offers consulting services in boundary retracement, surveyor liability, roads & easements, boundary litigation, and alternate dispute resolution.

"THIS IS A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD SEEK COMPETENT ADVICE."

Recorded at Request of Ann Reed
at M. Fee Paid \$
by Dep. Book Page Ref.:
Mail tax notice to Ann Reed Address 1163 East Kensington
Salt Lake City, Utah 84105

3767134 QUIT-CLAIM DEED - AMENDED *

of Salt Lake City, County of Salt Lake, State of Utah, hereby
QUIT-CLAIM to Ann Reed, individually and as trustee for Daniel Reed Suarez
and Scott Alvarez Suarez

of Salt Lake City, Salt Lake County, State of Utah grantee
for the sum of
TEN DOLLARS,
the following described tract of land in Salt Lake County,
State of Utah:

The West 1/2 of Lot No.8, All of Lot No.9,
and the East 5.0 feet of Lot No. 10, Block 4,
NORWOOD PLACE, a subdivision of Lots 3, 4, and
5, Block 16A, Five Acre Plat "A," Big Field Survey.

* This amendment to the Quitclaim Deed recorded in the office of Salt Lake County Recorder as Entry No. 3293268 in Book 4879 at Page 1162 is made for the purpose of clarifying the intention of the parties that the Grantee, Ann Reed, receive the above-described real property individually and as trustee for Daniel Reed Suarez and Scott Alvarez Suarez and also to reflect that the other parties mentioned in the aforementioned Quitclaim Deed were anticipated pregnancies which did not come to maturation so that no such persons exist or have ever existed.

WITNESS the hand of said grantor, this Eighth day of
March, A. D. one thousand nine hundred and eighty-three

Signed in the presence of
Howard P. Johnson
Mary Ann Joach
STATE OF UTAH, } ss.
COUNTY OF Salt Lake

BOOK 5442 PAGE 2335