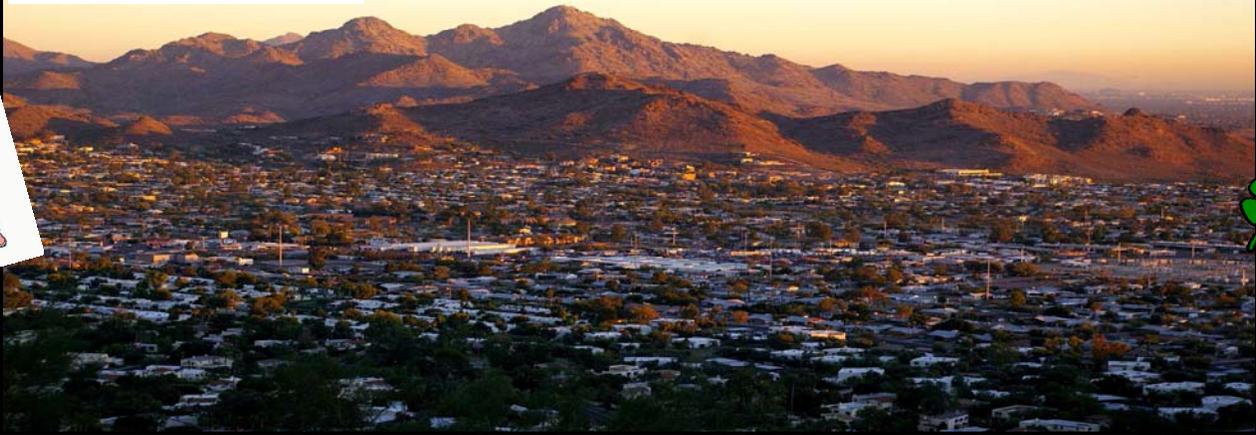


Kachina Chapter 28



Newsletter

MARCH, 2007

www.irwaaz.com

2007 Kachina Chapter Executive Board

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Region 1 Vice Chair:
Chris Banks, SR/WA
602.236.8175
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March Board Meeting & Seminar Meeting

 Wednesday, March 7, 2007

 4:45pm

 3rd Floor Conference Room

 Az State Land

Confirm your attendance with
Caroline at carolint@acqsl.com



Meet your Chapter Valuation Chair...!!!

Al Dickie,
SR/WA

I have lived in Arizona since the middle of the last century. I obtained a BS in Physical Anthropology with a minor in Electronic Technology from Arizona State University and then an MBA. I attended Law School at Southwestern University School of Law. I've worked as a Biomedical Engineer for Ohio Medical Products, as Deputy Director of the Planning and Disposition Division at the Arizona State Land Department, as Supervisor, Property Management Section, Appraisal Section, & Relocation Section, Maricopa County Public Works Department, and currently, as Supervisor of Property Management at SRP. Licenses and Designations: Arizona Licensed Real Estate Broker, Arizona Certified General Real Property Appraiser, SR/WA. Military Experience: U.S. Army, Vietnam 1968, 1969. I love to play any game with a ball or puck. I hate to sit and watch any game with a ball or puck. Married to Paulette Chartier and have two sons and a daughter.



PRESIDENT'S MESSAGE

Caroline Tillman, R/W-RAC, Chapter President



Boy am I glad to be back from PRES in Dallas, I was about to freeze to death over there with the snowflakes flying through the air! But WOW what a symposium! I have to give headquarters kudos on this symposium. It was miles ahead of the one in Anaheim last year. The breakout sessions were so inviting that I found myself wanting to attend two or three being held at the same time. Keep an eye on headquarters website for the downloads from the symposium.

Well our planning for the September Education Seminar has started. Your co-chairwomen visited the Phoenix Airport Hilton and we were very pleased with their sight and we have moved forward to secure it for the seminar. Unfortunately the hotel we have held our seminars at for the past couple of years will be undergoing renovations during September and therefore not a real good setting for our education efforts. If you have not provided your feedback to our education chair in regards to which classes you need or want, please do so ASAP so we can finalize the educational classes for the seminar.



SRP Naming Two New Substations for Chapter Members

Submitted by Chris Banks, SR/WA

One of the highest honors that SRP can bestow on a deceased former employee is to name a substation after them. SRP is naming two future substations for former members of Chapter 28 who passed away in 2006, Ted Walker and William (Bill) Snedeker. The employee must have worked for SRP for a minimum of 25 years and have made a substantial contribution to SRP.

Walker Substation: **Ted Walker** joined SRP in 1940 and retired in 1985 as Manager of the Land Management Division. He served as a Seabee during World War II and was a member of IRWA Chapter 28. He was also Captain of the Reserve Division of the Glendale Police Department. The new substation will be located in Gilbert one mile west of Riggs Road and Higley Road. This substation is scheduled to be in service for summer 2011.

Snedeker Substation: **Bill Snedeker** joined SRP in 1959, retired as a supervisor in 1989 and returned to work at SRP as a contractor until his passing in 2006. He served in the U.S. Naval Air Corps during World War II and was an active member of IRWA Chapter 28. The new substation will be located in Apache Junction near Southern and Tomahawk. This substation is scheduled to be in service for November 2012.

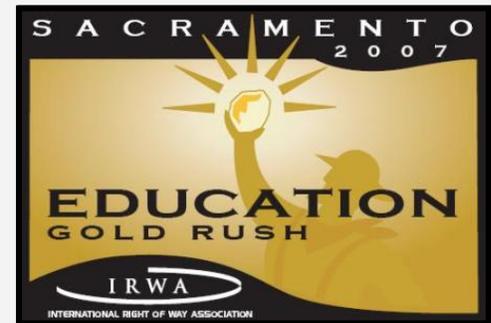


What's Happening in **REGION 1**

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



Get Registered Now!



UPCOMING REGION 1 EDUCATION COURSES

March

Chapter 27
802 Legal Aspects of Easements
03.06.07 Sacramento, CA

Chapter 01
200 Principles of R. E. Negotiation
03.08.07 Alhambra, CA

Chapter 44
803 Eminent Domain Law Basics for R/
W Professionals
03.15.07 Las Vegas, NV

Chapter 73
215 Right of Way Agents Development
Program
03.19.07 Tucson, AZ

Chapter 02
602 Project Development and the Envi-
ronmental Process
03.21.07 Martinez, CA

Chapter 73
214 Skills of Expert Testimony
03.21.07 Tucson, AZ

Chapter 67
103 Ethics and the Right of Way Profes-
sion
03.23.07 Laguna Beach, CA

April

Chapter 73
503 Mobile Home Relocation
04.02.07 Tucson, AZ

Chapter 73
502 Business Relocation
04.03.07 Tucson, AZ

Chapter 11
701 Property Management Leasing
04.04.07 San Diego, CA

Chapter 73
506 Advanced Business Relocation Assis-
tance
04.05.07 Tucson, AZ

Chapter 11
703 Real Property Asset Management
04.06.07 San Diego, CA

Chapter 01
104 Standards of Practice for the R/W
Professional
04.06.07 Alhambra, CA

Chapter 67
209 Negotiating Effectively with a Diverse
Clientele
04.09.07 Santa Ana, CA

May

Chapter 46
303 Managing the Consulting Process
05.14.07 Reno, NV

Chapter 01
205 Bargaining Negotiations
05.14.07 Los Angeles, CA





Relocation Report
Roger Ottaway, Relocation Chair



Proposition 207 Approved by Voters

The Private Property Rights Protection Act (aka Proposition 207), was approved by voters on November 7, 2006. The Arizona Republic dated November 29, 2006, noted that the unofficial vote count was 955,533 persons voted in favor of the proposition and 519,161 voted against the proposition.

Given the large margin victory for the proposition you can't help but ask, "What aspects of the proposition appealed to such a large number of voters?" Could it have been that voters saw this as an opportunity to gain some individual control back from the government? Could it have been the way that the proposition was titled and written? Maybe, the examples portrayed by the proponents of Prop. 207, consisting of use of eminent domain to condemn the property of an individual for purposes of redevelopment into a shopping mall may have motivated voters. Whatever the reasons, the measure passed by a large margin and there are a number of new challenges for all entities working in the field of land use and acquisition

Proposition 207 provides specific uses of eminent domain and retains current rights provided by state and federal law. The most important requirement is that the acquisition of personal property be for "public use". The definition for "public use" set forth by Prop. 207 is: the land is to be used for the general public or by public agencies, or the land will be used for utilities (presumed to include utility lines and facilities), or the land is acquired to eliminate a threat to public health or safety, or the land is to be acquired as a result of abandonment by its previous owners. All previous remedies and compensation for current landowners resulting from eminent domain remain the same. One new option for owners of residential property taken as a result of eminent domain is that the owner can elect to take the monetary value based on a comparable replacement dwelling without having to purchase.

In regards to changes affecting land use projects by Proposition 207, the League of Arizona Cities and Towns has formed a working group to identify some solutions to Proposition 207's requirements. The work group has created and distributed some recommendations regarding how local governments may prepare for diminished property value claims by landowners. One of their principal recommendations is that local agencies should obtain waivers by property owners that are or maybe affected by a future change to land use. Changes to land use may result from new annexations, zoning changes, building restrictions as well as other land-use actions.

A recent article in the East Valley Tribune mentioned the use or possible use of waivers by some East Valley cities. One city is requiring waivers for zoning requests and another city requires a waiver for all applications for changes to land use. However, some cities are in the process of drafting a "waiver" policy. The City of Scottsdale asks for "voluntary" waivers. The article also mentions the example of an applicant for building permit to erect a cell phone tower on his property in Apache Junction. He was advised that he would have to sign a "waiver" of his right to sue the city if the change to land-use reduced the value of his property. Once the waiver was signed, Apache Junction would issue permit. As you might guess, the mandatory requirement of signing a waiver is not sitting well with some folks who favored Proposition 207. City representatives say that waivers are needed to protect against lawsuits.

There are still many unanswered questions and unknown issues created by the new law. The government agencies and then probably the courts will be involved in sorting out the issues and claims. Proposition 207 will keep things interesting for acquisition projects and land use applications for at least the next couple of years.





Utility sessions for the Conference in Sacramento

Mike Burns, SR/WA, Utilities Chair



Presentations for Sacramento- June 2007

Monday 1:30-5:00: Utility Right of Way 101 – There are no Black and White issues: Introductory Course on terminology, infrastructure, maintenance, permitting, construction issues, damage issues, difference between distribution and transmission, acquisition, encroachment, valuation, eminent domain and title for the utility industry. This presentation will provide the right of way basics for acquiring utility easements. We can discuss a broad overview of the utilities industry and standards in the industry. A discussion of differences from other right of way disciplines such as public agency. We could do a panel discussion and have several experts discuss their topics. Kevin is willing to help to discuss the valuation part. J. will discuss title and eminent domain issues. This could be the building blocks for the Utilities Course that we have been talking about developing for years. We will do a two part presentation: Part One and Part Two. Patti will be one of the speakers. Ana will serve as the moderator.

Tuesday 11:00- 12:15: Not your average power outage: Turning on the lights after “Katrina” – a utility company’s experience with disaster response and recovery– Set the scene with the customers who were affected, size of the customer base, geography, facilities which were affected, duration of the outage, and personnel involved in the response and recovery. What was their experience? Discuss the immediate and long term response to the outage. Problems encountered with the response. What will you change in the future to deal with the next disaster? How South Mississippi Electric Power Association dealt with the affects of Katrina. Larry showed the group the power point presentation he will be presenting in Sacramento. Larry Griffin will be the speaker. Bruce will be the moderator.

Tuesday 2:00-3:15: Going Once, Going Twice, Sold - Utility Asset inventory and disposal with a case study using the Auction approach: Discuss this as an asset management session. How do utilities inventory their assets and than dispose of their surplus land. Once the inventory has been completed, how best to determine what assets need to be disposed. Discussion of various disposal options, such as traditional sale, donations for tax benefit, utility development or auction approach. Jim will discuss an actual case study by Consumers Energy on the Ludington Pump Storage project using the auction approach. What are the benefits for the utility? Mary Ann will also talk to Randy Ferrick about the asset inventory portion of the presentation. Jim Bernier will be presenting. Joel Boulbon will also be there from the auction firm. Mary Ann will serve as the moderator along with someone else from The Asset Management Committee.

Tuesday 3:45 -5:00: Where has all the broadband gone? Overcoming Regulatory Obstacles: This presentation will discuss municipal franchising issues such as fees and delays. The presentation will cover a discussion of Telecom franchising issues, such as regulatory obstacles on broadband deployment; political pressure for deployment and the challenges of removing the obstacles which are slowing the deployment; working in the deregulated environment with regulatory hurdles. Betsy will call Alan Louie to see if he will help with content for this presentation. Betsy will try and contact Meredith Atwood to have her discuss the federal perspective. Betsy will serve as the moderator.

Wednesday- 10:00-11:30: Utility Round Table: They shoot scared cows here. Open forum for questions relating to the Utility industry. This will be the last session that we cover. Ana and Randy will serve as the moderators.



To Get More Results . . . Stop Focusing On Results!

by Neil Dempster

Submitted to the Chapter Newsletter by Gregg Tuttle

If you are like most people, the title of this article probably had the desired effect – it almost caused a corporate aneurism! As a professional speaker, I often find myself in front of large groups of managers and leaders, all looking to me for the answers that will make their particular business unit more successful. So when I suggest that we need to stop focusing on results, I am usually met with a collective look of disbelief. Why? Because it flies in the face of everything we are told to focus on . . . and expected to get! Although I may have said it for “shock value,” it doesn’t change the reality . . . our exclusive focus on results is actually getting us less results because we are losing sight of the activities and behaviors which make the difference between mediocrity and peak performance. Many of our employees are lulled into a false sense of accomplishment simply because they think they are doing “good enough” or “better than the next guy.” Our organizations will never reach their full potential if we don’t start “behaving” the language of results. In this article, I will attempt to offer two crucial perspectives on this performance imperative.

The first perspective concerns the issue of “work ethic.” I often have people tell me societal values have changed significantly – that people entering the work force just don’t have a work ethic any more. But when I ask groups, “*Where does work ethic come from?*”, typical responses include, “*they learn it at home,*” or “*it comes from school,*” or “*it’s all about their upbringing,*” reflecting a lack of understanding of how behaviors are formed. Although there is a certain amount of truth in their responses, the actual answer to the question is – work ethic comes from . . . WORK! Let me explain . . .

With very few exceptions, on the first day of a new job, people show up on time, come back from their breaks on time, and do what is expected of them on time – on the first day. It’s the second day where we see the change start to occur because when she shows up on time and looks around and sees that other people don’t come to work on time – something changes! Or when he comes back from his breaks on time and sees that other people don’t come back on time – something changes! Or when she does what is expected of her on time only to find that other people don’t seem to care about meeting deadlines – something changes!

What changes is this thing called “work ethic.” Work ethic can be defined as the level of effort a person sees as appropriate or necessary for a particular work environment or situation. If you think otherwise, ask yourself “*Why did the person show up on time the first day?*” Because he or she knew it was right! It was our work environment that told this person what to do next! That means our accountability – no, our **management imperative** – is to start communicating the Behavioral Expectations™ WE want through our behaviors NOT through memo, e-mail, or policy manual.

The second perspective concerns the issue of acceptable performance. As a result of our previous (possibly current?) management practices, measurement systems, and coaching/feedback models, employees have formed an incorrect opinion as to what is considered acceptable performance. So when we communicate that we need more production, better quality, faster service, or simply present the dreaded “*do more with less*” speech, it is no wonder that employees think we are never satisfied, and that we expect more production for the same pay.

The easiest way to overcome this obstacle is to never let employees form this opinion in the first place! One way to deal with this situation is to make the first line in every employee’s job description “To be incrementally better tomorrow than you are today” and be consistent in supporting that initiative. This conveys volumes!

Why? Because one of the Behavioral Expectations™ WE want is continuous learning – so think of it this way – if employees are learning something new every day (and in today’s workplace it would be impossible not to be!), and applying that new knowledge/skill/ability on a consistent basis, better results will occur without an increase in their effort! In essence, all they are doing is applying the same effort as they did yesterday, but now they have some new knowledge, or know-how, or wisdom which allows the task to be performed more efficiently, allowing them to produce “incrementally more than they did yesterday.” It would be difficult to deny the logic in this formula.

Since we all know that the learning never stops, no matter what job function an employee has, a Behavioral Expectation™ of continuous improvement makes perfect sense. The outcome is a work environment where incremental improvement becomes the norm, instead of the “flat-lining” (the same results month, after month, after month) that is more typical. An additional benefit of this approach is that the employee will now see coaching feedback as developmental feedback instead of seeing it as criticism.

Copyright Clearview Performance Systems / Neil Dempster is a professional speaker, author, master motivator, and self-proclaimed business alchemist. You can reach him at: Neil@NeilDempster.com

Rules Sought on Mortgage Officers

Bill to require licensing would help curb fraud, backers say

Catherine Reagor

The Arizona Republic / Feb. 12, 2007 12:00 AM

Many of the people in Arizona who help home buyers finance what is often the biggest purchase of their lives are not licensed.

In the rapidly growing mortgage industry, many of these unlicensed people who handle home loans can put consumers at risk.

If home buyers get a bad loan with an exorbitant interest rate and extra fees, they are stuck.

And if unlicensed mortgage officers scam customers or engage in mortgage fraud, it's hard to hold them accountable.

It's estimated that there are as many as 18,000 unlicensed people taking mortgage applications, negotiating rates and getting loan commissions statewide. Many are enticed by the Valley's housing boom, exotic and often risky mortgages and no licensing requirements.

But things could change. If House Bill 2320 is passed, it will require the licensing of most of Arizona's mortgage loan officers and originators and bring more accountability to the industry.

If the legislation becomes law, mortgage officers and originators will have to take a class on the business, pass a test and pay a fee. They also won't be able to have any felony convictions anywhere in the country and will have to report whenever they move to another lender so regulators can track them.

The Department of Financial Institutions, which oversees state banks, credit unions, escrow firms and mortgage brokers and lenders, is backing the bill and would be responsible for regulating mortgage officers.

Complaints have soared from Arizona consumers getting mortgages with hidden fees and prepayment penalties and higher interest rates than promised. Foreclosures are climbing partly because many of those homeowners can't afford their mortgage payments.

Kelly Lewan recently bought a home in north Phoenix's Tatum Ranch. She secured a loan with a 9 percent interest rate and a promise that she could refinance in a few months and cut her payment. She even paid off a prepayment penalty on the loan when she closed.

Now, Lewan is struggling to make her monthly payment, and her mortgage agent isn't returning her calls.

"There are loan officers in Arizona who aren't educated on the business. They make mistakes and put consumers in the wrong loans. And some are committing fraud," said Stan Lund, president-elect of the Arizona Association of Mortgage Brokers.

"This legislation will make mortgage officers more accountable," he added.

Many experienced Arizona mortgage brokers and officers are backing the legislation.

Licensing loophole

The Department of Financial Institutions licenses mortgage brokers, but that is just a fraction of the people handling home loans in Arizona.

Only the official "broker" for a firm must be licensed. So a mortgage brokerage could have 50 employees handling loans, but only one designated broker is licensed. If the mortgage license legislation passes, those 50 loan officers would have to be tested, licensed and regulated, too.

The number of unlicensed mortgage agents in Arizona has shot up in the past five years, industry experts say. Although there are estimates of as many as 18,000, it's impossible to know exactly because there is no way to track them.

As for licensed mortgage brokers, the number has jumped to 1,390 from 775 since 2001. Licensed mortgage lenders have increased in that same time, to 619 from 335.

"We want to regulate anyone who is soliciting loans and getting commissions," said Felecia Rotellini, superintendent of the state Department of Financial Institutions.

Continued on next page....

Rules Sought on Mortgage Officers

Bill to require licensing would help curb fraud, backers say

Catherine Reagor

The Arizona Republic / Feb. 12, 2007 12:00 AM

"This will help us crack down on bad loans and fraud," she added.

She recently led efforts to start a statewide mortgage fraud task force to tackle a cash-back scam that involves obtaining a mortgage for more than a home is worth and pocketing the extra money. The scam inflates home values and defrauds lenders funding the loans. Separate legislation that would make mortgage fraud a felony subject to 10 years in prison also has been introduced.

More than 30 states have laws licensing mortgage officers.

"The bad mortgage brokers who can't pass tests in other states have gone to Arizona, and some of them couldn't get licenses because they have criminal records," said Richard Hagar, a Washington appraiser who helped that state crack down on fraud and who is a national speaker on the problem.

This is the fourth time backers of regulating mortgage officers have tried to get a law passed. One sticking point has been with such big mortgage lenders as Countrywide and Wells Fargo, which are licensed nationally and have hundreds of mortgage originators in Arizona. Those groups train their loan officers and originators and have strict compliance rules, but they have not wanted to license brokers locally because of the costs. This time they are exempt from the legislation.

"I know of mortgage people working out of their bedrooms and selling stereos on the side. They got into the business six months ago and don't know a lot about it. They can give the industry a bad name," said Rick Allen, a branch manager with the Valley mortgage firm O'Dowd and Associates.

"But the big lenders who are exempt from the legislation are also hiring people without any experience, and those people can also do bad loans."

Separately, mortgage regulators across the country are working to start a database to track all mortgage originators.

'I trusted him'

Most people assume that all mortgage officers are licensed in Arizona and that any loans offered them are legitimate.

Borrowers turn over their Social Security numbers, W2 forms and other personal information to mortgage officers. And those mortgage people can tap big financing for homes.

Lewan said she thought everything was on the up and up when her Valley mortgage officer said she could get a \$310,000 loan for a \$299,000 home. She said he told her the extra \$11,000 could be applied to her debt and she could quickly refinance to get a better loan with a lower rate because her credit record would improve.

But she said most of the \$11,000 went to the mortgage broker, and he won't return her calls about the money or help her refinance to reduce her \$2,400 monthly payment.

"I called his boss and got nowhere, and neither my broker or his boss are licensed," said Lewan, the single mother of two boys works two jobs, as an interior decorator and at a furniture store.

"I trusted him, and now I can't make my house payment and had no idea getting money back was part of a scam."

She said she is going to file a complaint with the Department of Financial Institutions. But the agency will have no record of the mortgage broker she worked with because he is not licensed.

Regulators and mortgage watchdogs say consumers need to educate themselves more, but licensing brokers will help cut down on the problems.

"So many sales contracts fall out of escrow in the Valley because of incompetent mortgage people," said Mary Gomez, a West Valley real estate agent with Realty Executives. "Real estate agents have to have licenses. Appraisers have to have licenses. All mortgage officers should, too."

MINUTES

Executive Board Meeting
IRWA Kachina Chapter 28
January 10, 2007

Those in attendance included:

Cate Chamberlain	Kathie Sholly
Caroline Tillman	Doc Sterling
Carrie Lundin	Mark Keller
Doug Estes	Mike Burns
Sharon Dyke	Melita Hillman-Potter
Roger Ottaway	Kaye Bockmann

- The meeting was called to order by Caroline Tillman at 4:50 pm in the 3rd floor conference room of Arizona State Land.
- An attendance sheet was circulated for everyone to sign in.
- Minutes for the December executive board meeting were submitted. Motion by Mark Keller to approve, Second by Doc, unanimously approved
- Treasurer's Report for January was submitted. Motion by Mike Burns to approve, second by Melita, unanimously approved
- President Elect: Need to discuss luncheon speakers under new business
International Director: Discussion of 2007 Annual Conference in Sacramento June 17-20, 2007. Those required to attend are the international director and the chapter president.

Committee Reports

- By-Laws: Mark Keller is forming committee to revise by-laws.
- Education: Six classes are planned February 5 through February 16. E-mail ads have been sent through Region 1 and to all region chairs. The location has been arranged (Ameri Suites), instructors have been selected and all issues are covered. There was discussion on what to call courses (seminar, February classes, education opportunities, etc.) There was discussion regarding scheduling courses when there are no conflicts with other IRWA functions.
- Education Real Estate and Appraisal Credits: The Department of Real Estate has revised the approval forms. Melita is in process of getting approval of 900, 902, 200 ,802, and 104. 209 will not be approved. The course certificates have changed.
- Environmental: No report
- Ethics: No report
- Local Public Agency: No report
- Luncheon: Discussion under new business
- Marketing: No report

Membership:

The following people were read for approval:

Rodney N. Fehlman, Onward & Upwards, LLC
Jayne Lewis, Salt River Project

The following people were read for 30-day consideration:

Colleen J. Watling, Coconino County Public Works
Michael Watson, Salt River Project

Motion by Mark Keller, to approve as read, seconded by Melita Hillman, unanimously approved

- Newsletter-Web Site-Job Bank: Newsletter for January is on the website. Roger Ottaway is submitting photos and others are submitting articles. The newsletter is improving. Old job listings are being weeded out of job bank. Work on web site is still in progress. There was a discussion of ways to improve the newsletter. A photo and bio of a few chapter members will be included in each newsletter.

Continued on next page....

- Nominations and Elections: No report
- Professional Development Committee: Plaque for Bill Biggs will be presented at next luncheon if he attends. Other chapter members are getting close to obtaining their SR/WA.
- Property Management: No committee chair-no report
- Relocation: There was no report regarding relocation, however, Roger Ottaway continued discussion of a computer projector for chapter luncheons, seminars and courses. There was a discussion on whether or not an extended warranty should be bought with the projector. The general consensus was that a warranty should not be bought. There was discussion on who should house the projector. The conclusion was that the Education Chair and Luncheon Chair should share responsibility for the projector. Motion by Doc to approve up to \$1,000 for the new projector including accessories, second by Kaye, unanimously approved.
- Seminar Chair: Discussion under new business
- Survey: No report
- Transportation: No report
- Title and Escrow: Sharon Dyke is providing newsletter articles. There was discussion on what to write in the articles.
- Utilities: Mike Burns discussed the Public Real Estate Education Symposium in Dallas Texas, February 13-15. He mentioned that international is considering consolidating the Utilities Committee and Local Public Agency committee into a single committee.
- Valuation: No report

Region 1 Business: No report

Old Business

- Kachina Chapter 28 Website Update: Already discussed under Newsletter-Web Site-Job Bank.
- By-Laws Revisions Update: Already discussed under by-laws committee.

New Business

- Luncheon Speakers: We do not yet have a speaker for the February luncheon. There was discussion on who we should get to speak. It was concluded that in February the speaker would be telecommunications related. In April the speaker would be title related. And in June the speaker would be light rail related. Other topics could include State Trust Land issues and eminent domain bills.
- Fall Seminar Planning Committee: Discussion regarding the need to start planning. Mark has a book that maps out the seminar planning process. There are three possible places to have seminar: Phoenix Airport Hilton, Sheraton Phoenix Airport, Ameri Suites. Seminar Committee will meet immediately after the next executive board meeting in February to begin the planning process.
- Publishing Committee Reports on a Monthly Basis: There was a discussion on which reports to publish. Executive board meeting minutes and other non-financial reports should be published. Treasurer's report and account balances should not be published.
- Mike Burns: Discussion regarding Mike's attendance at the Spring Forum as the Region 1 Representative of the International Utilities Committee and the chapter paying expenses. Motion by Doc to approve expense, second by Mark, unanimously approved.
- Location of Remaining Chapter 28 lapel pins: Found with Mike Wilson's PDC items. Given to Caroline Tillman to house. There was discussion on making pins available to chapter member. Cost of pins was discussed. Pins will be made available for \$5.00 per pin.
- Other: Storage locker is up for renewal. Price increased \$4 per month. There was discussion on what to do with locker. Cate will try to negotiate last years price.

Motion to Adjourn by Doc. Seconded, by Kathy. Passed. Meeting adjourned at 6:25 p.m.





Gregg Tuttle, Manager
SRP Land Department
Surveys Division



Surveyor's Corner

Gregg - It looks like a LOT of (AZ) State Trust Land will becoming private land in the next decade, such as the massive area referenced as the "Superstition Vistas" in the southeast valley area of the metro-plex. I guess this means that you professional land surveyors types will finally get to survey land where the original GLO (General Land Office) corner monuments are still existent. Are you looking forward to following in the immediate footsteps of the original surveyors from the 1860s & 1870s through to the early decades of the 1900s and finding all those undisturbed, original brass cap monuments?

Ah.... If only.

One really needs to understand the situation surrounding the great public land surveying system (PLSS) during the later half of the 19th Century, especially in the 1880s. The 1880s were frantic and frenzied years of development and settlement of the public lands in the western states and territories, as examples over one-half of New Mexico and nearly two-thirds of Colorado were surveyed in just the early 1880s. Unfortunately, evidence now exists to suggest that the flurry of GLO PLSS surveying activities in the 1880s may have contributed to an "era of fictitious and/or fraudulent surveys" of the public lands.

The following paragraphs are extracted, edited and paraphrased from the article entitled:

"Era of Fictitious Surveys" by Marlin ("Lin") Livermore, appearing in the 12-90/01-91 issue of POB magazine.

Background History:

The Homestead Act of 1862, was one of THE most important land settlement acts passed by Congress. It provided an opportunity for anyone to gain free title to land through settlement and occupation. A claimant could also settle on unsurveyed public lands. This was called a preemptive entry and created a preemptive right. After the land was surveyed, claimants who had made preemptive entries had 90 days to file for a homestead claim before the land was opened to the public for general homesteading. In 1871 an amendment was added to the Homestead Act that change the Special Deposit System to where preemptors could not only make a payment toward a survey for their lands, but after the survey the settlers could then apply this certificate of deposit toward payment for their homesteads.

In 1879 the Homestead Act was modified again and provided that once a survey was executed, the certificates of deposit could be returned to the depositor for cash or put toward the purchase of any surveyed public lands, not just the depositor's homestead. One sentence in a statute, probably the most extensive, if not expensive, modification in the history of the United States, laid the groundwork for immeasurable fraud in surveys and in obtaining public lands.

Suddenly, in 1879, there was an explosion of public land surveys in the western states and territories. Syndicates took over the surveyors of the public lands.

*A "dummy" system was used to develop fraudulent land claims and to receive payments for fictitious surveys. **The Annual Report of the Commissioner of the General Land Office for the Year 1885** describes the dummy system:*

- 1. Syndicates would pay a "dummy" to claim a preemptive right to the public lands and to make a deposit for survey.*
- 2. Government contract surveyors, who were also members of or paid by the syndicate, would prepare field notes and plat maps of a complete or partial fictitious survey. The State Surveyor General would approve notes and plats of surveys and pay the surveyors.*
- 3. The "dummy" claimant would apply the deposit to the fee for the homestead, claiming 14 months settlement and occupation and preemptive right.*
- 4. The "dummy" claimant would receive title to the lands and turn the ownership over to the syndicate.*
- 5. The "dummy" claimant would take a fraudulent copy of the Special Deposit Certificate to another (GLO) land office, declare the original was lost, and demand payment for the special deposit.*

The results were free title to land for the syndicate, without settlement or occupation, payment for surveys that were never executed, and turning the money over a third time to receiving payment for the special deposit. The dummies use fictitious names, which made it impossible for the GLO Special Agents and the Secret Service Agents to locate them during subsequence investigations.

The fraudulent land grabs operated in all of the western states and territories, in the early 1880s. In Arizona we had James Reavis, self proclaimed "Baron of Arizona" who forged more than 200 documents, including birth and marriage certificates and military service records for the "Peralta" family in support of fraudulent land claims. The fictitious Peralta Land Grant claim covered 19,500 square MILES in Arizona and western New Mexico, equivalent in size to 540 PLSS TOWNSHIPS! (We can save "The Baron" for another Surveyor's Corner.)

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Surveyor's Corner continued

Between 1885 and 1891 the GLO investigated literally tens of thousands of land fraud cases throughout the west. Unfortunately, because of the corruption and graft on-going even within the government itself, the indictment rate was only about 15% and of those indictments the actual conviction rate was about 2% !! L The prosecutions failed because of corruption in the legal system and in the U.S. Congress. Most of the incorrect surveys were never corrected (!!!)

Additional new confusion is about to be generated by those uncorrected surveys, which have stayed "hidden" (some within AZ State Trust land townships that are now being considered for sale.)

Understanding the era of fictitious surveys requires an understanding of the legal, social, and political climate of the period that created the attitudes and means by which extensive fraud was not only allowed but encouraged. Each year the various state commissioners were required to report the miles of surveys executed. The reports had to be accurate in order to equal the numbers of miles paid for under contracts. The mileage reports were ludicrous and any person with even the slightest knowledge of surveyors' capabilities of surveying miles of section/township lines could immediately discern that something was terribly wrong.

Decades ago, some local surveyors who were aware of that substantial numbers of corner monuments were not set, shared a general belief that the lack of land corners in those townships were the result of "barroom surveys" performed by some "good ole boys" and, they further believed that at the time of the survey, and, still believed as recent as the 1950s and 1960s, that those surveys were made on "useless" desert lands. Who Cares? Many modern surveyors have little or no insight or knowledge about these problems that have been sitting, like unexploded ordinance, waiting to cause new problems 120+ years after their creation.

The Annual Report of the Commissioner of the General Land Office for the Year 1883 contained claims by surveyors general of tens of thousands of miles surveyed in their districts during that year (!) The report provides evidence of the extent of the fraud.

Arizona territory reported the smallest of any territory/state with "only" 8,825 miles surveyed and 393 township plat maps approved; (apparently Arizona was having a hard time competing for the "really BIG" monies that were rolling in the other states and territories.)

The Annual Report of the Commissioner of the General Land Office for the Year 1885 blew the lid off the practice of fraudulent surveys. The commissioner had proof of extensive fraud based on the reports of the survey inspectors and what they had seen in the field.

"Evidence is cumulative that surveying has been done with great laxity, and there is abundant reason to believe that numerous returns (notes and maps) have been made and paid for of work that has never been performed on the ground."

There were only six examiners of surveys sent into the western field to inspect all of the tens of thousands of townships executed in the three years prior to 1885. A sampling of their discoveries: Nevada, 19 townships examined, ALL were condemned; of 38 townships subsequently examined only one was found to be acceptable. Colorado, 27 townships examined and all work was condemned by reason of no interior or subdivisional corner monuments being found. Various examinations "failed to disclose a single mile monument or any evidence whatsoever of the lines having ever been actually run or marked on the ground."

The intent of the Rectangular Survey System was to set land corners in a manner permitting settlers to occupy their lands with confidence. Where the surveys were faithfully accomplished, frequently 80 to 90 percent of those corner monuments are capable of recovery, even after 140+ years have passed; with most all of the fraudulently surveyed townships, recovery runs from not more than 10% down to zero.

NOTE: Although the knowledge of and investigations into this massive western fraud started in earnest in 1885, the various fraud-masters were still in the thick of it well into the early 1900s. !!!

Fictitious and/or Fraudulent surveys of the U.S. public domain are a significant factor to be considered in any Arizona retracement practice, and although we have focused on the explosion of such events in the 1880s, the practice of fraudulent surveying was generally prevalent to a moderate degree in all public domain surveys starting as early as the 1850s, and, as noted, continued on past the 1880s until 1910 when the government finally ended the contract surveying system, and all subsequent surveys were accomplished by direct federal employees.

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Surveyor's Corner continued

For today's land surveyors the era of fictitious surveys is not just an interesting historical tale of schemes and dishonor. Yesterday's fictitious and/or fraudulent surveys and land deals have created problems that linger for today's land surveyors and landowners.

The cost and time for resurveys are dramatically increased when a fictitious or fraudulent survey is encountered, since property rights must be protected whether "on the ground survey evidence" exists, or not.

The courts have been clear on the status of official government surveys:

"After the government has sold lands according to a survey and plat, it cannot dispute the truth of such survey and plat." (49 Northwest 303, 1897).

*"Where the plats and field notes of the surveyors have been approved by the Commissioner of the GLO, they are, as to all matters relating to the sale and disposition of the lands of the United States, conclusive and binding upon all persons dealing with the United States, and well as upon the government itself."
(Circuit Court, Washington, 1890).*

The courts have given the official survey record deposition status and consider it prima facie evidence - (evidence which, if unexplained and uncontradicted, is sufficient to sustain judgment in favor of the issue which it supports, but which may be contradicted by other evidence) - of the facts stated therein, requiring a clear preponderance of evidence to overcome statements in the official record.

The era of fictitious surveys is no exception to the official survey record status. Previously undetected fictitious survey records have equal standing with survey records until clear preponderance of evidence is brought forward.

Land Surveyors and other users of official government records must always be aware of the potential for problems created by those fictitious surveys. For just one example, in some cases, lines from those records may appear on United States Geological Survey (USGS) 7.5-minute quadrangle maps. (DOPPS!) An unsuspecting public may rely on those lines as representing the land tenure and ownership system. This is particularly true when the land net lines unwittingly have been used to automate land records in support of land information and/or geographic information systems (GISs).

Land surveyors, their clients and the public have inherited major problems as a result of the era of the fictitious surveys.

It does not take long for a surveyor surveying the deserts of Arizona to discover there is something wrong out there. Corner monuments just do not exist. Large blunders are found in original surveys.

The topography referenced in the original field notes and on the plats is fictitious.

It is the land surveyor's professional responsibility to recognize these problems and to inform the public of their existence and their potential effects on property rights. This is especially true in this age of automated information systems where professionals less familiar with historical facts and evidentiary procedures are incorporating land surveying data in computerized decision making databases.

The evidence is clear that an era of fictitious surveys existed in the western states and territories, including Arizona. It has been estimated, by knowledgeable, former, cadastral surveyors of the Bureau of Land Management, (BLM, the successor agency of the GLO), that perhaps as much as 40% of the PLSS lands in Arizona may be tainted and stained with the scars of fictitious and/or fraudulent land surveys. !! (NOTE - that is not as large a portion of Arizona's public lands as it might first seem, since much of the public lands in Arizona are now in National Forests, Wilderness Areas, Military Lands and the like, and as such were never even surveyed to begin with, - please see a prior "Surveyor's Corner" article about "protracted" public lands.)

Whenever a professional land boundary is charged with the responsibility of recreating ("following in the footsteps") of a fictitious and/or fraudulent survey that current surveyor runs into the most complicated problems encountered in the land boundary surveying profession.

The question then arises: "How can the modern surveyor "follow the footsteps" of a fictitious or fraudulent survey when there are no footsteps to follow? Stay Tuned next time.

Well, that's it for this issue from the "Surveyor's Corner." If anyone has feedback or comments, please feel free to share them. As always, I am interested in the opinions from, the readers of the Kachina Chapter 28 Newsletter. Please keep sending in those questions. *Until next time, Thanks for reading about land surveying & land surveyors. -*

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