

Chapter B

Fundamentals of Completions and Independent Resurvey

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Introduction

The following examples of original surveys, subdivision-of-section surveys, completion surveys and independent resurveys, are grouped together for discussion because the same basic fundamentals of law, regulations, procedures and so forth will apply in some aspect of their execution.

In nearly every case there is an out boundary to be determined by the dependent resurvey method, with unsurveyed areas being determined by the original method. The extent and form of the original survey is to be controlled by the location of any prior survey and any applicable plat.

There are only two basic types of surveys, original and dependent; original surveys create boundaries and dependent resurveys reestablish boundaries. All other designations are employed to identify the primary purpose of the survey.

Definition

An original survey creates boundaries and is usually executed in accordance with a plan. The contents of the plan will vary in detail. The plan of survey in the rectangular system is a very formal plan, wherein every detail of execution is set forth. The plan of survey for a placer claim, tract and so forth, will have fewer detailed specifications.

The dependent resurvey restores prior established boundaries, and is dependent on the condition and position of the prior survey for the correct procedure of execution.

The terms completion, independent resurvey, subdivision-of-section and so forth are in effect either an original survey, dependent resurvey, or a combination of both, executed for a primary purpose.

A completion survey is an original survey executed to complete: (a) a part of a township boundary, (b) the boundaries of a township, (c) the subdivisional lines of a township, (d) the boundaries of a section or (e) the subdivision of a section.

The Manual of Surveying Instructions, 1973, discusses this in chapter 3, sections 100-112, entitled "Extension and Completion Surveys". In order to clarify the surveys under discussion here, the following comparison is made: An extension survey continues survey lines over accreted lands or omitted lands where the original plat returned the land as being surveyed. An extension survey may also continue lines through unsurveyed areas. Completion surveys, on the other hand, are surveys made to finish lines or enclose areas which permit the computation of the areas of adjacent public lands.

The independent resurvey is a survey designed to supersede the prior official survey on large areas of remaining Public Lands. Where the on-the-ground evidence of the original survey has become completely lost or where the evidence and the record are at such variance that the differences are irreconcilable, or the ground survey never existed in fact, the independent resurvey may be authorized.

Statutory Laws and Regulations

In making a completion surveyor an independent resurvey, it is possible and even likely that it will be necessary to apply every law or regulation pertaining to surveys of the Public Lands. In keeping with the intent of these laws and regulations, there are three paramount considerations:

1. Limit of Authority of Surveyor

The authority of a surveyor is limited to and marking the boundaries of the public lands on the ground and to determine whether or not lands embraced within a claim, as occupied, have been correctly related in position to the survey on which the claim is based. He is authorized to interpret the evidence with respect to its effect upon the manner in which the resurvey will be executed.

Whether or not claims for lands have complied with all the requirements of law under certain entry is a question beyond the function of the surveyor, and should be resolved before the resurvey is initiated.

2. Protection of Rights

Bona fide Rights are those rights acquired in good faith under the law, and cannot be affected except by due process of law. The surveyor will be concerned only with the question of whether the lands

have actually been located in good faith. It has been held, generally, that the entryman has located his lands in good faith, if such care was used in determining his boundaries as might be expected by the claimant exercising ordinary intelligence under existing conditions.

A claim cannot generally be regarded as having been located in good faith if no attempts have been made to relate it in some manner to the original survey.

Where lands have been occupied in good faith, but where the boundaries, as occupied, disagree with the position of the description, it should be regarded as an erroneous location. In cases of this nature the solution is not to be found in surveying, but in the process of adjudication by an amended entry. The claim boundaries may be considered in position identifying the resurvey lines to which they in fact relate, but not those lines as stated in the erroneous location.

3. Ascertain the Limiting Boundaries

The limiting boundaries of the lands to be independently resurveyed or completed must agree with the previously established identified surveyed lines of the approved surveys. In order to qualify as a limiting boundary, a line of the accepted established surveys must be conclusively identified in one position to the exclusion of all others. The lands on one side of the line are to be resubdivided under a new plan. On the other side, the original subdivisions are to be strictly maintained and none of the original conditions are to be disturbed.

The lands previously entered or patented under a prior survey are to be in no way affected as to location by a resurvey. All such lands must be identified and protected in one or two ways:

1. Wherever possible, the sections in which the claims are located are reconstructed from evidence of the original survey.
2. Where unrelated control prevents the reconstruction of the sections that would adequately protect the claims, the alienated lands are segregated as tracts.

Necessity for Survey

A prerequisite for any comprehensive and effective management of lands is to be able to physically identify and locate the boundaries of those lands.

The necessity and justification for the surveys are generally determined by the requesting agency. Surveys are required to mark patented outlying to resolve trespass cases or to adequately administer the Public Lands.

If the boundaries of the lands cannot identified on the ground, a need for a survey exists.

Reason for Occurrence

Generally, incomplete surveys are the consequence of expediency. In the earlier surveys only those lands classified as agriculture lands were to be surveyed. In the early 1950's, the "skeleton" or "school section" survey provided for the survey of certain sections in a township, leaving most of the subdivisional lines as well as parts of the township boundaries unsurveyed. Homesteads on unsurveyed lands and mineral surveys are all sources of incomplete surveys.

The independent resurvey is most generally found necessary because of a fraudulent surveyor a survey so grossly erroneous as to constitute fraud. When a survey has been faithfully executed, there is generally sufficient evidence remaining so that an independent resurvey would not be necessary.

Procedure

The procedures to follow in the execution of the independent resurvey or a completion survey are of two types, administrative and technical. They are necessarily performed in appropriate order to comply with existing laws and regulations and to produce an acceptable survey with a minimum of cost and effort.

The administrative procedure is concerned with the delegation of authority, determination and justification for the survey, and the research of record data pertaining to the surveys in the area under consideration.

The technical procedure concerns the legal and proper execution of the survey and preparation of the final returns.

Administrative Procedure

The administrative procedure generally consists of seven major items. The sequence and content can be modified to some extent. A correct procedure, however, will assure that complications are kept to a minimum and that the requirements of law and regulations are fulfilled.

The procedure as outlined below lists the items in the appropriate position of execution:

1. The Request

Surveys are generally initiated by a request, which should:

- (A) Define which lines are to be surveyed.
- (B) Use the township as the base in developing requests.
- (C) Provide current land status.
- (D) Indicate identified corners, with information as to the remaining evidence.
- (E) Identify the need for the survey.
- (F) Set priority.
- (G) Identify the benefiting activity, for cost coding.
- (H) Provide any other information that would aid in the execution of the survey.

When the requests are received in the cadastral survey office, they should be reviewed, to ascertain if the survey is really needed. The request should be viewed in its effect on long range needs as well as the present needs. It is a good idea to contact other using agencies to determine if they have survey needs in the area.

2. Research

Research is the gathering and compiling of known survey information pertaining to the area under consideration.

Data in the form of both plats and notes should be compared and any differences reconciled. Also, any reproduction should be checked for legibility.

The ideal person to conduct the research would be the surveyor who is going to make the survey. In this way he will be aware of any problems that may exist, and he will have time to analyze the problem and plan a course of action.

3. Special Instructions

With all the known data available, a more comprehensive set of Special Instructions can be written. In the event that there is insufficient information as to the condition of the surveys on the ground, the Special Instructions can be written for Investigative and Conditional surveys, thus eliminating the need for Supplemental Instructions at a later date.

In the event that an independent resurvey is likely, the prior survey should be suspended. This will prevent any land actions from being initiated or completed.

The Special Instructions for a completion survey should provide that unentered, outlying protracted subdivisions need not be protected and are annulled, thus simplifying the execution and platting of the new surveys.

4. Assignment Instructions

Congress has authorized the Secretary of the Interior to make surveys and resurveys as he may deem necessary to mark the boundaries of the Public lands.

The assignment instructions are legal documents authorizing and assigning a cadastral surveyor to execute a survey of the Public lands. The surveyor is then acting through the Bureau of Land Management under the authority of the Secretary of the Interior. The authority given by the assignment instructions is limited to the work as outlined in the Special Instructions. In the event that the Special Instructions are inadequate, they will need to be supplemented.

5. Approval of Plan of Survey

The independent resurvey or completion survey can be executed in different ways and still be technically correct. However, there may be a difference of opinion as to which way is better. Therefore, it is suggested that the plan of survey as submitted by the field man, have the approval of the authorized administrative officers.

6. Prepare the Returns of the Survey

The field notes and plat are the primary records of any survey. The chief of the field party is responsible for the accuracy and sufficiency of this record.

Due regard should be given to the Manual requirements and form though it is intended that set forms of expression be used flexibly and modified when necessary to conform to the survey. The work of the reviewing officers will be directed to the fundamental requirements of the Manual and the written Special Instructions, and the comments, if any, as to the form of the transcribed field notes, will be based upon broad grounds.

7. Survey Accepted and Filed

The Public lands are not considered surveyed or identified until the survey is accepted and filing of the plat in the administering land office by direction of the Bureau of Land Management.

Any necessary suspension or cancellation of a survey must be made by the approving authority. If a survey was suspended and a independent resurvey executed, the prior survey is to be cancelled at the time of accepting the new survey.

Technical Procedure

The procedure to be followed in the technical execution of the completion surveyor the independent resurvey consists of six distinct steps:

1. An investigation with an on-the-ground identification of the existing approved official surveys. The possible limiting boundaries of the area are determined along with any valid claims.
2. The type and extent of the survey needs are determined using the evidence from the investigation.
3. Determine the limiting boundaries of the area and develop a plan of survey that will:
 - A. Protect any valid claims.
 - B. Create as many aliquot parts as possible.
 - C. Establish a minimum number of corners. (closing corners, corners of minimum control)
 - D. Place excess or deficiency against the north or west boundaries or adjacent to previous surveys.
4. Have the plan of survey approved.

5. Reestablish the out-boundaries by the dependent resurvey method or in the case of a completion survey by the applicable method. Segregate or determine the boundaries of any lands embraced in a valid claim based on the former approved survey.
6. Complete the survey on the approved plan.