



Bureau of Land Management

Daniel Webb

UCLS Fall Forum - September 7, 2012

T. 35S., R. 3 E., SLM, UT., Section 7

Department of the Interior

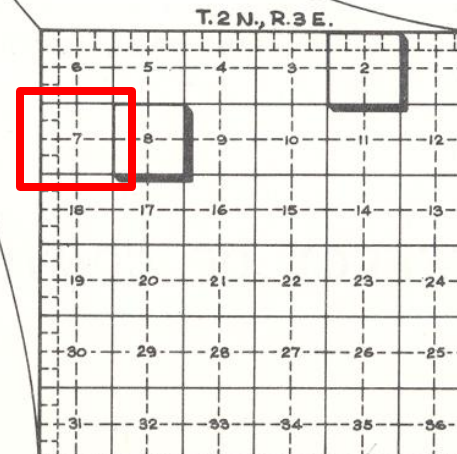
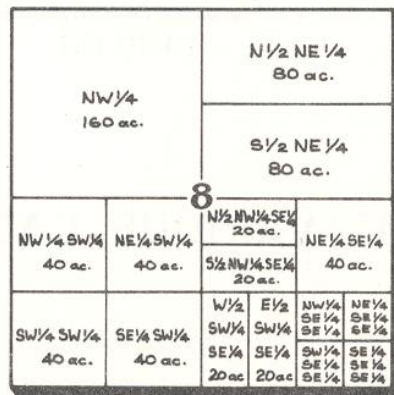
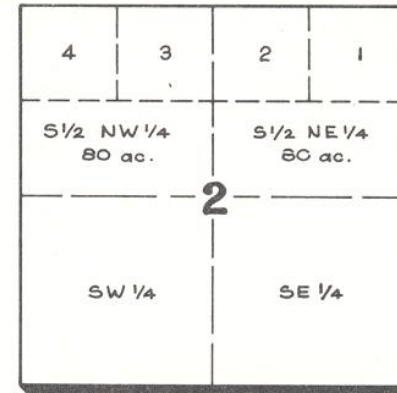
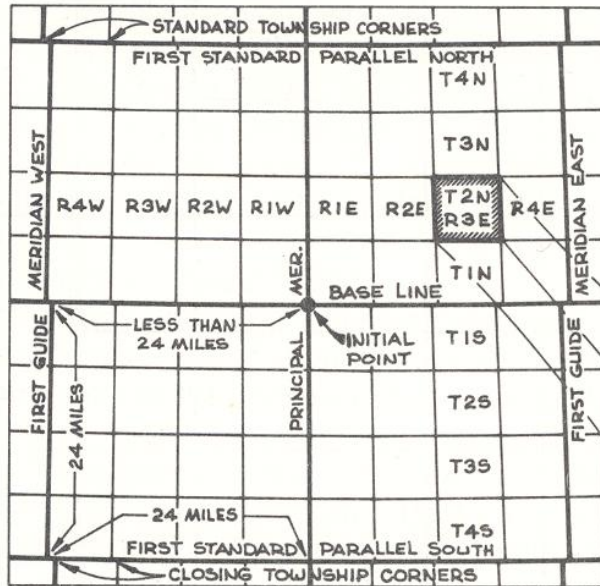
Interior Board of Land Appeals

IBLA 2007-138 Decision

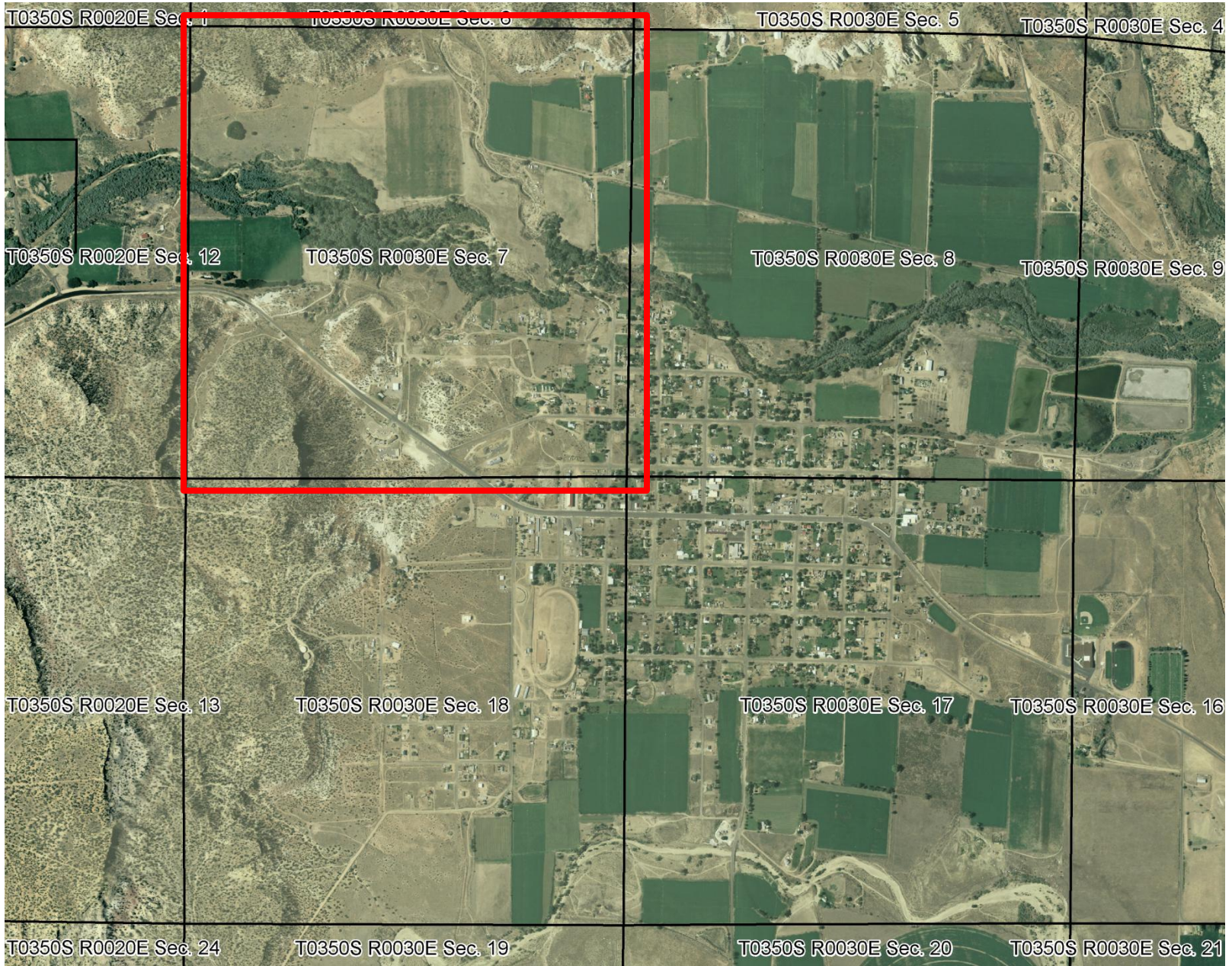
Escalante, Utah (2006)



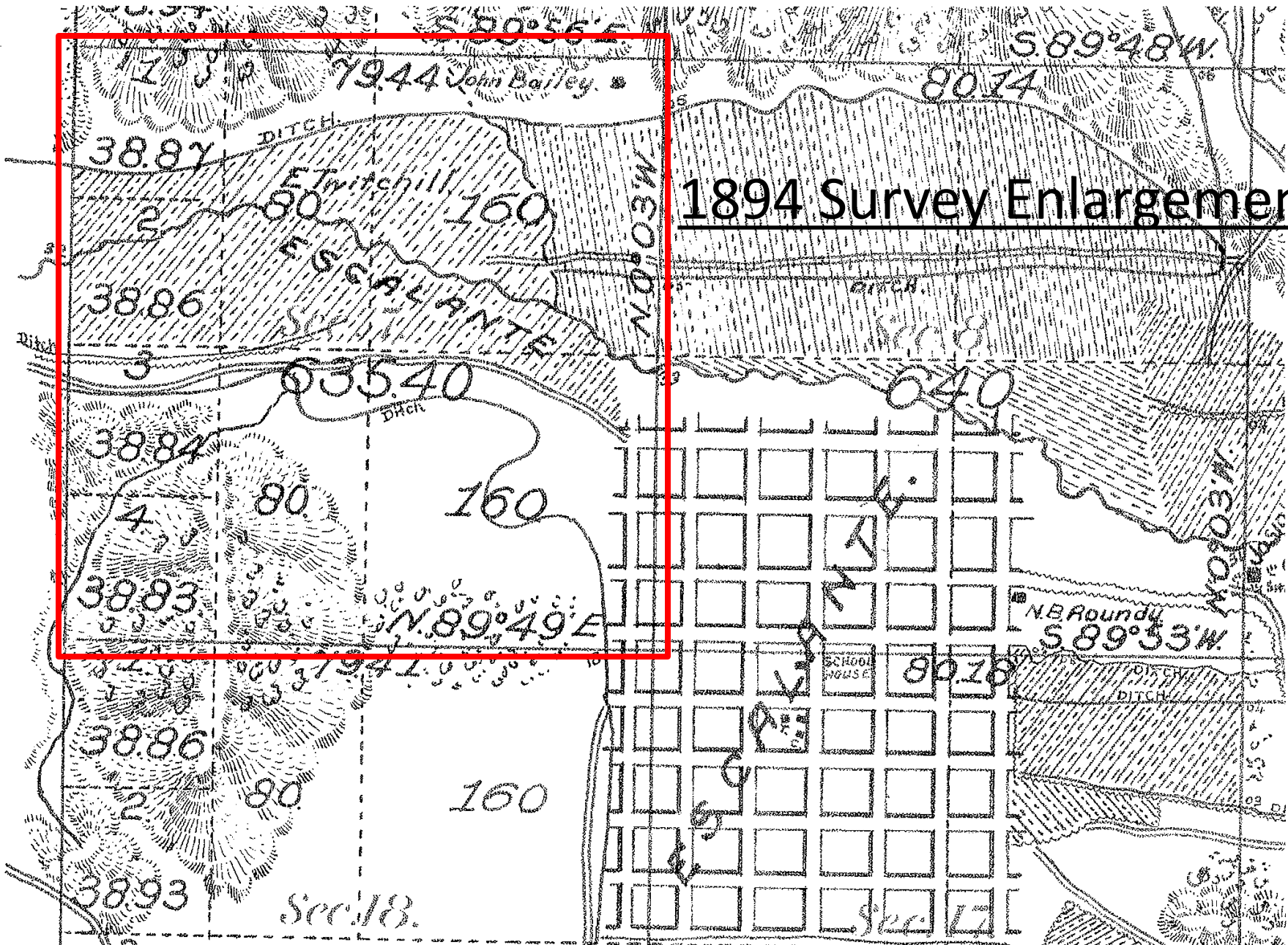
Public Land Survey System



Escalante, Utah



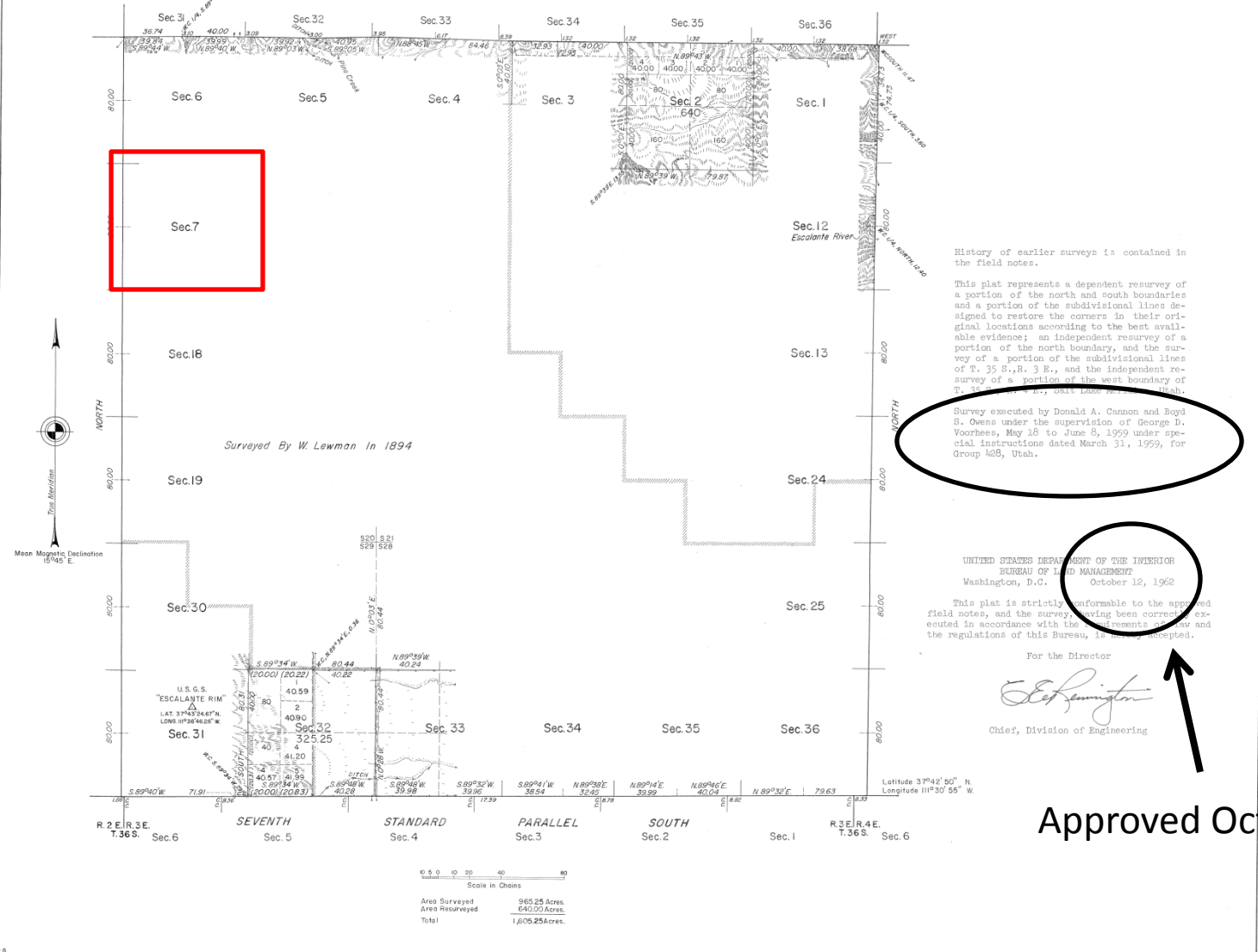
1894 Survey Enlargement



Township 35 South, Range 3 East, SLM, UT.

ORIGINAL

TOWNSHIP 35 SOUTH, RANGE 3 EAST, OF THE SALT LAKE MERIDIAN, UTAH. RESURVEY AND SURVEY



Surveyed
1959

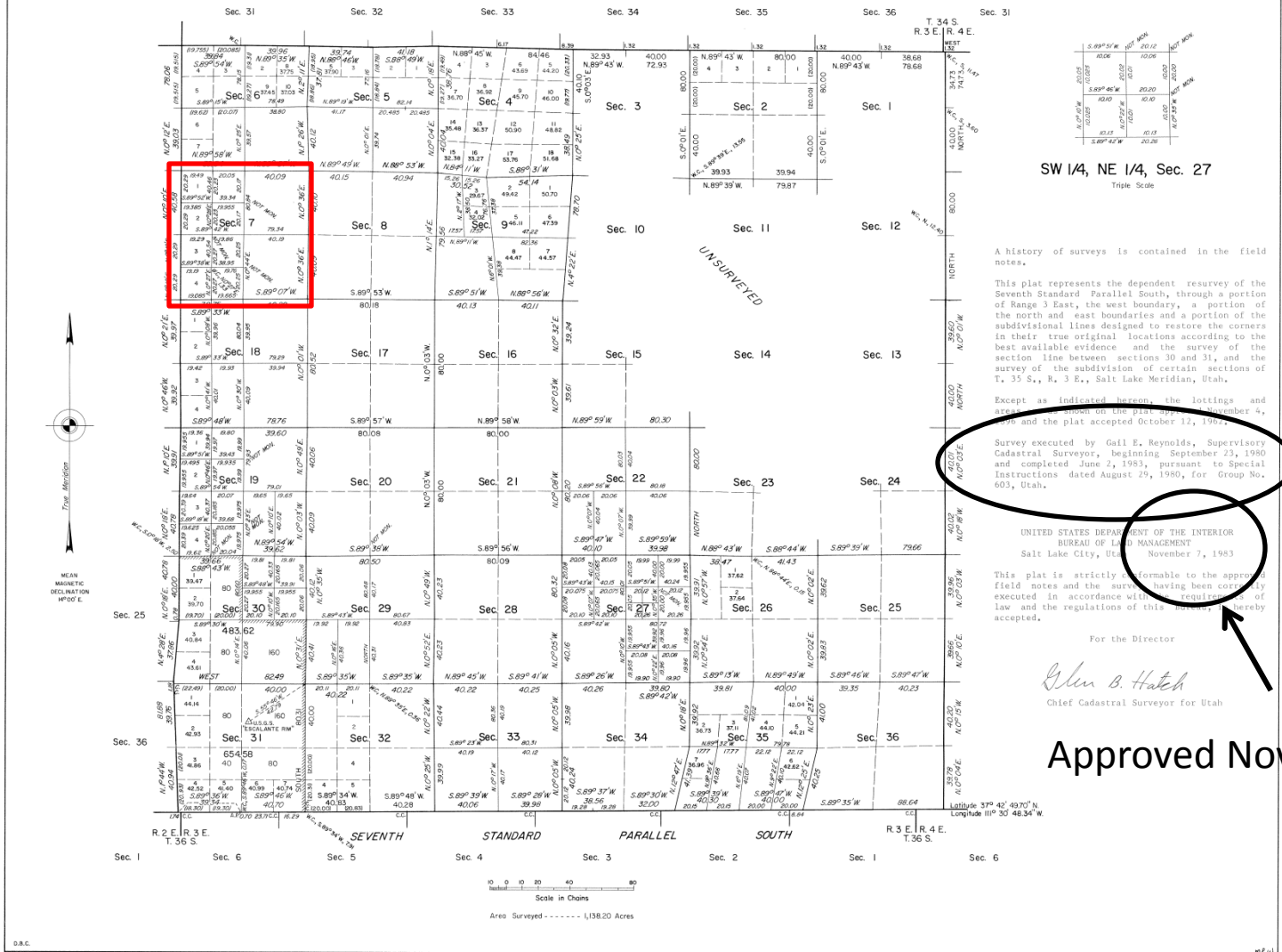
Approved Oct. 12, 1962

Township 35 South, Range 3 East, SLM, UT.

ORIGINAL

TOWNSHIP 35 SOUTH, RANGE 3 EAST, OF THE SALT LAKE MERIDIAN, UTAH. DEPENDENT RESURVEY, SURVEY, AND SUBDIVISION OF SECTIONS SURVEY

Note: All bearings and distances in vertical lettering are from previous surveys.



SW 1/4, NE 1/4, Sec. 27
Triple Scale

Surveyed
1980-83

Approved Nov. 7, 1983

Patent information: T. 35 S., R. 3 E., Sections 5, 6, 7, & 8, Garfield County SLM. UT.

<u>Patent No.</u>	<u>Patentee & Type</u>	<u>Patent Date</u>	<u>Described Lands</u>
4522	W.M. McCarty Trustee for occupants of the Townsite of Escalante	10-28-1897	Sec. 7: E½SE¼; Sec. 8: SW¼; Sec. 17: W½NE¼, NW¼; Sec. 18: E½NE¼;
5785	Edwin Twitchell Homestead	10-20-1897	Sec. 7: W½NE¼, E½NW¼;
5791	Napoleon P Rowndy Homestead	10-20-1897	Sec. 8: SE¼;
5798	Hyrum Bailey Homestead	10-20-1897	Sec. 7: E½NE¼; Sec. 8: W½NW¼;
SS-1	State of Utah State Selection	5-16-1898	Sec. 8: W½NE¼, SE¼SE¼, W½NW¼;
7079 L	Lorenzo W. Rowndy Homestead	10-1-1901	Sec. 7: Lots 2, 3, NE¼SW¼, NW¼SE¼;
392560	Ambrose Shurtz Homestead	3-14-1914	Sec. 5: W½NE¼, W½SE¼; Coal Reserved see Pat 938362
938362	Ambrose Shurtz Supplemental	5-16-1924	Sec. 5: W½NE¼, W½SE¼; Coal Only

Patent information: T. 35 S., R. 3 E., Sections 5, 6, 7, & 8, Garfield County SLM. UT.

<u>Patent No.</u>	<u>Patentee & Type</u>	<u>Patent Date</u>	<u>Described Lands</u>
798737	Ambrose Shurtz Homestead	3-3-1921	Sec. 5: Lot 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$; Coal Reserved See Pat 938371
938371	Ambrose Shurtz Supplemental	5-16-1924	Sec. 5: Lot 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$; Coal Only
IL-53	State of Utah State Selection	10-23-1911	Sec. 5: NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$; Sec. 7: SW $\frac{1}{4}$ SE $\frac{1}{4}$; Sec. 8: NE $\frac{1}{4}$ NE $\frac{1}{4}$; Sec. 9: NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$; Sec 17: SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$; Sec. 18: NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$;
43-63-0030	Utah State Park & Recreation Rec Pat	4-16-1963	Sec. 5: SW $\frac{1}{4}$; Sec. 6: Lots 6,7, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$; Sec. 7: Lots 1,4; Sec. 18: Lots 1,2,3,4,; Sec. 19: Lots 1,4, EW $\frac{1}{2}$ S $\frac{1}{4}$ W, W $\frac{1}{2}$ SE $\frac{1}{4}$;
43-85-0023	Utah State Dev of Parks & Recreation Rec Pat	7-18-1985	Sec. 5: SW $\frac{1}{4}$ NW $\frac{1}{4}$; Sec. 6: Lots 4,5, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$;

Protest / Appeal

- Protest or Appeal, of cadastral survey is a formal process, allowing objections to be raised by any person to any action proposed to be taken in any proceeding before the Bureau.
- A **protest** is any objection raised by any person to any action proposed to be taken in any proceedings before the Bureau. (43 CFR 4.450-1 to 4).
- Should Cadastral Survey be unable to resolve those problems brought to their attention, you, the Protestant, will be advised of the following administrative procedures that should be followed:
- An **appeal** is an objection raised to any final decision of the Bureau by a person adversely affected by the decision. (43 CFR 4.410). The administrative process involved in an appeal is as follows:

BLM Protest & Dept. of the Interior Board of Land Appeals Process

CORRESPONDENCE INDEX

Mr. James R. Hasenyager, Attorney At Law

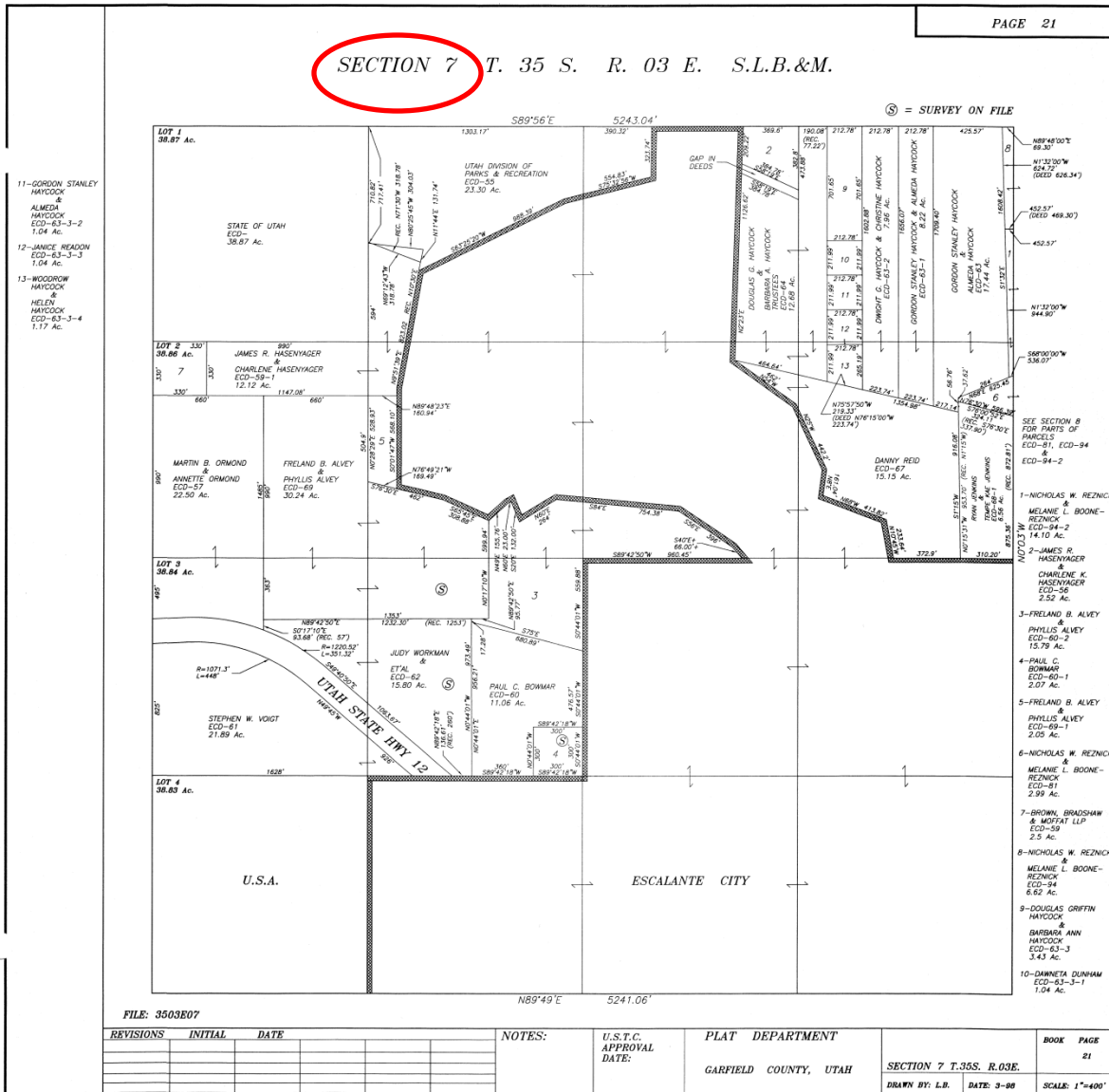
- | | | |
|-----|-------------|--------------------------------------|
| 01. | 2004-Mar-31 | Ernest D. Rowley, License Surveyor |
| 02. | 2005-Mar-08 | James R. Hasenyager, Attorney At Law |
| 03. | 2005-Mar-28 | James R. Hasenyager, Attorney At Law |
| 04. | 2005-Sep-16 | James R. Hasenyager, Attorney At Law |
| 05. | 2005-Oct-18 | James R. Hasenyager, Attorney At Law |
| 06. | 2005-Nov-01 | James R. Hasenyager, Attorney At Law |
| 07. | 2006-Jan-04 | James R. Hasenyager, Attorney At Law |
| 08. | 2007-Feb-28 | James R. Hasenyager, Attorney At Law |
| 09. | 1997-Apr-26 | Creamer & Noble Inc. Record / Survey |
| 10. | 2002-Jan-25 | Leslie & Associates, Hasenyager Plat |
| 11. | 2003-Apr-04 | State Of Utah, Parks & Recreation |
| 12. | 2004-Nov-15 | Hasenyager Boundary Examination |

Bureau of Land Management

- | | | |
|-----|-------------|--|
| 01. | 2005-Jan-27 | Daniel W. Webb, UT. Cadastral Chief |
| 02. | 2005-Mar-22 | Daniel W. Webb, UT. Cadastral Chief |
| 03. | 2005-May-23 | Larry Judd, Cadastral Field Surveyor |
| 04. | 2005-Aug-18 | Gene R. Terland. Acting State Director |
| 05. | 2005-Oct-28 | Gene R. Terland. Acting State Director |
| 06. | 2005-Nov-03 | H. B. Holt, Chief Administrative Judge |
| 07. | 2005-Nov-17 | Gene R. Terland. Acting State Director |
| 08. | 2005-Nov-18 | Gene R. Terland. Acting State Director |
| 09. | 2005-Nov-29 | H. B. Holt, Chief Administrative Judge |
| 10. | 2005-Dec-09 | Larry Judd, Cadastral Field Surveyor |
| 11. | 2005-Dec-15 | Gene R. Terland. Acting State Director |
| 12. | 2005-Dec-19 | Daniel W. Webb, UT. Cadastral Chief |
| 13. | 2005-Dec-23 | W.A. Irwin, Chief Administrative Judge |
| 14. | 2007-Jan-31 | Selma Sierra, BLM Utah State Director |

Garfield Co. Assessor's Plat

SECTION 7 T. 35 S. R. 03 E. S.L.B.&M.



- 11-GORDON STANLEY HAYCOCK & ALMEDA HAYCOCK ECD-63-3-2 1.04 Ac.
- 12-JANICE READOH ECD-63-3-3 1.04 Ac.
- 13-WOODROW HAYCOCK & HELEN HAYCOCK ECD-63-3-4 1.77 Ac.

FILE: 3503E07

REVISIONS	INITIAL	DATE

NOTES:

U.S.T.C. APPROVAL DATE:

PLAT DEPARTMENT
GARFIELD COUNTY, UTAH

SECTION 7 T.35S. R.03E.

BOOK PAGE
21

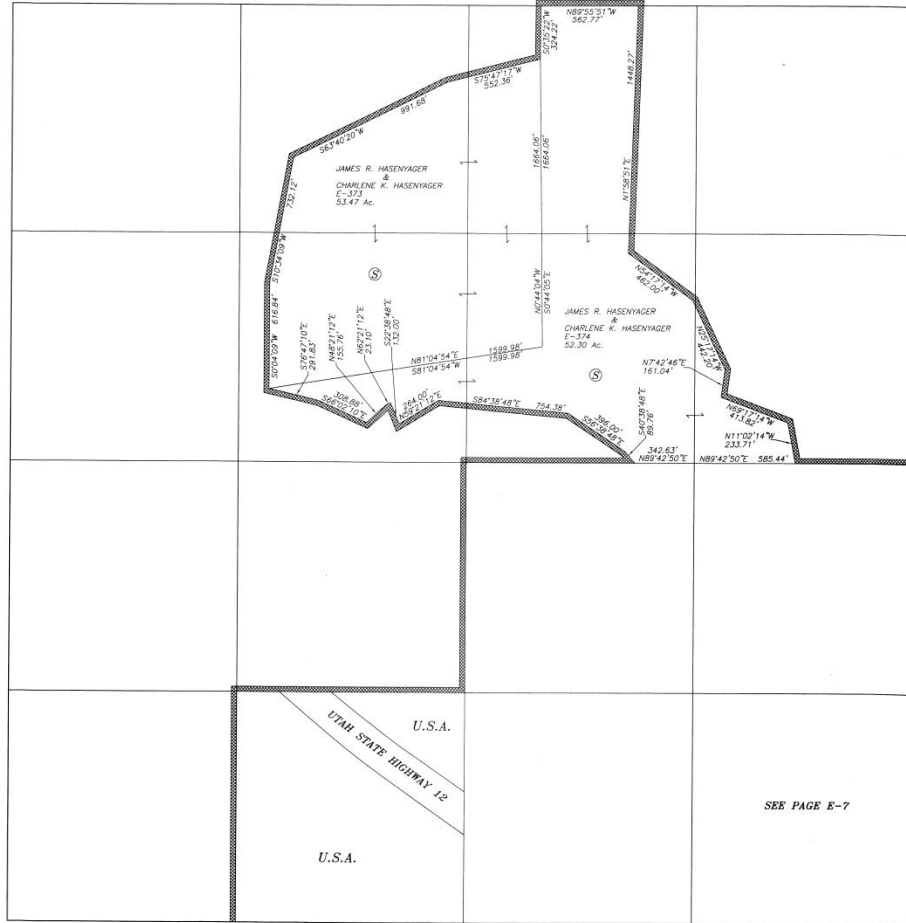
DRAWN BY: L.B. DATE: 3-88 SCALE: 1"=400'

Garfield Co. Assessor's Plat

ESCALANTE CITY

SECTION 7 T. 35 S. R. 03 E. S.L.B.&M.

Ⓢ = SURVEY ON FILE



SEE PAGE E-7

FILE: E-6

REVISIONS	INITIAL	DATE

NOTES:

U.S.T.C.
APPROVAL
DATE:

PLAT DEPARTMENT
GARFIELD COUNTY, UTAH

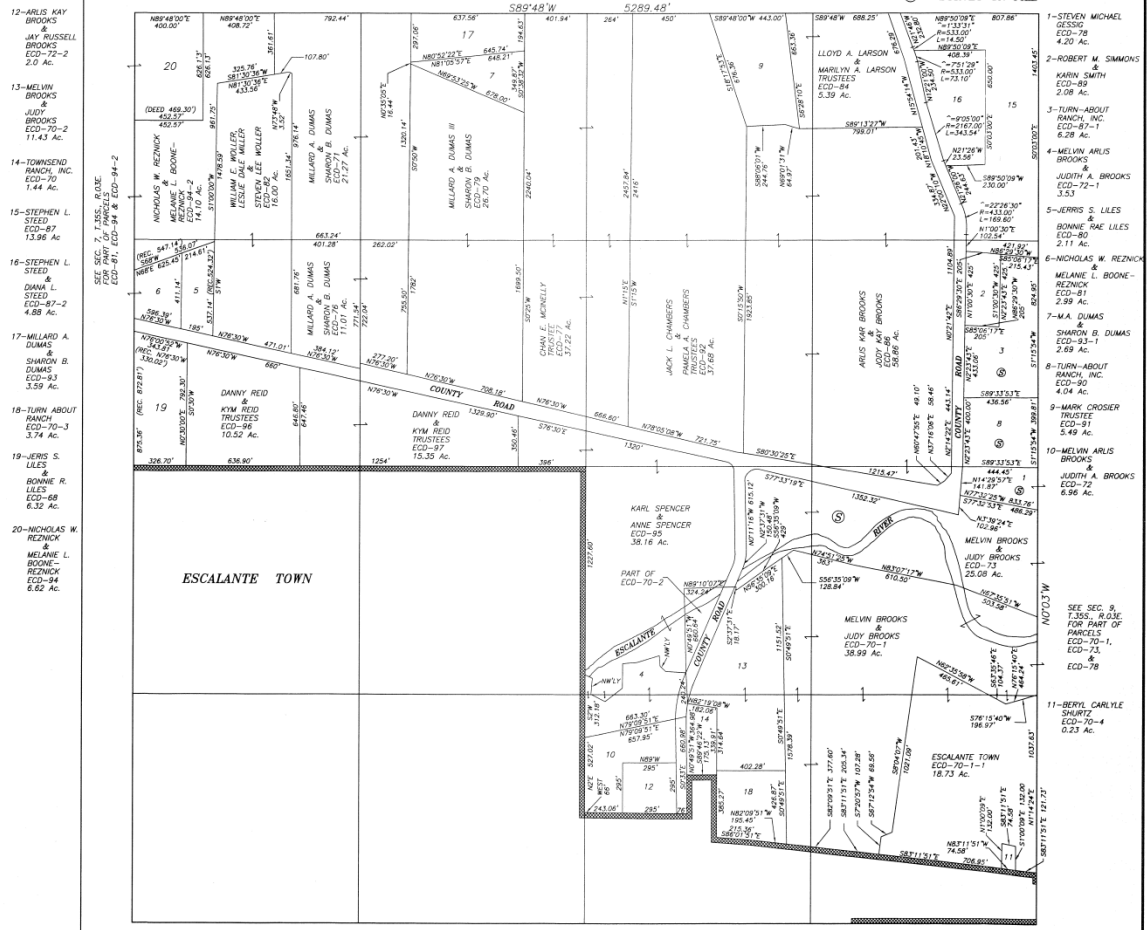
ESCALANTE CITY
SECTION 7 T.35S. R.03E.
DRAWN BY: L.B. DATE: 10-96

BOOK PAGE
E-6
SCALE: 1"=400'

Garfield Co. Assessor's Plat

SECTION 8 T. 35 S. R. 03 E. S.L.B.&M.

⊕ = SURVEY ON FILE



- 12-ARIS KAY BROOKS & JAY RUSSELL BROOKS ECD-72-2 2.0 Ac.
- 13-MELVIN BROOKS & JUDY BROOKS ECD-70-2 11.43 Ac.
- 14-TOWNSENDS RANCH, INC. ECD-70 1.44 Ac.
- 15-STEPHEN L. STEED ECD-87 13.96 Ac.
- 16-STEPHEN L. STEED & DIANA L. STEED ECD-87-2 4.89 Ac.
- 17-MELLARD A. DUMAS & SHARON B. DUMAS ECD-83 3.35 Ac.
- 18-TURN ABOUT RANCH, INC. ECD-70-3 3.74 Ac.
- 19-JERRIS S. LILES & BONNIE R. LILES ECD-68 6.32 Ac.
- 20-NICHOLAS W. REZNICK & MELANE L. BOONE-REZNICK ECD-84 6.62 Ac.

- 1-STEVEN MICHAEL GESSIG ECD-78 4.20 Ac.
- 2-ROBERT W. SIMMONS & KARIN & SMITH ECD-89 2.08 Ac.
- 3-TURN-ABOUT RANCH, INC. ECD-87-1 6.28 Ac.
- 4-MELVIN ARIS BROOKS & JUDITH A. BROOKS ECD-72-1 3.53 Ac.
- 5-JERRIS S. LILES & BONNIE MAE LILES ECD-80 2.11 Ac.
- 6-NICHOLAS W. REZNICK & MELANE L. BOONE-REZNICK ECD-81 2.99 Ac.
- 7-M.A. DUMAS & SHARON B. DUMAS ECD-83-1 2.89 Ac.
- 8-TURN-ABOUT RANCH, INC. ECD-80 4.04 Ac.
- 9-MARK CROZIER TRUSTEE ECD-81 4.49 Ac.
- 10-MELVIN ARIS BROOKS & JUDITH A. BROOKS ECD-72 6.96 Ac.
- 11-BERYL CARLYLE SHULTZ ECD-70-4 0.23 Ac.

FILE: 3503E08

REVISIONS	INITIAL	DATE

NOTES:

U.S.T.C. APPROVAL DATE:

PLAT DEPARTMENT
GARFIELD COUNTY, UTAH

BOOK PAGE
22
DRAWN BY: L.R. DATE: 4-99 SCALE: 1"=400'

E. Rowley Survey Plat(s) for Hasenyeager, Nov. 2004

Surveyor's Certificate
 I, Ernest D. Rowley, do hereby certify that I am a registered land surveyor, and that I hold a number 09-17181-2301 as prescribed under the laws of the State of Utah. I further certify that, by the authority of the owner(s) that I have prepared this plat from field data and documents made and acquired during a survey of the tract of land shown in this survey and that this plat is a true and accurate map of the land surveyed.



Basis of Bearings
 The survey data collected in this survey was based from GPS observations using a Leica mapping grade system with WASS correction. A NGS3 triangulation station used in good condition which is nearest 34 W 192° 57' 07" with a PFD of 1080633. This monument was used to check the Latitude and Longitude positioning of the GPS observations. The record Lat. & Long. of the monument is 37° 42' 53.7366" N and 111° 56' 46.113" W. An initial observation on this monument produced a Lat. & Long. of 37° 42' 53.7487" N and 111° 56' 47.7228" W, resulting in 1117462 coordinates converted to UTM values of N=117192.8564 E & E=147282.4437, these values are within $\Delta N = -0.1056$ & $\Delta E = 1.3766$. These differences are typical of mapping grade equipment results.

Documents of Record Used in this Survey
 The key documents used in this survey are cited in the narrative portion of this platting. The index is referred to there.

Surveyed Description
 A surveyed description is not being produced for the subject property at this point because the north and west lines of the property are dependent on the correct location of the Section Corner Monument. Precise positioning of the section monument has not been determined at this point in this survey, thus no monuments have been set.

Narrative
 To fully understand the placement of the property (Entry #170961, for Utah Division of Parks and Recreation, Permitted Forest State Park) a detailed discussion of the progress of the survey and evaluation of section lines, fences, monuments, documents and other evidence must be understood and discussed. This has been done in detail in a "Narrative Review of Survey" which was given to the BLM for their review. This narrative review will be included on this and subsequent sheets which will include reports of the appropriate maps, documents, descriptions and photographs. Any changes or alterations from the document that was submitted to the BLM will be noted with brackets []. These changes are being made to correct or clarify points or items discussed in the document which was submitted to them. The placement of the description for the State Park parcel is discussed in Location 1 and Location 2.

To evaluate the descriptions there are some assumptions that have to be made at this point of the research. These are based on the information in the "Narrative Review of Survey", that the proportional monuments for the North-Central and Northeast corners of Section 7 are incorrect and do not control the location of the description. The main question to be asked is: "What monumentation was used, if any, to prepare the description will?" The first question to ask would be: "What monumentation existed at the time of the preparation of the description?"

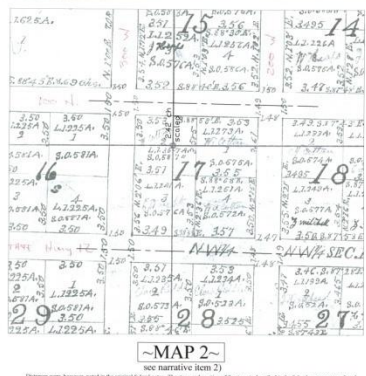
The USFS monument was installed as part of a survey that was begun Sep. 11, 1979 and completed Nov. 21, 1979, according to their record of survey. The information for the property was not recorded until Oct. 28, 1979. Simply from the dates it is difficult to know if the monument were physically in place at the time the description was prepared or if they were not set, they may have had any effect on the deed placement. If they were then it must be determined if they were utilized in the description. To answer that question, it is my professional opinion that they were not utilized for this property transaction. Therefore, the USFS monument can not be utilized in this instrument survey for the reasons stated in the "Narrative Review of Survey" contained herein with the Supplemental Information at the end.

The matter then becomes a function of evidence evaluation to properly locate the property. There are two theories which could be proposed for the location, neither of which will have any effect on the deed placement. Location #1. This position has been identified utilizing the location of the 1986 survey data as adjacent to this survey and shown on Map 1 below. The basic positioning of the corner monument is the location of this survey and shown on Map 1 below. The basic positioning of the corner monument is the location of this survey and shown on Map 1 below. The basic positioning of the corner monument is the location of this survey and shown on Map 1 below.

Narrative Review of Surveys
 The main report of this document is a field note, in December of the evening 10/28/04. This document has been located and contains a complete record of the field notes of the survey. The Utah Division of Parks and Recreation property located in the northeast corner of Section 7, Township 35 South, Range 11 East, 1st 6th Meridian, Salt Lake County, Utah, is the subject of this survey. The survey was conducted on 10/28/04. The survey was conducted on 10/28/04. The survey was conducted on 10/28/04.

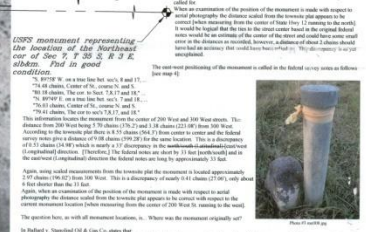
To begin to evaluate a comparison of the monuments which are discussed herein, were evaluated with respect to the correct location of the survey lines as established in recent surveys. A physical survey of selected fences and monuments were identified using a Leica Mapping Grade GPS system. The purpose of this survey was to determine if the monuments were in their original location. The survey was conducted on 10/28/04. The survey was conducted on 10/28/04. The survey was conducted on 10/28/04.

From the "Manual" we were given on 10/28/04, the following information was provided: "The survey was conducted on 10/28/04. The survey was conducted on 10/28/04. The survey was conducted on 10/28/04." The survey was conducted on 10/28/04. The survey was conducted on 10/28/04. The survey was conducted on 10/28/04.



~MAP 2~
 see narrative item 2)

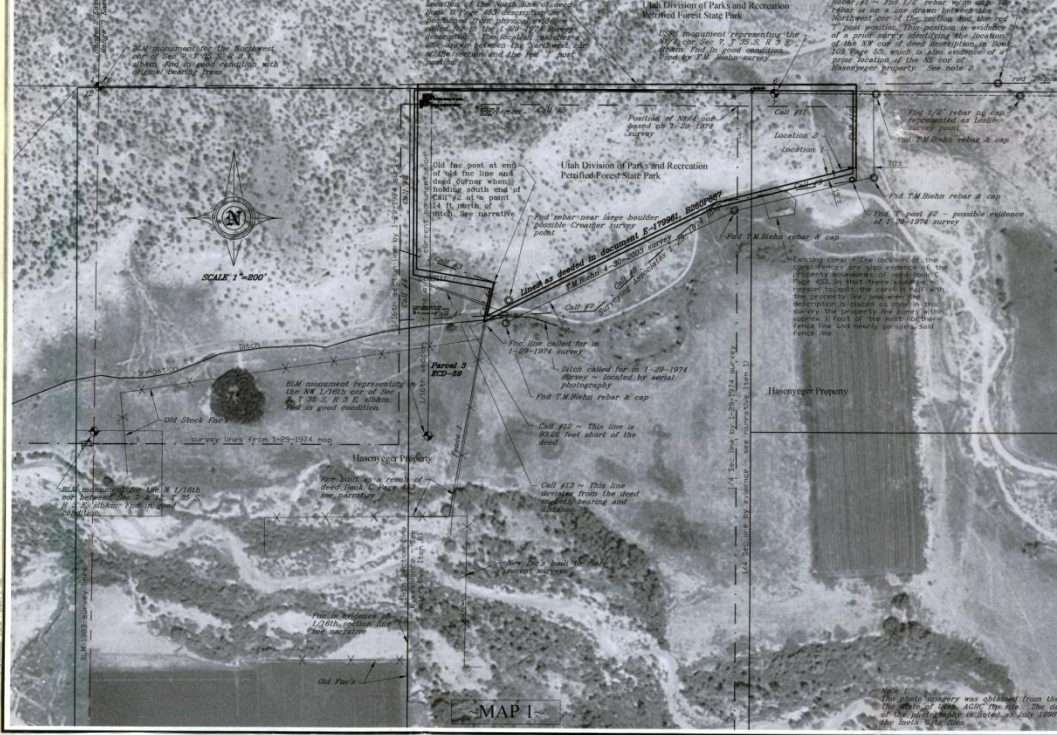
There are, however, noted in the original field notes, the time and position of the fence survey were noted in the description. (Location 1 and 2) The survey was conducted on 10/28/04. The survey was conducted on 10/28/04. The survey was conducted on 10/28/04.



~MAP 3~
 see narrative item 2)



~MAP 4~
 see narrative item 4)



MAP 1

control the original survey. An alternative view is that a strict reading of the word "located" in a particular context may indicate an intention about the correct corner established in the foregoing. This is a warranted view regarding the surveying profession.

It is my professional opinion that the monuments which are discussed herein, were evaluated with respect to the correct location of the survey lines as established in recent surveys. A physical survey of selected fences and monuments were identified using a Leica Mapping Grade GPS system. The purpose of this survey was to determine if the monuments were in their original location. The survey was conducted on 10/28/04. The survey was conducted on 10/28/04. The survey was conducted on 10/28/04.

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REVISED: 11-16-2004 0004 - 001 AS NOTED

Hasenyeager - Utah State Boundary Examination
 Escalante, Utah
 Township 35 South, Range 3 East, 1st, 6th Meridian and Meridian

2004-NOV-15
 2005-MAR-09

R.E. Design's
 Professional Land Surveying
 540 E. Hwy. 10 (at 6800-30th) Murray, Utah

Stone with 1979 F.S. pipe in background

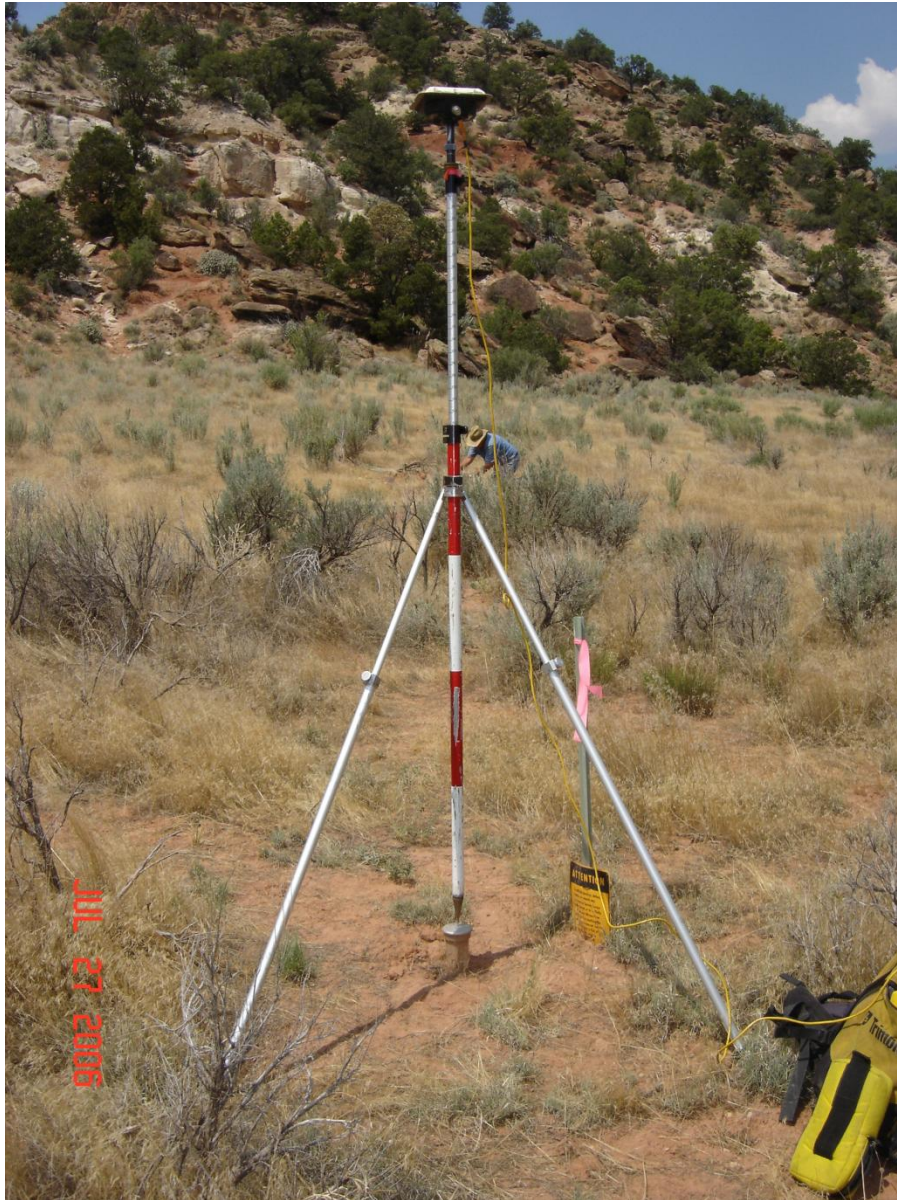


Cor. of Secs. 5,6,7,8

Original 1893-94 stone



Forest Service 1979 pipe



¼ Cor. Secs. 6 & 7

Stone & rebar



DOI
 Interior Board of
 Land Appeals
 IBLA-2007-138
 December 18,
 2008
 (Page 1)



UT - 910 United States Department of the Interior
 23 AM 9:38 OFFICE OF HEARINGS AND APPEALS
 Interior Board of Land Appeals
 801 N. Quincy Street, Suite 300
 Arlington, Virginia 22203

703-235-3750

703-235-8349 (fax)

JAMES R. & CHARLENE K. HASENYAGER

IBLA 2007-138

Decided December 18, 2008

UTAH STATE OFFICE		DATE
STATE DIRECTOR'S OFFICE	FILE NO.	DATE
SUBJECT	FILED	
ASSISTANT		
LE		
EA	FAKE PRIDE IN AMERICA	
EEO		
NAT RES		
LND MIN		
SUP SVC		

Appeal from a decision of the State Director, Utah State Office, Bureau of Land Management, upholding a dependent resurvey, and finally dismissing a protest of the resurvey. Group No. 603, Utah.

Reversed and case remanded.

1. Surveys of Public Lands: Dependent Resurveys

A BLM decision upholding a 1983 dependent resurvey relocating lost corners by proportionate measurement will be reversed and remanded, when BLM, after accepting the resurvey, recovers the original corner positions and their original survey monuments in place, where adherence to the proportioned corners would impair the bona fide rights long established by reference to the original corners, contrary to 43 U.S.C. § 772 (2000).

APPEARANCES: James R. Hasenyager, Esq., *pro se*, and for Charlene K. Hasenyager; Christopher J. Morley, Esq., Office of the Regional Solicitor, U.S. Department of the Interior, Salt Lake City, Utah, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE KALAVRITINOS

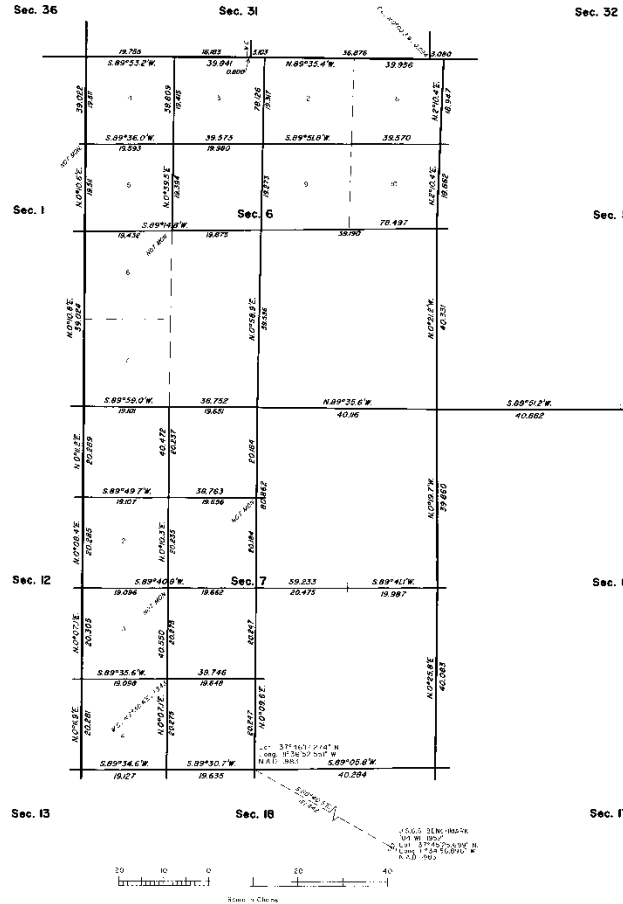
James R. and Charlene K. Hasenyager have appealed from a January 31, 2007, decision of the State Director, Utah State Office, Bureau of Land Management (BLM) (Decision), upholding a 1983 dependent resurvey (Group No. 603, Utah) of T. 35 S., R. 3 E., Salt Lake Meridian (SLM), Utah, to the extent that it reestablished the NE corner and N quarter-corner of sec. 7 of the township, by proportionate measurement, and dismissed their protest of the resurvey. Appellants contend that the dependent resurvey was not performed in accordance with the *Manual of Instructions for the Survey of the Public Lands of the United States* (1973) (Survey Manual), and that BLM erred in upholding the dependent resurvey and declining to rely upon the subsequently recovered original corner monument for secs. 5, 6, 7, and 8.

Corrective Resurvey

ORIGINAL

TOWNSHIP 35 SOUTH, RANGE 3 EAST, OF THE SALT LAKE MERIDIAN, UTAH.

CORRECTIVE RESURVEY



This plat represents the retracement of portions of the west and north boundaries of the subdivision lines; and, a corrective resurvey of a portion of the subdivision lines and the subdivision of sections 6 and 7, T. 35 S., R. 3 E., Salt Lake Meridian, Utah, superseding that portion of the survey executed by Gail E. Reynolds Supervisory Cadastral Surveyor, in 1980-83, Group No. 603, Utah.

A history of surveys is contained in the field notes.

The lottings and areas are as shown on the plats approved November 4, 1896 and November 7, 1983.

Survey executed by Daniel T. Gillins Cadastral Surveyor, beginning May 28, 2009 and completed October 14, 2010, pursuant to Supplemental Special Instructions dated May, 26, 2009, for Group No. 603, Utah.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

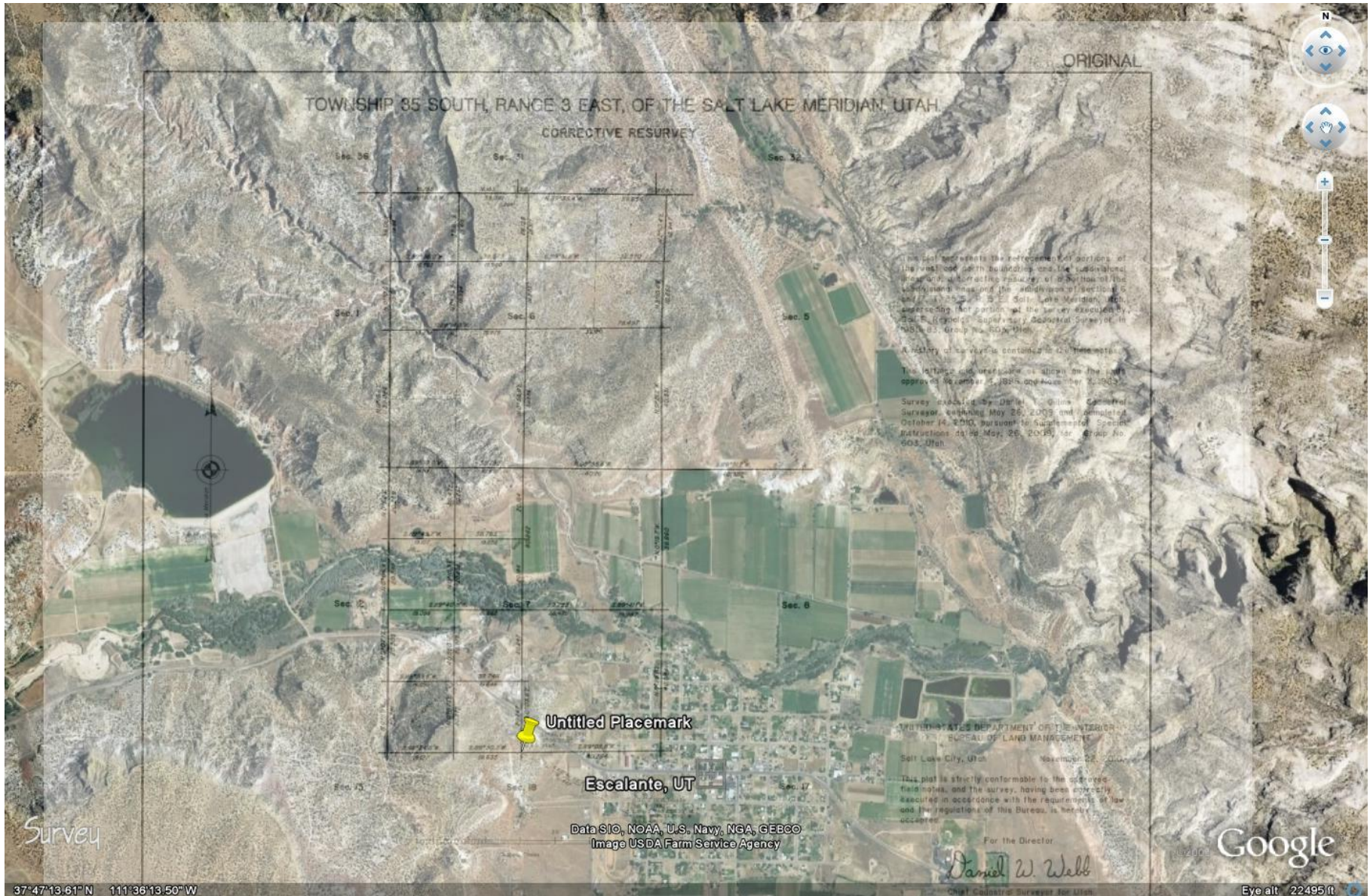
Salt Lake City, Utah November 22, 2010

This plat is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and the regulations of this Bureau, is hereby accepted.

For the Director

Daniel W. Webb
Chief Cadastral Surveyor for Utah

Survey over Google Map



Conclusion:

- The BLM decision to uphold the 1983 dependent resurvey was reversed and remanded back to BLM for further action by the Interior Board of Land Appeals (IBLA) opinion; by Administrative Judge Kalavritinos.
- IBLA directed the BLM to use the original corner monuments, “where the corner was established in the beginning;” at the NE corner, and the N 1/4 corner of Section 7.