

SURVEYOR'S NARRATIVE

I WAS CONTACTED BY GENA TILLACK TO PROVIDE A SURVEY THAT WOULD IDENTIFY THE BOUNDARIES OF HER PROPERTY. SHE OBTAINED THE LAND IN TWO PORTIONS BY WARRANTY DEEDS FROM TED J. AND ANN PALMER (BOOK OF DEEDS A-297, PAGES 47 AND 262). IN PERFORMING A STANDARD CHECK THAT INCLUDES OBTAINING A COPY OF THE CURRENT DEEDS OF THE SUBJECT AND ADJOINING PARCELS, THEN PLACING THE LEGAL DESCRIPTIONS, LARGE OVERLAPS AND GAPS IN EXCESS OF 80 FEET WERE APPARENT. I THEREFORE ABSTRACTED BACK TO THE LAST COMMON TITLE HOLDER OF THE TRACT OF LAND DESCRIBED AS ALL THAT TRACT OF LAND LYING SOUTH OF U.S. HIGHWAY 40 IN THE NW 1/4 NE 1/4 SECTION 6, TOWNSHIP 4 SOUTH, RANGE 4 WEST, U.S.M. THE INSTRUMENT OF CONVEYANCE WAS A WARRANTY DEED ISSUED TO RONALD J. AND CORAL LIDDELL, SIGNATURE DATE 10/29/65 (RECORDED 6/14/73, BOOK OF DEEDS A-28, PAGE 354). SUBSEQUENTLY TWO PARCELS CREATED SIMULTANEOUSLY WERE PARTITIONED OFF ON 7/1/73. THE NORTH PARCEL TO DAVID AND BETTY SAM (BOOK OF DEEDS A-29, PAGE 722), AND THE SOUTH PARCEL TO WILLIAM CHAD & CARMA S. PEATROSS, AND DAVID & BETTY SAM TOGETHER. EACH PARTY WITH UNDIVIDED 1/2 INTEREST (BOOK OF DEEDS A-29, PAGE 721). THE DESCRIPTIONS IN THESE TWO DEEDS LAID OUT TWO UNUSUALLY SHAPED PARCELS BY METES AND BOUNDS DESCRIPTIONS THAT CLOSED OUT MATHEMATICALLY AND EACH REFERRED TO A BASIS OF BEARINGS AS "BASED ON THE N 1/4 COR SEC 6 TO THE N 1/4 COR SEC 5 AS BEING NORTH 89°57' EAST". THIS INDICATED THAT A SURVEY HAD LIKELY BEEN PERFORMED TO DEFINE THE TRACTS TO BE SOLD OFF.

THE ORIGINAL DEED TO THE SOUTH DESCRIBES THE EXTENT OF THE LAND OWNED BY MISS TILLACK TODAY. THIS 10.42 ACRE TRACT ON THE SOUTH HAD BEEN DIVIDED IN 1978. IT SEEMS EVIDENT THAT A SURVEY WITHOUT THE BENEFIT OF THE ORIGINAL 1973 SURVEY DATA HAD BEEN CONDUCTED TO DEFINE THE EXTENT OF THE TWO NEW PARCELS. FOR SOME REASON THE POINTS OF BEGINNING HAD BEEN CHANGED TO THE SOUTHEAST CORNER FROM THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 6. NEW CALLS WERE INSERTED TO FENCE CORNERS, ALONG FENCE LINES, AND TO AN IRON ROD THAT HAD BEEN PLACED ALONG THE OLD WIRE FENCE ON THE WEST TO MARK THE DIVIDING POINT OF THE TWO NEW PARCELS. THE OLD WIRE FENCE TO THE WEST WAS APPARENTLY ASSUMED TO BE THE WEST BOUNDARY. FOR EACH COURSE ALONG THE ORIGINAL BOUNDARY NEW CALLS WERE INSERTED WITH THE ORIGINAL NOTED IN PARENTHESES AS "BY RECORD". THE NEW DESCRIPTIONS WERE MATHEMATICALLY SOUND BUT THROUGH EACH SUCCEEDING CONVEYANCE FROM 1978 TO 1998 THE CALLS TO PHYSICAL FEATURES AND "BY RECORD" NOTATIONS WERE OMITTED.

WITH STRONG EVIDENCE OF AN ORIGINAL SURVEY THAT DEFINED THE BOUNDARIES OF THE TWO PARCELS CREATED IN 1973, MANY INQUIRIES WERE MADE TO THE ORIGINAL OWNERS AS WELL AS TO SURVEYORS WHO WERE REPUTED TO HAVE PRACTICED HERE DURING THAT TIME. DURING THIS PROCESS, IT WAS LEARNED THAT A SMALL SURVEYING FIRM WHICH OPERATED LOCALLY DURING THE EARLY 70'S, AND RAN BY MERRILL GUNDERSON IN COOPERATION WITH THE WILSON-CALDER CORPORATION HAD LATER BEEN BOUGHT OUT BY VALLEY ENGINEERING. AN INQUIRY WAS MADE TO MR. ALLRED OF JERRY D. ALLRED AND ASSOCIATES, A FORMER EMPLOYEE OF VALLEY ENGINEERING, WHO WAS ABLE TO SEARCH AND LOCATE A COPY OF THE ORIGINAL 1973 SURVEY THAT MARKED OFF THE LAND TO BE SOLD BY RONALD LIDDELL. THE PLAT BY THE WILSON-CALDER CORPORATION WAS DATED 6/30/73, THE SUBSEQUENT DEEDS WERE DATED 7/1/73, AND THE DATA RECITED IN EACH WERE IDENTICAL TO EACH OTHER.

IN EXECUTING THE RETRACEMENT SURVEY 4 ORIGINAL MONUMENTS IDENTIFIED ON THE ORIGINAL PLAT IN SEQUENCE OF EACH OTHER WERE RECOVERED AND LOCATED. THE SUM OF THE RESULTING MEASUREMENTS BETWEEN THEM WHEN COMPARED WITH THE SUM OF THE RECORD DISTANCES REVEALED THE NEED FOR A CALIBRATION FACTOR OF 0.99888 TO CONVERT FROM MEASURED DISTANCES BACK TO RECORD DISTANCES. THIS CALIBRATION WAS USED IN CONJUNCTION WITH ADJUSTED BEARINGS TO REESTABLISH MISSING ORIGINAL MONUMENT LOCATIONS. THE "ADJUSTED" BEARINGS ARE MERELY AN EXTENSION OF DELTA ANGLES OR BEARING DIFFERENCES EXTENDED FROM THE LAST TWO CONSECUTIVE ORIGINAL MONUMENTS FOUND IN PLACE. THE BASIS OF BEARINGS FOR THIS RETRACEMENT SURVEY IS PLACED BETWEEN THE 1914 GLO (GENERAL LAND OFFICE) BRASS CAP, MARKED AS THE NORTH 1/4 CORNER OF SECTION 6 AND, THE FIRST ORIGINAL REBAR RECOVERED TO THE SOUTH. THE NORTH 1/4 CORNER OR SECTION 5 AS IDENTIFIED IN THE 1973 DEED DESCRIPTIONS WAS UNRECOVERABLE FOR USE AS A BEARING BASE DO TO ITS BEING LOST DURING CULTIVATION.

IN PROCESS OF THIS RETRACEMENT I WAS REQUESTED BY ROBERT PEATROSS AND KEVIN ROWLEY TO EXTEND THE SURVEY TO IDENTIFY ALL OF THE PEATROSS PARCEL AND THE WESTERN PORTIONS OF THE ROWLEY PROPERTY ENCOMPASSING THE RESIDENCE OF KEN MOON. THE RESULT OF THESE EFFORTS ARE SHOWN WITHIN THE DRAWING.

WHILE VISITING WITH MR. ALLRED WHO IS ALSO THE DUCHESNE COUNTY SURVEYOR, A DIFFICULT ISSUE WAS BROUGHT UP ABOUT A MAJOR DISCREPANCY IN THE LINE BETWEEN TOWNSHIP 3 SOUTH, RANGE 4 WEST, AND TOWNSHIP 4 SOUTH, RANGE 4 WEST. THE RECORD SHOWS THAT THE ORIGINAL GLO SURVEYS FOR BOTH TOWNSHIPS WERE CONDUCTED BY T. C. MAJOR IN 1882. IN 1914 A RESURVEY BY THE GLO OF TOWNSHIP 3 SOUTH, RANGE 4 WEST WAS CONDUCTED TO RECOVER MISSING SECTION CORNER LOCATIONS. IN READING THE NOTES AS THEY PROGRESSED ALONG THE SOUTH TOWNSHIP LINE THEY WERE UNSUCCESSFUL IN RECOVERING ANY EVIDENCE OF THE ORIGINAL CORNERS. AS A RESULT BRASS CAP MONUMENTS WERE PLACED TO MARK THE SUPPOSED FORMER LOCATIONS OF THE PREVIOUS STONE MONUMENTS FROM THE EARLIER SURVEY. THE RESULT OF THIS WAS A LONG EAST-WEST LATERAL SHIFT WITH A COMMON POINT AT THE WEST TOWNSHIP CORNERS NEAR DUCHESNE AND A PRORATED DIFFERENCE PROGRESSING TO THE EAST TOWNSHIP CORNERS WITH A DIFFERENCE OF NEARLY 480'. THIS ALSO HAD THE EFFECT OF CAUSING THE CLOSING SECTIONS TO THE SOUTH TO BEAR NORTHEASTERLY AS MUCH AS PERHAPS 15° TO THE RIGHT FROM THE ORIGINAL RECORD (IN THE MOST EXTREME CASES). THE 1914 SURVEY COULD NOT BE AN OFFICIAL SURVEY SINCE THE VAST MAJORITY OF THE LAND HAD BEEN PATENTED OUT TO PRIVATE HOLDINGS BETWEEN THE YEARS OF 1905 AND 1913. THEREFORE THESE LAND TITLES ARE BASED UPON THE 1882 SURVEY.

FOR A MORE DETAILED EXPLANATION OF THIS MATTER AND THE EVIDENCE ACQUIRED TO SUPPORT THIS CONCLUSION, A CONSULTATION WITH MR. ALLRED IS ADVISED. MR. ALLRED ARRIVED AT THIS CONCLUSION DURING THE LATE 1970'S AND HAS PERFORMED SURVEYS AND MONUMENTATION FROM THESE FINDINGS. IN 1992 THE BLM (BUREAU OF LAND MANAGEMENT) CONDUCTED A SURVEY IN SECTION 1 OF TOWNSHIP 4 SOUTH, RANGE 3 WEST AND MET WITH MR. ALLRED CONCERNING THIS ISSUE. THE BLM CONCURRED WITH MR. ALLRED'S FINDINGS. THE SURVEY WAS APPROVED AND FILED AS NO. 652-C IN THE OFFICE OF THE BLM, SALT LAKE CITY.

WITH CONDITIONS AS SUCH A MORE ACCURATE POSITION FOR THE NORTH 1/4 CORNER OF SECTION 6 WAS REMONUMENTED AS WELL AS OTHER INTERIOR 1/16 CORNERS SINCE THAT TIME THE WILSON-CALDER SURVEY FOR MR. LIDDELL WAS APPARENTLY BASED UPON DATA FROM A SURVEY FOUND IN THE OFFICE OF THE DUCHESNE COUNTY RECORDERS. THIS SURVEY IS OF SECTION 6 CONDUCTED IN 1971 BY NELSON MARSHALL, WHO WAS EMPLOYED BY UNTAH ENGINEERING AND LAND SURVEYING FROM VERNAL. IN THAT SURVEY THE BRASS CAP POSITIONS FROM THE 1914 GLO SURVEY WERE USED IN CORRELATION WITH ORIGINAL FOUND STONE CORNERS TO THE SOUTH TO PERFORM THE SECTION BREAKDOWN. THE SECTION DATA ON THE TWO PLATS ARE IDENTICAL EXCEPT FOR SOME MINOR TYPOGRAPHICAL ERRORS.

THE EARLY 1970'S SURVEYS FAILED TO LOCATE MORE ACCURATELY THE NORTH-SOUTH 1/4 SECTION LINE. THE RESULTING LEGAL DESCRIPTIONS DID NOT MAKE ANY CALLS TO THAT LINE OR ANY OTHER EXTERIOR BOUNDARY OWNED BY MR. LIDDELL. THE 1973 SURVEY MARKS WERE CLEARLY IDENTIFIABLE. A LARGE GAP OF APPROXIMATELY 55' (CONTAINING 0.75 ACRES) IS THE RESULT OF THESE FINDINGS. NO PATENT NOR LATENT AMBIGUITIES ARE APPARENT EXCEPT THAT MR. LIDDELL HAD ASSUMED THAT HE HAD DISPOSED OF ALL HIS LAND. THIS BEING THE ONLY AMBIGUITY, THE INTENT OF THE GRANTOR MUST BE ASCERTAINED FROM THE WRITINGS IN LIGHT OF THE THEN EXISTING CONDITIONS AND WHAT THEY SAID, (NOT WHAT THEY MEANT TO SAY). IN LIGHT OF THESE RULES OF INTERPRETATION, THIS INDICATES THAT THE GRANTOR HAS UNINTENTIONALLY RETAINED THAT PORTION OF HIS ESTATE, RESULTING IN A COLOR OF TITLE.

THOUGH THERE ARE REMNANTS OF AN OLD WIRE FENCE IN PLACE SINCE POSSIBLY PRIOR TO THE 1914 SURVEY, THE MERGER DOCTRINE ELIMINATES ANY BOUNDARY LINE FORMERLY DIVIDING TWO HALVES NOW JOINED. IN THIS CASE A COMMON OWNER NAMED HENRY BARNUM OWNED THE FIELD TO THE WEST FROM 1991 TO 1997 AND WAS PART OWNER OF THE NORTH 5 ACRE PIECE OF TILLACKS PROPERTY TO THE EAST. HE HIMSELF WITH THE TILLACKS OTHER PREDECESSORS IN TITLE REPLACED AND RELOCATED A PORTION OF THAT FENCE TO THE WEST FOR CONVENIENCE OF MAINTENANCE. THESE FINDINGS INDICATE THAT A BOUNDARY BY ACQUESCENCE ON THE OLD WIRE FENCE HAS NOT BEEN IN FORCE IN RECENT YEARS AND COMPLICATES THE ISSUE OF UNWRITTEN TITLE RIGHTS.

RETRACEMENT SURVEY FOR GENA E. TILLACK OF THE ORIGINAL SURVEY DATED 1973 BY THE WILSON-CALDER CORPORATION LOCATED IN THE NW 1/4, NE 1/4, SECTION 6 TOWNSHIP 4 SOUTH, RANGE 4 WEST, UINTAH SPECIAL MERIDIAN

ORIGINAL DESCRIPTION (MOON AND PEATROSS PARCEL)

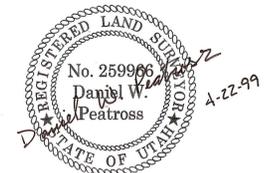
TOWNSHIP 4 SOUTH, RANGE 4 WEST, UINTAH SPECIAL MERIDIAN SECTION 6:
Beg at pt that is 680.7 ft South and 13.5 ft West of N1/4 cor, said pt being in the centerline of the County Road, th along the centerline of the road North 45°52' East 445.5 ft, th South 5°20' East 229.5 ft, th South 49°10' West 235.9 ft, th South 85°52' West 173.2 ft, th North 1°09' East 154.7 ft to pt of beg.
Contains 2.09 acres.
Bearings are based on the N1/4 cor Sec 6 to the N1/4 cor Sec 5 as being North 89°43' East.

ORIGINAL DESCRIPTION (TILLACK PARCEL)

TOWNSHIP 4 SOUTH, RANGE 4 WEST, UINTAH SPECIAL MERIDIAN SECTION 6:
Beg at pt that is 835.3 ft South and 16.7 ft West of N1/4 cor, th North 85°52' East 173.2 ft, th North 89°56' East 442.7 ft, th South 37°56' East 419.4 ft, th North 89°00' East 438.3 ft, th South 1°28' West 164.8 ft, th North 89°57' West 1316.8 ft, th North 1°09' East 473.7 ft to pt of beg.
Contains 10.42 acres.
Bearings are based on the N1/4 cor Sec 6 to the N1/4 Sec 5 as being North 89°43' East.



SCALE: 1" = 50'



NOTES:

- SET MAG NAIL & BRASS WASHER RECESSED IN PAVEMENT
- SET ALUMINUM CAP ON 5/8" X 24" REBAR
- ◆ FOUND ORIGINAL REBAR FROM 1973 SURVEY
- ◆ FOUND RIGHT-OF-WAY MONUMENTS
- ◆ FOUND REBAR SET BY OTHERS
- ◆ FOUND SECTION MONUMENTS

THE BASIS OF BEARINGS FOR THIS RETRACEMENT SURVEY IS PLACED BETWEEN THE 1914 GLO (GENERAL LAND OFFICE) BRASS CAP, MARKED AS THE NORTH 1/4 CORNER OF SECTION 6 AND, THE FIRST ORIGINAL REBAR RECOVERED TO THE SOUTH. THE NORTH 1/4 CORNER OF SECTION 5 AS IDENTIFIED IN THE 1973 DEED DESCRIPTIONS WAS UNRECOVERABLE FOR USE AS A BEARING BASE DO TO ITS BEING LOST DURING CULTIVATION.

County Surveyor's File # 820
DANIEL W. PEATROSS
REGISTERED LAND SURVEYOR
P.O. BOX 564 - DUCHESNE UTAH, 84021 (435) 738 - 2718

JOB #	98031	SURVEYED BY:	D.W.P. D.F.	DATE SURVEYED:	1 - 15 - 99
SHEET:	1 OF 1	DRAFTED BY:	Bruce Peatross	DATE DRAFTED:	3 - 30 - 99

