



RUDY HILLSTROM

180 IBLA 388

Decided March 16, 2011



United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy St., Suite 300
Arlington, VA 22203

RUDY HILLSTROM

IBLA 2010-152

Decided March 16, 2011

Appeal from a decision of the Oregon State Office, Bureau of Land Management, dismissing a protest of a dependent resurvey. Group No. 454, WA.

Affirmed.

1. Surveys of Public Lands: Generally--Surveys of Public Lands: Dependent Resurveys

A party who objects to a resurvey after the filing of the official survey plat is required to establish, by a preponderance of the evidence, that the resurvey was grossly erroneous or fraudulent. A failure to conform the resurvey to the requirements of the *Survey Manual* constitutes gross error.

2. Surveys of Public Lands: Generally--Surveys of Public Lands: Dependent Resurveys

The purpose of a dependent resurvey is to retrace and reestablish the lines of the original survey in their true and original positions according to the best available evidence of the positions of the original corners. These corners fall into one of three categories: First, a corner is “existent” if it can be recovered by finding evidence of the monument and/or its accessories; second, a corner is considered “obliterated” if there are no remaining traces of the monument or its accessories, but its location has been perpetuated, or established beyond a reasonable doubt by other acceptable evidence; and third, a corner is categorized as “lost” if it is neither existent nor obliterated and its location can only be restored by reference to one or more interdependent corners, *i.e.*, by the method of proportionate measurement.

3. Surveys of Public Lands: Dependent Resurveys

A corner will not be considered obliterated unless there is some evidence of the original corner location; collateral evidence can be accepted as evidence of the original corner only if it is supported by proper relation to known corners, agreement with the field notes, or unquestionable testimony. A party challenging the position of a corner reestablished under a dependent resurvey fails to meet his burden of establishing by a preponderance of the evidence that a corner is obliterated and that a position other than the one established in the resurvey is the proper location of the original section corner if the collateral evidence he provides is not related to or connected to the original corner; an appellant's mere difference of opinion or speculation does not meet that burden of proof.

4. Surveys of Public Lands: Generally

A landowner's *bona fide belief* concerning the boundary between his land and public land is not the same as a *bona fide right* that must be protected in a resurvey under 43 U.S.C. § 772 (2006). Although a person may have a *bona fide* belief based on an understanding of where a boundary lies, a *bona fide* right within the meaning of the statute must be based on good faith reliance on evidence of the original survey.

APPEARANCES: Rudy Hillstrom, Oakville, Washington, *pro se*;¹ Mary J. M. Hartel, Chief Cadastral Surveyor of Washington, Oregon State Office, Bureau of Land Management, Portland, Oregon, for the Bureau of Land Management; Robbi Kesler, Esq., and Devon Tiam, Esq., Office of Tribal Attorney, Confederated Tribes of the Chehalis Reservation, Oakville, Washington, for Intervenor.

¹ Hillstrom was joined in his notice of appeal by John Bentley, a local surveyor who performed a private survey for Hillstrom. By Order dated Nov. 9, 2010, the Board dismissed Bentley's separate appeal of BLM's decision because he lacked the requisite interests to qualify as an appellant. Bentley has filed a statement of reasons separate from Hillstrom. Although he is not qualified under 43 C.F.R. § 1.3 to represent Hillstrom in this matter, *see Helmut Rohrl*, 132 IBLA 279, 281 (1995); *Leonard J. Olheiser*, 106 IBLA 214, 215-16 (1988); *Robert G. Young*, 87 IBLA 249, 250 (1985), we accept his filing in the capacity of *amicus curiae*. *See* 43 C.F.R. § 4.406(d). We consider his arguments and observations along with Hillstrom's.

OPINION BY ADMINISTRATIVE JUDGE GREENBERG

Rudy Hillstrom appeals an April 30, 2010, decision of the State Director, Oregon State Office, Bureau of Land Management (BLM), denying his March 18, 2010, protest that challenged BLM's 2000 Dependent Resurvey (Group 454, WA) retracing, *inter alia*, the section line between secs. 6 and 31, Ts. 15 and 16 N., R. 4 W., Willamette Meridian (WM), Grays Harbor County, Washington. BLM denied the protest because Hillstrom had not shown gross error or fraud in the 2000 Dependent Resurvey's placement of the W-1/16 section corner, which determines the boundary between Hillstrom's fee land and Indian trust land. Because Hillstrom has failed to meet his burden of demonstrating by a preponderance of the evidence that the resurvey was grossly erroneous or fraudulent, and the record shows that the survey conformed to the requirements of the *Manual of Surveying Instructions for the Survey of Public Lands, 1973 (1973 Survey Manual)*, we affirm BLM's decision.

*Background**A. The Dependent Resurvey*

The issue in this appeal centers on whether the 2000 Dependent Resurvey performed pursuant to Special Instructions dated May 2, 1994, under Group No. 454, Washington, and accepted on September 5, 2000, correctly reestablished the position of the W-1/16 section corner on the south boundary of sec. 31, T. 16 N., R. 4 W., WM. The south boundary of sec. 31, which is controlled by the W-1/16 section corner, forms the south boundary of Hillstrom's property and the north boundary of Indian trust allotment 7-A.

The south and west boundaries of T. 16 N., R. 4 W. were originally surveyed by David Byles, U.S. Deputy Surveyor, in 1856. Byles returned in 1873 and, as part of his survey of the Chehalis Indian Reservation boundaries, resurveyed the south and subdivisional lines of T. 16 N., R. 4 W., subdivided sec. 31, and established some of the 1/16 section corners. The plat of this survey was approved on April 4, 1874. In particular, Byles recorded in his field notes that he had proceeded east along the south boundary of sec. 31 a distance of 20.78 chains and had established and monumented the W-1/16 section corner at this point:

East in line between sections 6 and 31

Var 21 East

by the original field notes the line is 80.78 chains in length, hence at

20.78 Set a post 3½ ft long by 3½ in diam 1½ feet in the ground for 1/16 Section Corner from which
An Oak 10 in diam bears N 83° E 109 lks dist

" " 12 " " " S 55° W 125 " "

....

80.78 The Corner to sections 5, 6, 31, and 32. . . .

Byles Field Notes at 172 (Subpart-Chehalis Survey at 30). While later-executed private, county, and State surveys purportedly tie to this W-1/16 corner, none refer to the original post or bearing trees or to any other evidence of the original monument.

In 1993 the Bureau of Indian Affairs (BIA) asked BLM to investigate the boundaries of Indian allotments in the NW¼ of sec. 31 where inconsistencies with private surveys had created confusion about the proper location of fence lines. BIA subsequently requested that BLM perform a survey to delineate the boundaries of Indian trust lands in the area. In response, BLM issued Special Instructions for Group No. 454, Washington, which characterized the work to be performed as a

Dependent Resurvey of Portions of the North and West Boundaries, Subdivisional Lines, and Subdivision-of-Section Lines, the Subdivision of Sections 4, 5, 6 and 10, the Metes-and-Bounds Surveys in Sections 4, 5, 6 and 10, T. 15 N., R. 4 W.; Dependent Resurvey of Portions of the South and West Boundaries, Subdivisional Lines, and Subdivision-of-Section Lines, the Subdivision of Sections 31 and 32, and Metes-and-Bounds Surveys in Sections 31 and 32, T. 16 N., R. 4 W.; and a Metes-and-Bounds Survey in Section 36, T. 16 N., R. 5 W., Willamette Meridian, Washington.

Special Instructions dated May 2, 1994, at 1. The lines and corners to be surveyed within sec. 31 were depicted on the attached Special Instructions Diagram "B", which showed that each corner in each 1/16 quadrant of sec. 31, except for three corners of the 1/16 subdivisions in the N½N½ not relevant here, were identified for recovery or reestablishment. In addition, the subdivisional lines along the north, west, and south of the SW¼SE¼ were to be surveyed or resurveyed.

As directed by the Special Instructions for Group No. 454, Washington, Richard Shatto and Daniel Weller, U.S. Cadastral Surveyors, resurveyed a portion of the south and west boundaries of sec. 31, its subdivisional lines, and subdivision-of-section lines during the period from 1994 through 2000. They also subdivided a portion of sec. 31 and performed metes-and-bounds surveys as needed. As directed by section 6-26 of the *1973 Survey Manual*, the surveyors began the dependent resurvey by retracing the lines of the original survey, searching for evidence of the original survey and reestablishing unrecovered corners either by the use of collateral evidence or by proportionate measurement. Since they found no evidence of the original W-1/16 section corner, they set that corner at a proportionate distance along

the south section line. See Weller-Shatto Field Notes, Vol. 250 at 106-107 (Subpart at 7-8). The official plat for Group No. 454, Washington, was accepted September 5, 2000. BLM published notice of the filing of the plat in the *Federal Register* on October 16, 2000. 65 Fed. Reg. 61184 (Oct. 16, 2000). No protests of the plat were submitted.

Hillstrom owns patented land in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of sec. 31, the south boundary of which is the sectional line between secs. 6 and 31. This sectional line also constitutes the northern boundary of the adjacent Indian Allotment 7-A. The 2000 Dependent Resurvey's placement of the portion of the sectional line forming the property line between Hillstrom's lands and Allotment 7-A intersects three wood frame buildings – two barns and one dwelling. Weller-Shatto Field Notes, Vol. 250 at 106-107 (Subpart at 7-8). These three buildings belong to Hillstrom; thus, the position of the sectional line under the 2000 Dependent Resurvey Plat, as dictated by the restored W-1/16 corner, placed Hillstrom's property on land within the adjacent Indian allotment.² Since the resurveyed boundary conflicted with what Hillstrom and his predecessors-in-interest believed was the property line, Hillstrom engaged the services of John Bentley, a certified surveyor, to investigate the 2000 Dependent Resurvey Plat's placement of the corners affecting the boundaries of his private land.

B. Bentley's Request for Review of New Information

By letters dated January 23, 2008, June 18, 2008, and July 18, 2008, Bentley notified BLM that he had recovered Grays Harbor County road surveys and records that reported ties to the original center $\frac{1}{4}$ section corner of sec. 31, the center W-1/16 corner of sec. 31, the SW-1/16 section corner of sec. 31, and the W-1/16 section corner of secs. 31 and 6 on the south boundary of the township. As to the W-1/16 section corner at issue here, Bentley's January 23, 2008, letter noted the boundary issues created by the 2000 Dependent Resurvey, and asserted that a "fence, which has long been standing and perpetuated over the years, [and] was accepted by

² In 2006, at the request of the Confederated Tribes of the Chehalis Reservation (Tribes), BLM investigated certain trust parcels south of Hillstrom's property, including Allotment 7-A, to resolve issues associated with alleged trespasses by Hillstrom. BLM did not uncover any new evidence at that time that conflicted with the 2000 Dependent Resurvey, and on Aug. 11, 2006, the Tribes initiated trespass and nuisance proceedings against Hillstrom in the Chehalis Tribal Court based upon Hillstrom's "encroachment over the boundary line established by the resurvey." Tribes' Answer at 1. After seeking information and receiving additional information from BLM and Hillstrom about Hillstrom's challenge to the 2000 Dependent Survey's placement of the W-1/16 section corner and south boundary of sec. 31, the Tribal Court ultimately held Hillstrom liable for trespass in an Order for Summary Judgment issued on July 27, 2009. *Id.* at 2.

the local residents as the section line[,] was not given any consideration to be the best existing evidence of that south line.” He attached documents, maps, and other materials, including those found in the records, supporting the fence as the true boundary location and a stone as the true W-1/16 section corner location. Upon receipt of the January letter, BLM advised Bentley by letter dated January 31, 2008, that it had determined that further investigation was warranted. Bentley provided additional information to BLM in letters dated June 18, 2008, and July 18, 2008: the June 18 letter advised BLM that he had uncovered the appended survey map prepared by the deputy county engineer in 1911 that purportedly showed the true location of the W-1/16 corner; and his July 18 letter both identified additional County records referring to a stone as the corner and also referred to “a pair of oak trees, which are now over 20" in diameter,” which he averred, matched the description of the bearing trees set by Byles for the W-1/16 corner.

BLM considered all this information in the investigation of Bentley’s claims conducted by Weller and others. After researching the local survey records referenced by Bentley and examining the conditions cited by Bentley in the field, Weller sent a July 29, 2008, memorandum to the Acting Chief Cadastral Surveyor of Washington, BLM, in which he determined that, based on the record evidence of original corners found in the County road surveys, three of the corners, *i.e.*, the center ¼ section corner, the center W-1/16 corner, the SW-1/16 section corner, were obliterated corners that could be restored to their original locations based on collateral evidence of their original positions. As to the W-1/16 section corner, Weller stated:

A letter received in this office on July 21, 2008 from John Bentley, indicated that he found the original bearing trees both over 20 inches in diameter that fit the original record. We were led to these trees by Linda Hillstrom (adjacent landowner). We measured the record bearing and distances but found that their relationship to each other was about 50 feet shorter than record. Mr. Bentley later admitted that the trees didn’t fit. There were no visible marks on the oak trees that would indicate that they were bearing trees. There is also a barbed wire fence (40+- years) that generally runs east and west located about 52 feet south of our corner position and a gravel driveway is located 29 feet south of our corner position. We developed a search area based on the county road ties to the “stone” that was located 150 feet east of our corner position and about 5 feet south of the barbed wire fence. Evidence on the ground indicated that this area had been recently cleared to search for the “stone”.

....

The right-of-way maps indicate that a found stone was utilized as the W 1/16 section corner of sections 6 and 31. The origin of this stone is unknown and has no history of it perpetuating the position of the original corner. Other records from the county identify found original evidence at other corner locations but are silent on anything at this corner. We recommend not moving the 1994-2000 corner[']s location.

Weller Memo at 3-4.

C. Bentley's Request for BLM Determination

In 2009, Bentley reestablished and remonumented the point he and Hillstrom believed to be the location of the W-1/16 section corner based on the County road surveys. His corner is located approximately 40 feet south and 155 feet east of the corner's position set in the 2000 Dependent Resurvey.

By letter dated January 12, 2010, Bentley objected to the 2000 Dependent Resurvey's characterization of the W-1/16 section corner between secs. 31 and 6 as lost and its consequent reestablishment of the corner through the use of single proportionate measurement. He asserted that the position for the corner he had found in the County Surveyor's office records, *i.e.*, the stone corner, more accurately represented the corner's original position than did the one established in the 2000 Dependent Resurvey. He asked BLM to review the information he had discovered in those records relating to the W-1/16 section corner, including the map of E.D. Garrard County Road, which had been surveyed in 1911 by H.S. Shorey, the Deputy County Engineer who had recovered the original monuments BLM had accepted for the center ¼ section corner and the center W-1/16 corner of sec. 31. Bentley averred that, in light of Shorey's vast experience in recovering General Land Office (GLO) monuments in the area, Shorey's placement of the W-1/16 section corner depicted on the map should have been accepted as well.

BLM replied by letter dated March 10, 2010, informing Bentley that it had reviewed his submitted data and had concluded that there was insufficient evidence to warrant modifying the 2000 Dependent Resurvey and the accepted Plat with respect to the disputed corner. Because this letter sets out the key rationale underlying BLM's rejection of Bentley's (and Hillstrom's) claims that the corner is obliterated, rather than lost, and that Bentley's position for the corner represents the true original location of the corner, we quote a substantial portion of that letter here:

. . . You believe the corner is obliterated [rather than lost] and would have us rely on ties shown on various surveys of E.D. Garrard County Road to locate the corner.

....

You have recovered field books and plats of road surveys in the Grays Harbor County records (County Road Records) not found and therefore not considered by this office in the 2000 Survey. . . . We have reviewed the County Road Records and agree they represent the best available evidence of the position of the original corners [for the center $\frac{1}{4}$ section corner, the center W $\frac{1}{16}$ section corner, and the SW $\frac{1}{16}$ section corner]. Consequently, we are in the process of correcting the 2000 Survey to accept these corners.

The County Road Records tie to a fourth corner, the purported W $\frac{1}{16}$ section corner of sections 6 and 31, townships 15 and 16 north, range 4 west. The corner is described in the various records as "1/16 cor.", "1/16 Cor. Stone" and "Found Rock Set for Cor." (Stone Corner). Unlike the three previous corners, there is no reference to recovered original evidence of the corner.

The original corner was monumented with a wood post and witnessed by two oak bearing trees. There is no remaining physical evidence of the original corner post, bearing trees or stone reported in the County Road Records. The 2000 Survey determined the corner lost and reestablished it by the method of single proportionate measurement, as prescribed by sec. 5-34 of the *Manual of Surveying Instructions for the Survey of the Public Lands, 1973 (1973 Survey Manual)*. Based on the County Road Records you believe the corner is obliterated and have located the corner point accordingly. Your corner position is located S. $75^{\circ} 33' 28''$ E., 160.37 feet from the BLM corner. Your corner position is supported by remains of an old fence following on or near what you have determined to be the section line, with a newer fence located 15-20 ft. south of your line. The section line as surveyed by BLM is located approximately 50 feet north of your line and extends through a house and two barns. The parcel north of the section line is fee land owned by a non-Indian and the parcel to the south is individual Indian trust land.

. . . After a thorough review we find no evidence of gross error or fraud: . . . 2) We find direction for evaluating evidence in . . . the *1973 Survey Manual* . . . [which] cautions that evidence must relate to the original survey; [and] 3) We both agree there is no remaining physical evidence of the original corner or the Stone corner

We have carefully evaluated the County Road Records, but find insufficient evidence to determine the corner obliterated for the following reasons:

1. There is no record information that relates the Stone Corner to the original corner location. . . .
2. The Stone Corner is poorly related to the nearest recovered original corner. The bearing and distance from the W 1/16 section corner of section 6 and 31 to the corner of section 1, 6, 31, and 36 (nearest corner to the west) is:

- Record: West 20.78 chains (1371.48 feet)
- BLM 2000 S. 89° 43' 50" W. 21.075 chains (1391.15 feet)
- Stone Corner: N. 88° 45' 38" W. 24.435 chains (1546.60 feet)

The bearing and distance from the W 1/16 section of sections 6 and 31 to the ¼ section corner of section 5 and 32 (nearest corner to the east) is:

- Record: West 100.00 chains (6,600 feet)
- BLM 2000 S. 89° 43' 50" W. 101.475 chains (6,697.35 feet)
- Stone Corner: N. 89° 22' 26" W. 99.135 chains (6,543.04 feet)

The BLM corner is within 21.28 feet of the record distance and 0° 16' 10" of the record bearing to the closest corner, whereas your corner is 175.02 feet long and the bearing deflects 1° 14' 22" from the record. The measurement from your corner point to the ¼ section corner of sections 5 and 32 located over a mile to the east is slightly better than BLM's for distance but both are well correlated to the original record.

3. . . . It could be argued that Byles "stubbed" the lines from east to west. In other words he never measured the last quarter-mile and therefore the location of the Stone Corner is not unreasonable, in fact, it is where one would expect to find it, 60 chains from the east boundary. However, unlike the other lines, Byles resurveyed the south boundary of section 31 from west to east. It was the first line he surveyed in this section and he did not survey it random and true³ but relied on the 1856 record measurement. At the time he established the W 1/16 on the south boundary he had no idea how long the line was.

³ Random and true is a survey method whereby a trial line is run to connect two monuments, the data obtained while running the trial line is then used to compute and rerun the true line. See BLM Answer at 9, n.14.

He would have had no way to calculate a point and set a monument 60 chains from the east boundary.

Mar. 10, 2010, Letter at 1-4.

D. Hillstrom's Protest and BLM's Decision

On March 18, 2010, Hillstrom protested BLM's response to Bentley. Asserting that his predecessor-in-interest had told him that the fence was the section line, Hillstrom objected to BLM's "lack of consideration of the collateral evidence that remains to properly re-establish my southwest property corner." Protest at 1. He pointed out that H.S. Shorey, the County Engineer in the early 1900s, who he averred was well-qualified to identify original GLO survey corners, had based his survey work in the area on the stone monument as the original corner. He also contended that the right-of-way plan for E.D. Garrard County Road approved by the Secretary of the Interior in 1924 had depicted the stone as the W-1/16 section corner and used it as the starting point for the survey description. Hillstrom further argued that BLM had failed to perform the proper research during the dependent resurvey because it had neglected to consult appropriate county records and to question landowners about corner locations. Hillstrom asserted that "his" corner position "has the collateral evidence of fence remains (North, East, South and West), along with tree lines, ancient records in the form of maps and survey field notes depicting the location of the corner in relation to other GLO corners and roads, and expert testimony in the form of the County Engineer and the Secretary of the Interior approval of the plans." Protest at 2. He asked BLM to reconsider its placement of the W-1/16 section corner in light of this evidence and to accept the stone monument as the position of the corner.

BLM denied Hillstrom's protest on April 30, 2010.⁴ BLM summarized Hillstrom's itemization of BLM's survey team's alleged misdeeds, including its lack of consideration for collateral evidence; its failure to reestablish the boundaries along fences, which he believed represented the correct corner and section line location; its failure to question landowners about evidence; and its failure to adequately consult County records. BLM explained that to successfully challenge a resurvey after the official filing of the plat of the resurvey, the challenger had to show gross error or fraud in the resurvey. BLM outlined actions that would constitute gross error or fraud: Failure to properly apply the relevant laws; failure to follow the *1973 Survey Manual*; failure to recover existing evidence of the original corner; failure to properly evaluate collateral evidence; and failure to properly locate the corner due to a

⁴ Much of the analysis in the Apr. 30, 2010, decision tracks the analysis in BLM's Mar. 10, 2010, letter to Bentley, quoted extensively above. We do not repeat that analysis here but simply summarize BLM's conclusions.

blunder in measurement. Evaluating Hillstrom's contentions in light of these factors, BLM found no gross error or fraud because the applicable statutes had been properly applied and the relevant Indian and private landowner rights had been protected; the *1973 Survey Manual* had been followed, especially as it relates to the evaluation of collateral evidence; no evidence of the original monument or accessories for the W-1/16 section corner had been found by either BLM or Bentley nor had the County surveyors related the stone corner to the original monument or accessories; it had obtained landowner input by holding a public meeting and by interacting with landowners while executing the resurvey; the collateral evidence had been carefully evaluated in accordance with the *1973 Survey Manual*; and the measurements of the dependent resurvey had been satisfactorily confirmed by Bentley himself.

BLM rejected Hillstrom's claim that the resurvey team's inability to locate certain County records demonstrated a lack of diligence, pointing out that the team had sent letters to the County Surveyor and others prior to initiating the field work and had made several visits to the County Surveyor's office to consult the local records, and that other surveyors had not found the records Bentley later discovered when they reviewed the available information. BLM distinguished the W-1/16 corner from the three nearby corners, which it had initially determined to be lost but had later declared obliterated, and therefore recovered, noting that the evidence for the other three corners included County records referring to recovered original monuments and accessories while the County road records contained no evidence that the W-1/16 section corner's original wood post monument or two oak bearing trees had been recovered nor did references to the stone corner in those records relate that corner to any original evidence of the W-1/16 section corner. BLM concluded that Hillstrom's corner did not qualify as an obliterated corner because no record exists that connects the stone corner to the original corner location and the stone corner is poorly related to the nearest recovered original corner.

BLM also noted that, although the 2000 Dependent Resurvey had been published on October 16, 2000, and had provided a 30-day protest period, Hillstrom had not objected to any aspect of the surveying work performed. BLM added that it had thoroughly considered and properly evaluated the new information Bentley had discovered in the County road records in its March 10 response to Bentley. Since Hillstrom had presented no new information or evidence to demonstrate gross error or fraud, BLM dismissed the protest.

Hillstrom has appealed BLM's decision to the Board.

Discussion

[1] The Secretary of the Interior is authorized to consider what lands are public lands and what public lands have been or should be surveyed and has the

authority to extend or correct the surveys of public lands and to make resurveys to reestablish corners and lines of earlier surveys. *David Viers*, 143 IBLA 209, 217 (1998); *John W. And Ovada Yeargan*, 126 IBLA 361, 362 (1993); see 43 U.S.C. §§ 2, 52, 751-53, 772 (2006). A party objecting to a resurvey after the filing of the official survey plat must establish by a preponderance of the evidence that the resurvey was grossly erroneous or fraudulent. See *Linn and Treciafaye Blancett*, 178 IBLA 272, 278 (2009), *appeal filed* CV No. 1:10-CV-00254-RLP (D.N.M. Mar. 19, 2010), and cases cited; *Peter Paul Groth*, 99 IBLA 104, 111 (1987). An appellant can meet the burden of showing gross error by demonstrating that BLM failed to conform the resurvey to the requirements of the prevailing *Survey Manual*.⁵ See *Linn and Treciafaye Blancett*, 178 IBLA at 278; *Tracy V. Rylee*, 174 IBLA 239, 251 (2008); *Quinton Douglas*, 166 IBLA 257, 269 (2005); *Peter Paul Groth*, 99 IBLA at 119; *Domenico A. Tussio*, 37 IBLA 132, 133 (1978). Mere differences of opinion or speculation, however, do not satisfy this burden. See, e.g., *Robert W. Delzell*, 158 IBLA 238, 248 (2003). Hillstrom has failed to meet his burden here.

Hillstrom contends that BLM committed gross error in the 2000 Dependent Resurvey because it failed to follow the *1973 Survey Manual* and improperly evaluated collateral evidence.⁶ He argues that BLM did not adequately research County records or appropriately consider valuable personal testimonies. He alleges that BLM did not give sufficient weight to the landowners' and various property deeds' identification of the fence line as the section line, and that the 2000 Dependent Resurvey's placement of the W-1/16 section corner and south section line overturns many long-accepted property corners and lines. Hillstrom also claims that reputable local surveyors such as Shorey, who he believes had knowledge of the original corner, based their surveys on the stone corner, and that their acceptance of the stone corner as the perpetuation of the W-1/16 section corner should be accepted as the location of the original corner despite the lack of any reference in the records to original evidence of that corner. Hillstrom further asserts that the Assistant Secretary's December 29, 1924, approval of right-of-way plan for the E.D. Garrard County Road and associated map referring to the "1/16 Cor. Stone," *i.e.*, the stone

⁵ The *1973 Survey Manual* has been superseded by a *2009 Survey Manual*. However, since the dependent resurvey at issue was performed during 1994 through 2000, our review focuses on whether that resurvey conformed to the *1973 Survey Manual*, which was in effect at that time.

⁶ Hillstrom also intimates that BLM's decision to revise the locations of the other three corners indicates that BLM concluded that there was gross error or fraud in the 2000 Dependent Resurvey. We will not construe BLM's determination that the additional information supported the reestablished positions of those corners as a repudiation of the remainder of the resurvey, but consider it indicative of BLM's willingness to reevaluate its corner placements when justified by new evidence.

corner, constitutes additional substantial evidence that the stone monument is the official W-1/16 corner.

Hillstrom cites section 5-10 of the *1973 Survey Manual* and argues that a corner is not considered lost when its position can be recovered satisfactorily through testimony and acts of witnesses having positive knowledge of the precise location of the original monument. He argues that here there are witnesses with positive knowledge of the corner and surveyors who identified the original monument prior to its destruction, again citing Shorey's adoption of the stone corner as the W-1/16 section corner and the Assistant Secretary's 1924 approval of the plan and map for the "E.D. Garrard County Road Cor. Stone," *i.e.*, the stone corner. Hillstrom concedes that BLM's position better matches the closest monument to the west, but maintains that the stone corner recovered by Bentley better matches the accepted monument to the east, and that, unlike BLM's corner which lacks supporting evidence, Bentley's position is supported by ample evidence, including fence remains (North, East, South, and West); tree lines; maps and survey notes depicting the stone corner in relation to other GLO corners; and expert testimony of competent surveyors accepting the stone position. We find Hillstrom's arguments insufficient to demonstrate gross error or fraud in the 2000 Dependent Resurvey and affirm BLM's decision.

[2] A dependent resurvey is designed to retrace and reestablish the lines of the original survey in their "true original positions" according to the best available evidence of the original corners. *1973 Survey Manual*, § 6-4, at 145. Generally speaking, the dependent resurvey places the lines in the same position on the earth's surface that they have occupied since the date of the original survey, thus fulfilling BLM's duty, under 43 U.S.C. § 772 (2006), to protect the *bona fide* rights of private landowners whose property rights are tied to the original lines. *1973 Survey Manual*, §§ 6-4, at 145, and 6-12 to 6-14, at 147; *see Sweeten v. U.S. Department of Agriculture*, 684 F.2d 679, 681-82 (10th Cir. 1982); *James R. & Charlene K. Hasenyager*, 176 IBLA 252, 258 (2008); *Howard Vagneur*, 159 IBLA 272, 277 (2003). Stated more fully in *J.M. Beard (On Rehearing)*, 52 L.D. 451, 453 (1928):

[T]he section lines and lines of legal subdivision of the dependent resurvey in themselves represent the best possible identification of the true legal boundaries of the lands patented on the basis of the plat of the original survey. . . . In legal contemplation, and in fact, the lands contained in a certain section of the original survey and the lands contained in the corresponding section of the dependent resurvey are identical.

See 1973 Survey Manual, § 6-4, at 145. "The proper execution of the dependent resurvey serves to protect the *bona fide* rights of the land owners, because a properly executed dependent resurvey traces the lines of the original survey." *State of Missouri*,

142 IBLA 201, 213 (1998) (citing *John W. and Ovada Yeargan*, 126 IBLA at 361) (emphasis added).

In executing a dependent resurvey, BLM is required to thoroughly and diligently search for any evidence of the original corners, including the monument and its accessories. “The retracement surveyor must act as a detective to gather, verify and consider *all available evidence*.” *James R. & Charlene K. Hasenyager*, 176 IBLA at 259; see *John W. and Ovada Yeargan*, 126 IBLA at 363. Further, BLM must do so by following the field notes of the original survey, in order to ensure that it has the best chance of recovering such evidence. *James R. & Charlene K. Hasenyager*, 176 IBLA at 259; see *1973 Survey Manual*, §§ 5-6, at 130, and 6-26, at 150. Despite its best efforts, however, BLM may never recover evidence of the original monument or its accessories, or may not recover them until after it has accepted the dependent resurvey.

Reestablishing the original lines in a dependent resurvey involves recovering or restoring the original corners. *James R. & Charlene K. Hasenyager*, 176 IBLA at 259. These corners fall into one of three categories. First, a corner is “existent” if it can be recovered by finding evidence of the original monument and/or its accessories. *1973 Survey Manual*, § 5-5, at 130. Second, a corner is considered “obliterated” if there are no remaining traces of the monument or its accessories, but its location has been perpetuated, or established beyond a reasonable doubt by other acceptable evidence. *1973 Survey Manual*, § 5-9, at 130. Third, a corner is categorized as “lost” if it is neither existent nor obliterated and its location can only be restored by reference to one or more interdependent corners, *i.e.*, by the method of proportionate measurement. *1973 Survey Manual*, §§ 5-20 and 5-21, at 133. Hillstrom does not contend that evidence of the original W-1/16 section corner monument or its accessories has been found; therefore the corner is either obliterated or lost. The proper categorization of the corner turns on whether other evidence of the corner survives and the corner can be considered obliterated or whether no such evidence exists and the corner must be classified as lost.

Hillstrom insists that the corner is obliterated because there is sufficient collateral evidence of the corner’s location and maintains that Bentley’s position for the corner accurately replicates the corner’s original location based on that collateral evidence. BLM disagrees that collateral evidence tying the stone corner or Bentley’s corner to the original corner position exists, and avers that it properly considered the corner to be lost and correctly reestablished the corner by using single proportionate measurement. We agree with BLM.

As an initial matter, we note that BLM’s reestablished position for the W-1/16 section corner more closely conforms to the distances and directions set out in the

1873 field notes documenting the original survey than does Bentley's corner.⁷ According to the field notes, beginning at the corner of secs. 1, 6, 31, and 36 (*i.e.*, the SW corner of sec. 31), Byles set the original W-1/16 corner due east 20.78 chains (1,371.48 feet). The distance from BLM's reestablished corner to this reference corner to the west is 21.075 chains (1,391.15 feet) at a course of S 89° 43' 50" W, while Bentley's corner is 24.435 chains (1,546.60 feet) from the reference corner at a course of S 88° 45' 38" W. Thus when measured to the nearest established corner to the west, the difference between the location of BLM's reestablished corner and the record location of the original corner is 19.67 feet and 0° 16' 10", while the difference between the location of Bentley's corner and the location of the original corner is 175.12 feet and 1° 14' 23". When measured from the nearest found corner to the east, the ¼-section corner on the line between secs. 5 and 32 (over a mile distant), which was recorded in 1873 as due West 100 chains (6,600 feet), Bentley's corner position is slightly better than BLM's for distance (99.135 chains (6,543.04 feet) versus 101.475 chains (6,697.35 feet)), but BLM's bearing is 0° 16' 10" from the record bearing while Bentley's bearing is 0° 37' 34" from the record bearing; both positions, however, correlate well to the original record particularly considering the much longer distance.⁸ See BLM's Mar. 10, 2010, letter to Bentley at unpaginated 3.

⁷ In his Aug. 13, 2010, Statement of Reasons, Hillstrom for the first time, questions the accuracy of Byles' original survey and BLM's interpretation of that survey. These issues were not raised in his protest, were not addressed by BLM in its decision denying the protest, and thus are not properly before us. See *Southern Utah Wilderness Alliance*, 128 IBLA 52, 59 (1993); *Henry A. Alker*, 62 IBLA 211, 212 (1982). In any event, Hillstrom has presented no evidence to support his interpretation of the record of Byles' survey and the evidence in the record clearly refutes his unsupported allegations and suppositions. See BLM Supplemental Answer at 1-2.

⁸ In its Answer, BLM notes that the distance between the original measurement between the SW corner of sec. 31 and the ¼ section corner of sec. 5 and 32 (the nearest recovered original corners west and east of the W-1/16 section corner) was 120.78 chains (7,971.48 feet) but that, the actual distance is 122.555 chains (8,088.64 feet). BLM explains that Byles resurveyed the south boundary of sec. 31 from west to east, that this was the first line he resurveyed, that he did not run the line random and true but relied on the original 1856 record, and that he, therefore, had no way of knowing that his original 1856 measurement was in error and no reason to establish the corner at any position other than the record position. BLM hypothesizes that the stone corner referenced in the County road surveys was most likely placed with reference to the SW-1/16 corner of the original survey. Unlike corners on the south line which were set from west to east, corners on the subdivision of section lines, such as the SW-1/16 corner, were established on random and true

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Hillstrom does not deny that BLM's reestablished corner more closely fits the record measurements set out in the original survey; he insists, however, that collateral evidence supports Bentley's corner position as the true original position of the W-1/16 section corner and that this collateral evidence also demonstrates that BLM should have considered the corner to be obliterated, instead of lost, and that it should have used that collateral evidence to reestablish the corner at Bentley's position, regardless of the record distances in the original survey. We disagree.

[3] Section 5-9 of the *1973 Survey Manual* defines an obliterated corner as

one at whose point there are no remaining traces of the monument or its original accessories, but whose location has been perpetuated, or the point for which may be recovered beyond reasonable doubt by the acts and testimony of the interested landowners, competent surveyors, or other local authorities, or witnesses, or by some acceptable record evidence.

A position that depends upon the use of collateral evidence can be accepted only as duly supported, generally through proper relation to known corners, and agreement with the field notes regarding distances to natural objects, . . . or by unquestionable testimony.

1973 Survey Manual, § 5-9, at 130.

A lost corner, on the other hand, is defined in section 5-20 as

a point of a survey whose position cannot be determined, beyond a reasonable doubt, either from traces of the original marks or from acceptable evidence or testimony that bears upon the original position, and whose location can be restored only by reference to one or more interdependent corners.

⁸ (...continued)

lines at 20.00, 40.00, and 60.00 chains from the east boundary of the section. Because there was an excess east and west measurement in the section of 120-150 feet, the interior corners were offset from those on the south boundary by approximately 120-150 feet. Since Byles did not measure the north and south lines in the original survey, he did not detect the discrepancy. BLM suggests that the road surveyors would thus have been searching for the corner in the wrong place and, not finding evidence of the original corner, might have measured 20 chains (1,320 feet) south from the SW-1/16 corner to set the stone corner. Bentley's corner is located 1,335.82 feet south and 36.46 feet west of the SW-1/16 corner. See BLM Answer at 9.

1973 Survey Manual, § 5-20, at 133. The *1973 Survey Manual* also specifies in section 5-10 that a corner is not considered lost

if its position can be recovered satisfactorily by means of the testimony and acts of witnesses having positive knowledge of the precise location of the original monument. The expert testimony of surveyors who may have identified the original monument prior to its destruction and recorded new accessories is by far the most reliable, though landowners are often able to furnish valuable testimony.

1973 Survey Manual, § 5-10, at 130.

Thus, for a corner to be considered obliterated, there must be some evidence of the original corner location; collateral evidence can be accepted only if it is supported through proper relation to known corners and agreement with the field notes or unquestionable testimony. *Linn and TreCIAfaye Blancett*, 178 IBLA at 288; *James O. Steambarge*, 116 IBLA 185, 191 (1990); see *David Viers*, 143 IBLA at 219. When historic evidence is offered in connection with a dependent resurvey, “it must be related to or connected to the original corner. Absent evidence that demonstrates positive knowledge of the precise location of the original monument, evidence of historic use may be nothing more than evidence of a longstanding encroachment.” *Linn and TreCIAfaye Blancett*, 178 IBLA at 288. As discussed above, Bentley’s corner position is not supported by evidence of the original corner location. We also find that none of the collateral evidence Hillstrom provides in support of Bentley’s corner as the proper location of the W-1/16 section corner relates or connects to the original corner and thus fails to provide the positive knowledge of the precise location of the original monument necessary for that corner to be considered obliterated, rather than lost.

Hillstrom relies on three types of collateral evidence to support Bentley’s corner position – County records and maps, witness testimony, and fence lines – all of which he asserts BLM improperly ignored. None of this collateral evidence, however, relates or connects to the original corner.

Hillstrom cites several County road records adopting the stone corner as the W-1/16 section corner,⁹ including (1) the 1911 map of E.D. Garrard County Road

⁹ Hillstrom also avers that, in violation of the *1973 Survey Manual*’s directive, BLM’s research performed during the course of the 2000 Dependent Resurvey was inadequate and demonstrated a lack of diligence because it failed to uncover the County road records subsequently discovered by Bentley. He claims that, if BLM had timely recovered those records, it would have made a different decision about the

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prepared by Shorey, showing the subdivisions of sec. 31, (2) a 1911/1924 County road map with a notation “Fd. Stone 1/16 Cor.,” (3) the 1924 right-of-way map that was approved by the Assistant Secretary on December 29, 1924, containing notation “1/16 Cor. Stone,”¹⁰ (4) a 1924 map made to facilitate conveyance of land in the area from Dave Benn to Grays Harbor County, which shows the W-1/16 section corner at a distance of 560.8 feet from a marked spot on the County road, (5) a 1925 deed from Dave Benn to Grays Harbor identifying the southeast corner of Lot 4, sec. 31 (the W-1/16 section corner) as a reference point 560.8 feet distant from a spot on the County road right-of-way, (6) a 1934 field index for county “Job No. 229” prepared by Elwood Shorey with a notation at the W-1/16 corner, “Fd. Rock,” and (7) a 1990 unrecorded survey. None of these records, however, refers to or is consistent with the original monument or its accessories (a post with two bearing trees) or to any other evidence of the corner’s precise location. Nor do any of these records explain why the stone, which is undistinguished, was chosen as the corner marker. Thus, there is nothing in these records tying the stone to the location of the original corner.

Hillstrom acknowledges that none of the records he cites refers to evidence of the original corner, but maintains, nevertheless, that BLM should have accepted the County road records because the early surveyors, particularly Shorey, were experts and “knew a GLO corner when he [Shorey] identified one whether he noted the original evidence there at the time or not.” Aug. 3, 2010, Statement of Reasons at unpaginated 3. We disagree and conclude that the records’ failure to relate or connect to the original corner fatally compromises their persuasiveness as evidence sufficient to demonstrate that the corner is obliterated and should be reestablished at

⁹ (...continued)

placement of the W-1/16 section corner. Given that earlier surveyors also failed to find those records, which suggests that the records might not have been available when BLM conducted its initial research and that it took Bentley over a year and a half to find the records, we are reluctant to conclude that BLM’s research showed a lack of diligence. In any event, BLM had and thoroughly reviewed all the records Bentley provided before it issued its Mar. 10, 2010, letter explaining its decision not to correct the 2000 Dependent Resurvey’s placement of the W-1/16 section corner because, unlike the three other corners the positions of which it altered based on the original evidence referenced in those records, the records contained no original evidence relating to the W-1/16 section corner. Thus any purported inadequacies in BLM’s original research were cured by its subsequent investigation of those records.

¹⁰ The Assistant Secretary’s approval stated that it was “subject to the provisions of the [A]ct of March 3, 1901, 31 Stat. 1058-1084,” a statute reserving authority to the Department to grant permission to local jurisdictions for public roads across Indian lands. The Assistant Secretary’s signature simply approved the road right-of-way; it did not purport to establish the position of the W-1/16 corner.

the location of the stone corner. Hillstrom's speculation and difference of opinion with BLM as to the proper weight to be given to this evidence are insufficient to demonstrate error in BLM's refusal to accept those records as definitive evidence of the original location of the W-1/16 section corner. *See William Hugh*, 175 IBLA 51, 55 (2008); *Robert W. Delzell*, 158 IBLA at 248.

Hillstrom also maintains that witness testimony supports his contentions that the corner is obliterated and that Bentley's corner should be accepted as the reestablished position of the corner.¹¹ Witness testimony, particularly the expert testimony of surveyors who may have identified the original monument prior to its destruction, may establish that a corner is obliterated rather than lost. *See 1973 Survey Manual*, § 5-10, at 130. However, in order for witness testimony to establish that a corner is obliterated, that testimony must be unquestionable and evince positive knowledge of the precise location of the original monument. *See Mark Einsele*, 147 IBLA 1, 16 (1998); *see also 1973 Survey Manual*, §§ 5-9, 5-10, at 130-31. According to section 5-11 of the *1973 Survey Manual*, the weight to be given to the testimony of individuals relating to the original monument or its accessories will depend on that testimony's "completeness, its agreement with the original field notes, and the steps taken to preserve the original marks. Such evidence must be tested by relating it to known original corners and other calls of the original field notes." *1973 Survey Manual*, § 5-11, at 131. Additionally, "[t]he witness (or record) evidence should be duly qualified: The knowledge or information should be firsthand, not hearsay; it should be complete; [and] it should not be merely personal opinion." *Id.* None of the witness testimony offered by Hillstrom meets this standard.

Hillstrom avers that the County road records, particularly Shorey's maps and the records and the Assistant Secretary's approval of the 1924 right-of-way map referring to the stone corner, constitute expert witness testimony that the W-1/16 section corner is obliterated and should be reestablished at Bentley's corner location. Hillstrom also maintains that the statements and acts of area landowners adopting the old fence line, which was based on the stone corner, as the section line provide sufficient collateral evidence to demonstrate that the corner is obliterated. However,

¹¹ Hillstrom complains that BLM failed to interview affected landowners, as potential witnesses, during the 2000 Dependent Resurvey. BLM denies Hillstrom's allegation, pointing out that not only did it hold a public meeting seeking landowner input, but it also met with landowners while executing the resurvey. *See BLM Answer* at 15-16. Hillstrom, who asserts that he was out of the country while the resurvey was being conducted, has offered no competent evidence supporting his claim that BLM failed to consult landowners about the corner location and their fences; his mere speculation on this issue is insufficient to show BLM neglected to properly obtain and consider information from area landowners.

as discussed above, none of the County road records relates or connects to original evidence of the corner, nor do the area landowners' statements and acts accepting the fence line as the section line demonstrate personal knowledge of the position of the original corner or relate or connect to evidence of the original corner. We therefore conclude that the witness testimony offered by Hillstrom fails to establish that the corner is obliterated.

Similarly, Hillstrom's assertion that the fence line should be considered collateral evidence of the location of the original W-1/16 section corner does not establish that the corner is obliterated and should be reestablished at Bentley's corner position. The Board will not consider a corner obliterated based on an ancient fence line when no evidence exists that the fence line was built based on an accepted corner or that the fence started or terminated at established corners of the original survey. See *James O. Steambarge*, 116 IBLA at 185; *Alfred Steinhaurer*, 1 IBLA 168, 171 (1970). Hillstrom offers no evidence, other than long use and landowner belief, to establish that the ancient fence line represents the section line; his reliance on the significance of the old fence, however, is undercut by the existence of a newer fence 15-20 feet south of the old fence which suggests that the landowners may not have relied on the old fence as evidence of the original survey. In any event, as discussed above, Hillstrom has provided no evidence that the fence line or the stone corner monument on which it was based relate or connect to the original corner, and we therefore find the existence of the old fence line does not establish that the corner is obliterated.

Accordingly, we conclude that Hillstrom has failed to meet his burden of establishing that the W-1/16 section corner is obliterated and that Bentley's corner best represents the original location of that corner.¹²

[4] Hillstrom also appears to be arguing that BLM's refusal to adopt the fence line as the original south boundary of sec. 31 violates the mandate set out in 43 U.S.C. § 772 (2006) that no resurvey shall impair the *bona fide* rights of any landowner affected by the resurvey. See also *1973 Survey Manual*, § 6-12, at 147. We disagree. *Bona fide* rights are those acquired in good faith under the law. *Id.*, § 6-13, at 147. The Board has distinguished between *bona fide rights* and *bona fide beliefs*, holding that, although a person may have a *bona fide* belief based on an understanding with a predecessor-in-interest as to the boundary of his land, a *bona fide* right within the meaning of 43 U.S.C. § 772 (2006) must be based on good faith reliance on evidence of the original survey. *Tracy V. Rylee*, 174 IBLA at 251; see also *id.*

¹² Even if Hillstrom had shown that Bentley's corner is supported by substantial evidence, that showing would be to no avail if BLM's corner is also supported by substantial evidence as it is here. See *Jacobsen v. BLM*, 103 IBLA 83, 86 n.7 (1988), *aff'd*, No. 91-15373 (9th Cir. Sept. 29, 1992).

at 252 n.16 (“Many landowners have committed unintentional trespasses on Federal land that result from *bona fide* but mistaken beliefs about the boundaries of the parcels they own”). Since Hillstrom has not shown that his belief that the fence line formed the boundary of his land was based on evidence of the original survey, his *bona fide* belief that his property includes the land at issue does not qualify as a *bona fide* right. See *Tracy V. Rylee*, 174 IBLA at 251-52; *Robert W. Delzell*, 158 IBLA at 258-59.

The “purpose” of a dependent resurvey “is not to ‘correct’ the original survey by determining where a new or exact running of the line would locate a particular corner, but rather to determine where the corner was established in the beginning.” *James R. & Charlene K. Hasenyager*, 176 IBLA at 265; *David Viers*, 143 IBLA at 218; see *1973 Survey Manual*, § 5-1, at 129. A dependent resurvey does not affect the location of any property lines since it is, by definition, a restoration of the original conditions of the official survey. Thus, the Board will reject a claim that a dependent resurvey impairs *bona fide* rights if the record shows that the dependent resurvey is an accurate retracement and reestablishment of the lines of the original survey. *Robert W. Delzell*, 158 IBLA at 258. In this case, BLM properly determined that the corner was lost and, as directed by section 5-21 of the *1973 Survey Manual*, established the corner through proportionate measurement, “which harmonizes surveying practice with legal and equitable considerations. This plan of relocating a lost corner is always employed unless outweighed by conclusive evidence of the original survey.” *1973 Survey Manual*, § 5-21, at 133. Accordingly, we find that the 2000 Dependent Resurvey did not impair Hillstrom’s *bona fide* rights.

To the extent not specifically addressed herein, we have considered and rejected the other arguments raised in Hillstrom’s appeal.

We conclude that Hillstrom has not met his burden of showing that BLM committed gross error or fraud in executing the 2000 Dependent Resurvey by failing to follow the *1973 Survey Manual* and improperly evaluating collateral evidence, and find that, to the contrary, the record shows that the survey fully conformed to the requirements of the *1973 Survey Manual*. We therefore affirm BLM’s decision denying Hillstrom’s protest.¹³

¹³ In its appeal submissions, the Tribes ask the Board to consider the impact this appeal could have on the legitimacy and sovereign independence of the tribal processes leading to its determination, based on the 2000 Dependent Resurvey’s reestablishment of the W-1/16 section corner, that Hillstrom had committed trespasses on trust land. Our decision to uphold the 2000 Dependent Resurvey’s placement of the corner moots the Tribes’ concern. We note, however, that only the Secretary of the Interior, or those to whom his authority has been delegated, is

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Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the decision appealed from is affirmed.

_____/s/_____
Sara B. Greenberg
Administrative Judge

I concur:

_____/s/_____
Bruce R. Harris
Deputy Chief Administrative Judge

¹³ (...continued)
“authorized to consider what lands are public lands . . . and has the authority to extend or correct the surveys of public lands.” *Paul Chabot*, 132 IBLA 371, 375-76 (1995); *John W. and Ovada Yeargan*, 126 IBLA at 362; see 43 U.S.C. §§ 2, 52, 751-53 (2006). The Tribal Court’s ruling does not affect BLM’s resurvey authority.