

February 2017

SIDE SHOTS

Professional Land Surveyors of Colorado

Volume 48, Issue 1



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Rule of the Month

C.R.S. 38-51-103 Procedure for Subdividing Section

By Earl Henderson, PLS

I know you're wondering, "Don't we all already know how to subdivide a section?" After all, isn't that THE most basic aspect of learning how to survey in the PLSS? 38-51-103(1) puts into Colorado State Statute that the BLM Manual is to be followed when subdividing a section. (2) gets a bit more detailed, but continues to follow the BLM Manual for all intents and purposes. So if we all already know this, your next question has to be, "What is this guy writing this article about?" Well believe it or not this article is NOT about the procedure for subdividing a section. Like I said, we all already know how to do that. This article is about not subdividing a section. Now even I'm confused, so let me try to clear it up. How many times have any of us been faced with a survey of an entire, unsubdivided section and been asked to create a subdivision by the owner of that section of land? Maybe some of the old-timers out there have done it, and possibly one or two of us in the not too distant past. But in the vast majority of surveys in which we're surveying aliquot parts of a section these days we are not subdividing sections. What we're doing is retracing a parcel that was previously subdivided.

So the very first question any of us should be asking on almost any survey we are contracted to perform is, are we an original surveyor or retracement surveyor? Our procedures are quite different depending upon the answer to the question. Are we subdividing a previously unsubdivided parcel of land? If so, then we're original surveyors and our decisions and procedures must comply with the laws governing original subdivisions. But if we're retracement surveyors then our decisions and procedures must comply with the laws governing retracement.

The entirety of 38-51-103(2) describes how a previously unsubdivided section of land *may* be subdivided and must be monumented, along with giving the original government survey precedence. But if we have determined that we are in a retracement situation, then this entire subsection has no bearing on our survey.

38-51-103(1) states that whenever we are conducting a survey locating land described by the PLSS we *shall* proceed according to the BLM Manual. That does NOT say that we are to break down the section as if it were never subdivided before and establish monumentation based on our measurements without regard to previous subdivisions of the section. Our legal obligation in a retracement situation is to honor the original subdivisions of the section, and/or the aliquot parts. And there is plenty of support for this in the BLM Manual. My copy of the BLM Manual is almost overwhelmed with highlights supporting this concept. But just for one look at the last two sentences in Section 5-29. "Under fundamental law, the corners of the original survey are unchangeable. Even if the original survey was poorly executed, it still controls the boundaries of land alienated under it." Our obligation is not to become Mr. Fixit and redo the subdivision of the section, but to honor the original survey to the best of our ability based on the evidence.

The hard part is not knowing what to do but in actually doing it.

Be safe out there.