

Where doubt exists:
Boundaries Act for Alberta

ALSA AGM – Jasper
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What if surveyors owned the process?

- ALS-1 harboured doubt about boundary location
- ALS-1 applied to AB to confirm the true location
- ALS-2 objected (based on boundary principles)
- ALS-3 processed application for AB
- ALS-4 presided over Public Hearing for AB
- ALS-5 provided extra expertise for ALS-1
- ALS-6 provided extra expertise for ALS-2

Boundary confirmed by AB!



SECTION 20

LARGE LAKE

Rectangular Sign



SECTION 17

ESCAPMENT

SECTION 16

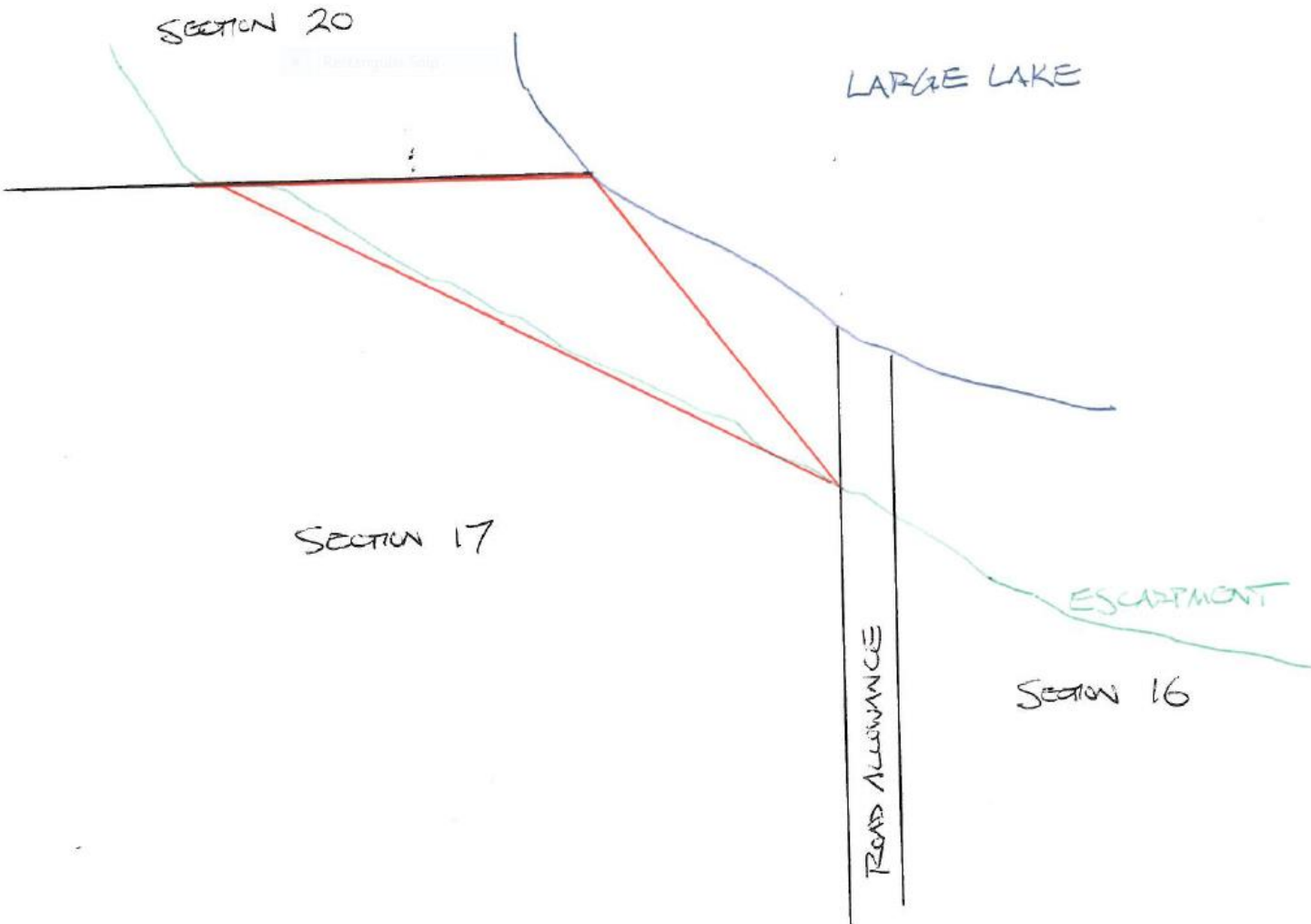
ROAD ALLOWANCE

The question:

Part of S17, T, R, W-M, not covered by Large Lake:

- “Commencing at a point on the boundary line between sections 17 and 16, 30 rods south of the North East corner of section 17, **thence** 30 rods northerly to the NE corner of said section, **thence** westerly along the boundary line between sections 17 and 20 30 rods, **thence** in a direct line to the place of beginning.”

OPTION 1



SECTION 20

LARGE LAKE

SECTION 17

ESCAPMENT

SECTION 16

ROAD ALLOWANCE

Rectangular Sign

OPTION 2

SECTION 20

Rectangular Snip

LARGE LAKE



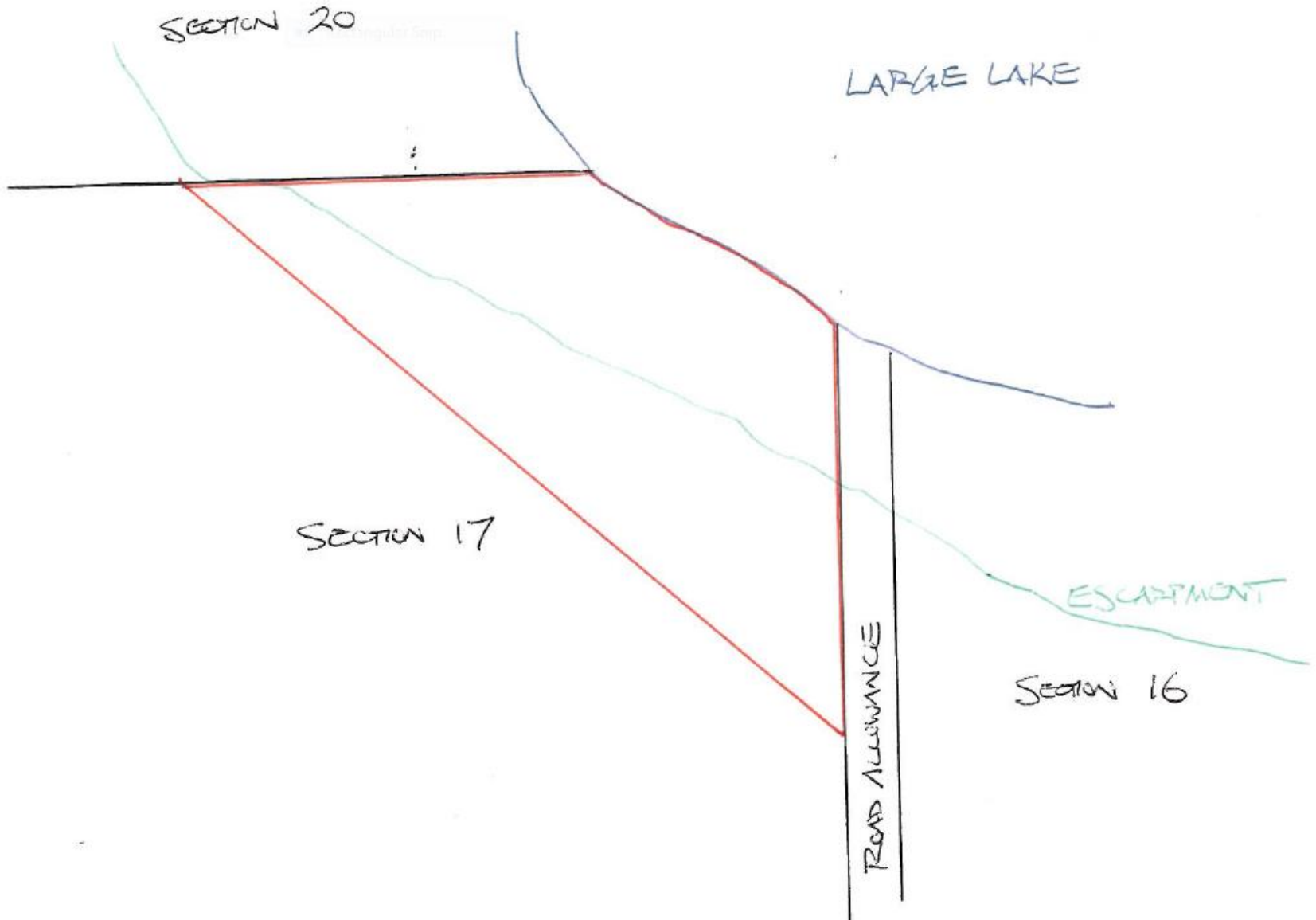
SECTION 17

SECTION 16

ESCAPMENT

ROAD ALLOWANCE

OPTION 3 - APPLICANT



OPTION 4 -
OBJECTOR



The answer:

- “Where doubt exists as to the true location on the ground of any boundary of a parcel;”
- apply to Director of Titles (i.e. Assistant Examiner of Surveys);
- “to **confirm** the true location of the boundary on the ground.”

– Ontario *Boundaries Act*, s3

The process:

- Doubt (genuine uncertainty or vicious dispute)
- Application:
 - Parcel owner;
 - Surveyor (with consent of parcel owner);
 - Crown
- Contents: New survey plan, field notes, other stuff
- Notice (“to such persons as considered proper”)
- Objection
- Hearing (if objection or more evidence needed)
- Appeal (to court)

The effect:

Section 15: “The boundaries confirmed and certified by the Director and defined by the monuments shown on the plan ... shall ... be deemed to be the true boundaries of the parcel”

- Bounds confirmed
- Plan certified
- Plan registered

PLAN BA-2647

RECORDED AT THE OFFICE OF THE
DIRECTOR OF TITLES UNDER BA-2647

APPROVED March 23, 2009

'R. Nieuclae'

ASST. EXAMINER OF SURVEYS

MGCS FILE B-1201

PLAN MT 64468

I HEREBY CERTIFY THAT THIS PLAN ^{MT 64468} ~~MT 64468~~
IS REGISTERED IN THE LAND REGISTRY OFFICE
FOR THE LAND TITLES DIVISION OF MUSKOKA
(NO.35) AT ^{13:48} ~~13:48~~ O'CLOCK, ON THE ^{6th} ~~6th~~ DAY OF

APRIL, 2009

'W. J. Towns'
LAND REGISTRAR

CERTIFICATE OF CONFIRMATION

I HEREBY CERTIFY THAT ON THE 29TH DAY OF DECEMBER, 2008, THE TRUE LOCATION
ON THE GROUND OF THE LIMITS OF THE LANDS DESIGNATED AS PIN 48017-0229(LT),
BEING ISLAND 89 IN GEORGIAN BAY, SOUTH OF LOT 34, CONCESSION 8, AND SOUTHWEST
OF LOT 33, CONCESSION 7, GEOGRAPHIC TOWNSHIP OF BAXTER, TOWNSHIP OF GEORGIAN
BAY, DISTRICT MUNICIPALITY OF MUSKOKA, AS SHOWN IN HEAVY OUTLINE ON THIS PLAN,
WERE CONFIRMED PURSUANT TO SUBSECTION 9(1) OF THE BOUNDARIES ACT.

DATE March 23, 2009

'R. Nieuclae'
DEPUTY DIRECTOR OF TITLES

THIS PLAN AFFECTS THE FOLLOWING PINS:

PIN 48017-0229(LT), PIN 48017-0107(LT), PIN 48017-0124(LT), PIN 48017-0228(LT) AND

PLAN BA-2657

RECORDED AT THE OFFICE OF THE
DIRECTOR OF TITLES UNDER BA-2657

APPROVED April 19, 2011

"ROXANA NICULAE"
ASST. EXAMINER OF SURVEYS

MGS FILE B-1210

PLAN SC 896967

I HEREBY CERTIFY THAT THIS PLAN ~~SC 896967~~
IS REGISTERED IN THE LAND REGISTRY OFFICE
FOR THE LAND TITLES DIVISION OF SIMCOE
(No. 51) AT 11:45 O'CLOCK, ON THE 26 DAY OF
APRIL, 2011.

"A. ROBERTSON"
ASST. LAND REGISTRAR

CERTIFICATE OF CONFIRMATION

I HEREBY CONFIRM AND CERTIFY, PURSUANT TO SUBSECTION 9(1) OF THE BOUNDARIES ACT,
THE TRUE LOCATION ON THE GROUND OF THE LIMITS OF THE LANDS DESIGNATED AS
PIN 58256-0097(LT) AND PIN 58256-0096(LT), BEING LOTS 34 AND 35, REGISTERED PLAN
1629, TOWN OF COLLINGWOOD, COUNTY OF SIMCOE, AS SHOWN IN HEAVY OUTLINE ON THIS
PLAN.

DATE April 19, 2011

"ROXANA NICULAE"
DEPUTY DIRECTOR OF TITLES

THIS PLAN AFFECTS THE FOLLOWING PINS:
58256-0051(LT), 58256-0096(LT), 58256-0097(LT),
58256-0098(LT), 58256-0087(LT).

PART 1 - ALL OF PIN 58256-0097(LT)
PART 2 - ALL OF PIN 58256-0096(LT)



The stats post-1959:

- Applications per year = 5
- Current applications = 7
- Application fee = \$410
- Typical cost = \$10K (no hearing) to \$25K (hearing)

- Applications requiring a hearing = 50%
- Hearings approving applications = 50% (17 of 32)
- Hearings partly approving = 25% (8 of 32)
- Decisions appealed to court = 8
- Decisions overturned by court = 2

The consensus:

- “Very useful in resolving problems”
- “It’s still a good thing”
- “It works, nothing significant to change”
- Evolved from “good ol’ boys trying to work it out” to “layers of expertise”

Finally, 10 lessons for Alberta:

- Surveyors are integral to the process
- Hearing Officer (ALS-x) cannot process application (ALS-y)
- Educate surveyors in historical research, boundary law and impartiality
- Train AB staff in ADR (adjudication, arbitration)
- Allow for many bounds to be confirmed (e.g. apportioning accretion)
- Confirmation does not fix water boundaries in location
- Do not confuse occupation as evidence of bound with adverse possession
- Sometimes, mediation between surveyors suffices (e.g. Boundary Panel)
- Less often, Hearing cannot confirm “unknowable” boundary; trial needed
- Publish Decisions and Orders (e.g. CanLII)