



UCLS Convention 2013

# *Legal Description Workshop*

*Presented By:*

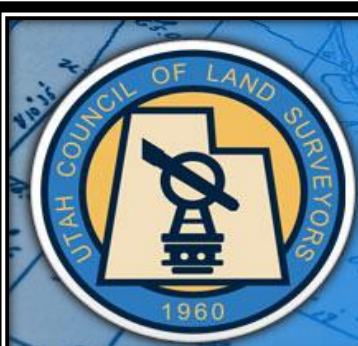
*Aaron R. Smith*

*Principal Land Surveyor, Adobe Associates*

*asmith@adobeinc.com 707-541-2300*

*CA License # 7901*

*NV License # 17975*



UCLS Convention 2013

*Writing Legal Descriptions*  
*Gurdon H. Wattles*

*Advanced Land Descriptions*  
*Paul Cuomo and Roy Minick*



## UCLS Convention 2013

*“Legal in legal description pertains to the fact that the description must be able to withstand attack under law”*



## UCLS Convention 2013

*“Parol or extrinsic evidence may not be admitted to add to or vary a description that is definite and certain. Nor may it be used to explain an apparent ambiguity in the conveyance”*



*“Your legal description should be clear and concise”*

*“Your slogan should be Concise Clarity Without Ambiguity”*



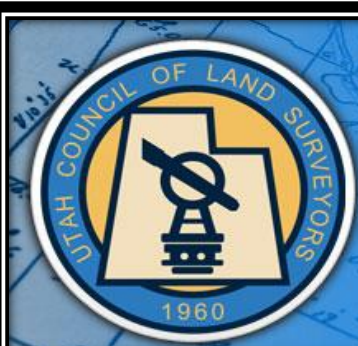
*What are your goals  
with today's Seminar?*



## UCLS Convention 2013

### *What is a Legal Description?*

- *A legal description identifies a unique piece of land with only one location...*
  - *Preamble (describing the use or intent with a general location)*
  - *Body (describing the finite location of the land or right)*
  - *Basis of Bearing (explicitly states what was used to establish the courses)*
  - *Basis of Bearing (not explicitly writing it) within the description (see 4.5 and 4.6 wattles)*
  - *Sign, Seal and Date (Board Rules 411)*



## UCLS Convention 2013

*What is our Legal Description trying to accomplish?*

- *Based upon what it is we are trying to accomplish it would dictate what should control in the legal description.....*





## UCLS Convention 2013

### *Are we describing an Easement?*

- *Over an existing use such as utility line or paved road/driveway*
- *Over a proposed route of a utility or road/driveway*
- *Should we, the Land Surveyor encumber the easement with rights?*
- *Will our description be a part of a legal document?*
  - *If so, make sure we are consistent with the document*
  - *Review practicing LAW! See attachment (Olsan)*



## UCLS Convention 2013

*Are we describing something unique?*

- *Completely understand the ultimate goals/desires before writing*

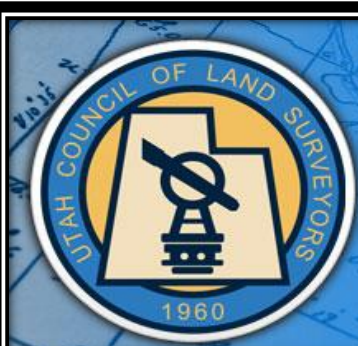
*Is there something that we want to make sure doesn't happen with the description?*



## UCLS Convention 2013

### *P.O.B, T.P.O.B, Commencing*

- *You Commence and then go to a P.O.B, or you can Begin and then go to a T.P.O.B...*
- *Remember that order could be confusing to be at a P.O.B and then go to the REAL P.O.B (surprise!).....use commencing, then we KNOW that's not the P.O.B*



## UCLS Convention 2013

### *How to Define a Basis of Bearing*

- *Either incorporated into the legal description or by direct recital at the end of the description.*
  - *B.O.B is a reference, a relationship.*
  - *Those who follow you will be able to follow your description.*
  - *Helps discover errors.*



## UCLS Convention 2013

### *Free Calls vs. Qualifying Calls*

- *Free Call*
  - *Just a bearing and distance*
  - *No controls or monuments*
  - *End point is where it is...may or may not be where it should be*



## UCLS Convention 2013

### *Free Calls vs. Qualifying Calls Cont.*

- *Qualifying Call*
  - *To a physical object, pipe, tree, street, river, axle etc.*
  - *Describe them just as you would any other monument*
  - *Bearing and distance are only informational...to get you to the object*
  - *Qualifying object holds*



## UCLS Convention 2013

### *Double Qualification Calls*

- *Can introduce an error or ambiguity into what was a clear description. Pick the most permanent monument and use it*
- *VERY clearly describe the monument*
- *Size of pipe, tag, etc.*
- *Tree size, species, and unusual characteristics (bifurcated, bent, etc.)*
- *Calling to two monuments can cause conflict later. Too easy to move or change. If one gets moved or changed, which do you use?*



## UCLS Convention 2013

### *To a Point*

- *Not 'to a point' in a free call*
- *To a point in.....*
  - *A line*
  - *A fence*
  - *Or to a named point to be referred to later in the description "...200 feet to point 'A',...."*





## UCLS Convention 2013

### *Along a Line, To a Line*

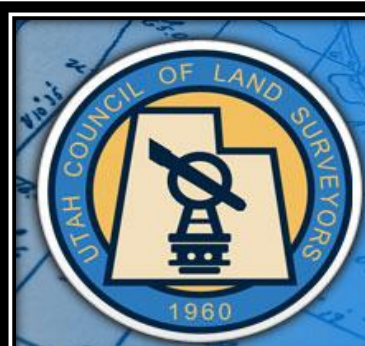
- *Clearly describe the line*
- *Property, right of way, fence, centerline*
- *State the direction of travel*
- *State when you leave that line*
- *Call to a street means to the center unless qualified*
- *River/creek ....center? Or thalweg?*



## UCLS Convention 2013

### *Parallel With NOT Parallel To (really?)*

- *Adjective; parallel (of straight lines) going in the same direction and always staying the same distance apart*
- *The road is parallel to/with the river*
- *In the Same Direction But Always The Same Distance Away*
- *A Line Parallel to Another... Draw a Parallel to This Line*



## UCLS Convention 2013

### *Which Bears and From Which*

- *Define the point or reference*
- *Clearly state the bearing and distance from the monument or point of reference*
- *Do not double call*



## UCLS Convention 2013

### *To a Point of Cusp/Curvature*

- *Tangent*
  - *Curve to the right/left or concave to the north/south....*
  - *Radius, distance, delta... need at least two of these*
- *Non-tangent*
  - *Same as tangent, need radial bearing for the beginning of the curve*



- *Quote on 5.4 about Extrinsic or Parol evidence within a deed that is clear and without ambiguity*

*“So in writing descriptions, use words and phrases that clearly convey the intent of the parties concerned without creating any need to resort to extrinsic evidence for clarification”*



## UCLS Convention 2013

*Conflicts between your description  
and the attached Plat... What to do?*

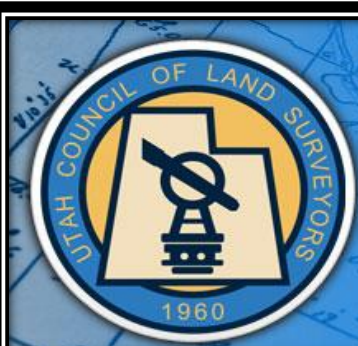
- *Review earlier copies of the deed*
- *Speak to the surveyor who did the map*
- *Bring out your 'Magic 8 Ball'.....*



## UCLS Convention 2013

### *Suggestions for Legal Description Drafting*

- *Preamble should clearly identify the source of title, by location as well as vesting*
- *Description preamble should also clearly identify it's purpose*
- *Exhibit plats*
- *Keep it simple and straightforward*
- *Proof your work*

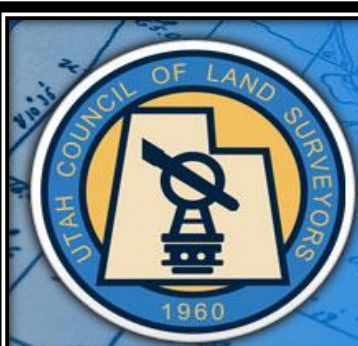


## UCLS Convention 2013

### *Document Preparation and Review*

- *Title Company or other third-party prepared documents*
- *In-house prepared documents*
- *Make sure your title data is up to date*

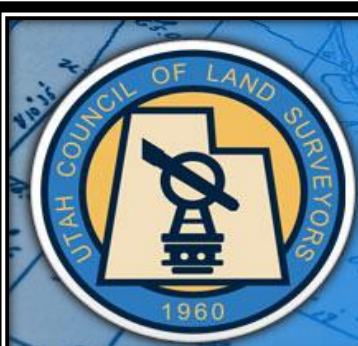




# UCLS Convention 2013

## *Five Types of Descriptions*

- *Lot and Block*
- *Sectionalized (aliquot descriptions) SE ¼ of SE ¼ ...*
- *Bounded by... on all sides*
- *Strip Description*
- *Metes and Bounds*



## UCLS Convention 2013

### *Lot and Block Descriptions*

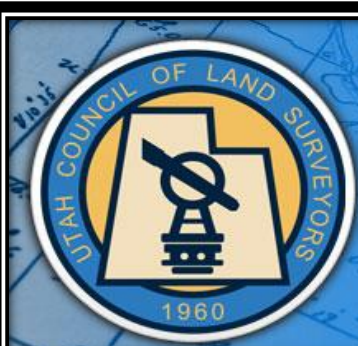
- *Provide sufficient data to locate the map*
- *The map is part of the description*
- *If granting rights shown on the map, then say so*
- *Provide more than enough information to properly locate the document*
- *Be careful of Quasi Public or unrecorded documents*



## UCLS Convention 2013

### *Aliquot Descriptions*

- *Transfer from Gov. to Private is a Patent*
- *A lot like Lot and Block Descriptions*
- *Know what holds (Federal Rule or State Law)*
  - *CA. holds exact area when in private hands*
- *Without a survey the client should understand potential locations*
- *Treaty of Guadalupe –Hidalgo (1.4 Wattles)*
  - *Signed May 30 1848 (Mexico and US)*
  - *Recognized Rancho Lands (Senior to Public Lands)*



## UCLS Convention 2013

### *Bounded By Description*

- *You become the most junior of deeds/parcels*
- *Verify your parcel is in fact junior*
- *Research the adjoiners*
- *A chain of title may be necessary*



## UCLS Convention 2013

### *Strip Descriptions*

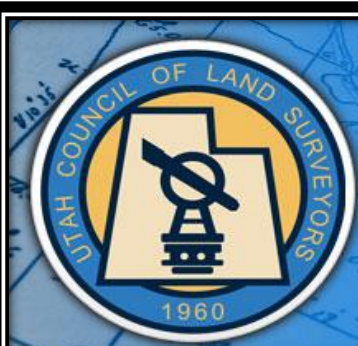
- *Use “each” not “either”*
- *If not equal distant on each side, define clearly*
  - *10’ on westerly and 15’ on easterly side of described line*
- *Sidelines to be shortened or extended to meet .....*
- *Last sentence .... Herein ending said described line or something alike*



## UCLS Convention 2013

### *Metes and Bounds Descriptions*

- *Metes means bearings and distances*
- *Bounds means monuments (physical and legal)*
- *Establish a clear Basis of Bearing*
- *Make sure your Preamble and Body are not in conflict*
- *Double check Quadrants for your direction*
- *Establish how to qualify or create controlling elements before you start the description.*



## UCLS Convention 2013

### *Metes and Bounds Descriptions Cont.*

- *Make sure your calls are clear (call to a road...CL?)*
- *Make sure you don't create conflicting calls (to a point)*
- *If you refer to other documents, make sure they are available*
  - *Do not qualify to a plat, map or document that is unrecorded or hard to get*