

In The Matter Of:
Collins v. Hall, et al.
Case No. 1JU-14-771 CI

John Bean
Vol. II
December 14, 2015

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IN THE SUPERIOR COURT OF THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

RAY M. COLLINS and CAROL J.)
COLLINS,)
)
Plaintiffs,)
)
v.)
)
DAVID W. HALL and MARGARET R.)
HALL Trustees, and their)
successors in trust, the D & M)
Hall community property trust,)
dated March 14, 2005, and)
also all other persons or)
parties unknown claiming a)
right, title, estate, lien,)
or interest in the real)
estate described in the)
complaint in this action)
)
Defendants.)
)

Case No. 1JU-14-00771 CI

DEPOSITION OF JOHN W. BEAN
VOLUME II

Pages 119 through 236, Inclusive
Taken: Monday, December 14, 2015
Place: Juneau, Alaska

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Deposition of JOHN W. BEAN, Volume II

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1 A P P E A R A N C E S :

2 For the Plaintiff: DANIEL G. BRUCE, ESQ.
3 Baxter Bruce & Sullivan, PC
4 P.O. Box 32819
Juneau, Alaska 99803

5 For the Defendants: LAEL HARRISON, ESQ.
6 Faulkner Banfield, PC
7 8420 Airport Blvd., Ste 101
Juneau, Alaska 99801

8 Also Present: Ray Collins

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BE IT REMEMBERED that, pursuant to Notice of Taking Deposition, and beginning on Monday, the 14th day of December, 2015, commencing at the hour of 1:00 p.m. thereof, at 8420 Airport Boulevard, Juneau, Alaska, before me, BRITNEY DUDLEY, Registered Professional Reporter and Notary Public in and for the State of Alaska, personally appeared:

JOHN W. BEAN

called as a witness by the Defendant, who was examined as hereinafter set forth.

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MONDAY, DECEMBER 14, 2015

JUNEAU, ALASKA

1:00 P.M.

-oOo-

JOHN W. BEAN

having been first duly sworn by the court reporter to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY MS. HARRISON:

Q. So this is sort of a continuation of the deposition that we took in the spring, so I won't go back over all your qualifications and all that.

A. Okay.

Q. I'd like to start by going right to my big question about the amended plat that you recorded as 2015-37.

A. Right.

Q. And we'll go ahead and make it an exhibit.

(Exhibit 31 duly marked)

BY MS. HARRISON:

Q. Okay. So the question I have is whether MC-75-11 on this amended plat is the same as Meander Corner 1 --

A. No.

1 Q. -- to U.S. Survey -- no? Okay.

2 Okay. So --

3 A. It's a defined X on the face of a rock,
4 this --

5 Q. So looking, then, at our U.S. Survey 1755,
6 which was Exhibit 1, it is not the same -- not
7 intended to be the same point as this Meander
8 Corner 1?

9 A. Could be; it could not be, yes. I'm not
10 positive.

11 Q. Okay.

12 A. Yep.

13 Q. What did you intend for it to be?

14 A. I intended for it to be the spot on the
15 island where to start the plat as the point of the
16 beginning based on the -- the meanders and the
17 directions of everything.

18 Q. Okay. And that's without regard to
19 whether it is the same point as this meander corner
20 on Exhibit 1?

21 A. Well, in regards to the meand -- the
22 bearing, back to the USLM, which was the X on the
23 rock at the time we did that, yes.

24 Q. So it's intended to have the same bearing?

25 A. Yes. To the -- to a meander corner, not

1 the WCMC.

2 Q. Okay. Let me just say that again, to make
3 sure I understand it. You intend that the bearing
4 between the Meander Corner 75-11 on your amended
5 plat --

6 A. Right.

7 Q. -- and USLM --

8 A. Yes.

9 Q. -- 1285 be the same as the bearing between
10 USLM --

11 A. Yes.

12 Q. -- 1285 --

13 A. Right.

14 Q. -- and Meander Corner 1 --

15 A. Right.

16 Q. -- to U.S. Survey --

17 A. Right.

18 Q. -- 1755?

19 A. Yes.

20 Q. Okay.

21 A. And that's indicated there. It's close,
22 but it's not perfect.

23 Q. Okay. So then to go back to the amended
24 plat.

25 A. Uh-huh.

1 Q. How did you choose this location for
2 MC-75-11?

3 A. By setting a target on USLM, being a
4 two-by-two, and stood 12, 15 feet up in the air so
5 I could see it from across. Because in those days,
6 we didn't have the good opticals that we have
7 nowadays. So you had to see a target of some kind.

8 Q. So you're talking about 1970 --

9 A. Yes.

10 Q. -- when you're saying "in those days"?

11 A. Yeah.

12 Q. Okay. So, sorry, please continue. It's
13 1970. You've set up on USLM 1285.

14 A. No. No.

15 Q. No?

16 A. I put a target on USLM.

17 Q. Oh, I'm sorry. Okay.

18 A. Which it was a two-by-two wired position,
19 in a vertical position. And then I went over to
20 the island, Colt Island, and set up an arbitrary
21 point so I could see that target. And then using
22 the X that was identified, I took the distance from
23 it and the bearing from USLM and created a point, a
24 position. And that's where I started from, using
25 the 13-whatever distance, 1368, I think it was.

1 And the bearing.

2 Q. So there's a lot of information in that
3 answer. I'm just going to go over it step-by-step.

4 A. Yes. Yeah.

5 Q. Make sure I got it all.

6 So you put a target first on USLM 1285?

7 A. Right.

8 Q. Then you crossed to Colt Island, and you
9 located the X on the rock that you've now marked as
10 WCMC 75-11?

11 A. Right.

12 Q. Okay. And you checked the bearing between
13 those two points?

14 A. Yes. It's mathematical. Yeah, it's a
15 triangle, is what I did, a bearing and a distance.

16 Q. Do you know what distance you found back
17 in 1970?

18 A. Nope. No distance. Just the bearing.

19 Q. Okay. So you did not take a distance at
20 that time?

21 A. No. That's not the distance I'm talking
22 about.

23 Q. The distance that you were talking about,
24 then, if I understand it right, was the 13.86 --

25 A. Yeah.

1 Q. -- feet --

2 A. Right.

3 Q. -- which is also what was done on
4 U.S. Survey 75-11?

5 A. Yes. Right.

6 Q. Okay. And so then, again, if I understand
7 it right, the amended plat is saying that you
8 are -- have relocated that point --

9 A. Right.

10 Q. -- that you used in 1970?

11 A. Right. Yes.

12 Q. Okay. Let's pull up Plat 75-11, which is
13 Exhibit 2. How can I tell from 75-11 that the
14 basis of bearing for this plat is not intended to
15 be the same as for U.S. Survey 1755?

16 A. Can't.

17 Q. Okay.

18 A. Because it's not on there.

19 Q. So just to go over the Plat 75-11, the --
20 am I correct that the meander lines used to enclose
21 this plat are identical to U.S. Survey 1755?

22 A. Plus or minus, yes.

23 Q. So they're not exactly the same? Or they
24 are exactly the same?

25 A. I wouldn't -- they could be rounded off

1 different, or within hundredths or tenths, so --

2 Q. The same within hundredths or tenths?

3 A. Yes.

4 Q. Okay.

5 A. Yeah. It's -- the meanders do not close
6 mathematically.

7 Q. The meanders on 1755 do not close
8 mathematically?

9 A. Yes.

10 Q. But this Plat 75-11 --

11 A. Yeah.

12 Q. -- uses the same bearings and distances?

13 A. Right. Yeah. But it doesn't close.

14 Q. Do you think that the fact that it doesn't
15 close affects this dispute at all?

16 A. No.

17 Q. No?

18 A. It's not unusual.

19 Q. Okay. Then also --

20 A. It's called when you prorate, you can
21 prorate them out. And then you balance the error
22 out into the whole surrounding of the island. You
23 could do it that way.

24 Q. But for purposes of this dispute --

25 A. No.

1 Q. Well, we have enough to worry about as it
2 is.

3 A. Yes. Yes. Yes.

4 Q. Okay. So then also, I'm looking at the
5 certificate of survey here at the bottom of 75-11.

6 A. Right. Uh-huh.

7 Q. Am I correct that it says that this plat
8 correctly represents U.S. Survey 1755?

9 A. Yes.

10 Q. So if I were a surveyor looking at this
11 plat, I would assume that the basis of bearing for
12 this Plat 75-11 is the same as U.S. Survey 1755?

13 A. Right. Yeah.

14 Q. Yeah. Okay.

15 So Plat 75-11 is the recorded plat?

16 A. Document, yes.

17 Q. The recorded document, excuse me.

18 A. Yeah.

19 Q. And I think -- am I also correct that the
20 deeds to the various properties refer to
21 Plat 75-11?

22 A. I would hope so.

23 Q. Okay. Good.

24 A. Yeah.

25 Q. So --

1 A. I'm not positive. I --

2 Q. Sure.

3 And if you wanted to change the basis of
4 bearing that is shown on 75-11, wouldn't you need
5 to amend Plat 75-11?

6 A. No, Because I didn't change the basis of
7 bearing. It's real close to what the original
8 bearing is. It's the position on the island that
9 is different, not the bearing.

10 Q. I'm sorry. So if I wanted to change
11 Meander Corner 1, the starting point of Plat 75-11,
12 wouldn't I need to amend Plat 75-11?

13 A. No.

14 Q. Why not?

15 A. You would do a record of survey showing
16 what the new information was that you found. And
17 it depends on if you was doing it based on high
18 water or mean or accretion. Depends on what the
19 survey was being done for.

20 Q. My understanding is that if a surveyor
21 picks up this plat, they will think that this
22 particular point is intended to be the exact same
23 point as Meander Corner 1 on U.S. Survey 75-11.

24 You're nodding, so --

25 A. Yes.

1 Q. Sorry. It has to be verbal for this.

2 A. Yes. Yes. I'm sorry.

3 Q. If I want to tell a surveyor something
4 different and say, this point on Plat 75-11 is not
5 in the same point as Meander Corner 1, it's
6 somewhere else --

7 A. Right.

8 Q. -- don't I need to amend Plat 75-11?

9 A. Not until a proper survey of the whole
10 island is redone and it's -- and proceed with the
11 new regulations of surveying.

12 Q. So tell me about that. What would that
13 process be?

14 A. Well, that would be doing -- starting out
15 the bearing, holding this bearing. And whichever
16 one's accepted, which we have a conflict now of
17 two points on the island which are about 26 feet in
18 the direction of the bearing, would have to be --
19 which one is correct? And only the meander lines
20 are measurable distances and of that day when the
21 original surveyor did it. It's only for finding
22 the area of the island. And when he surveyed it,
23 there was no monumentation set, except for the one
24 he describes as the X on a rock.

25 So then you would have to go and survey

1 the whole complete island, balance the meanders,
2 and then work into the subdivision. And then you
3 would do -- you could do amended survey, or you
4 could do a record of survey.

5 Q. So again, lot of information. I'm going
6 to try to break it down.

7 A. Yes.

8 Q. The first thing that I think you said is
9 that we have a dispute over where to start this
10 Plat 75-11.

11 A. In position of the direction of the
12 meander.

13 Q. Okay. And so --

14 A. I mean -- I'm sorry. Not meander.

15 Q. The position and direction of the meander
16 corner; is that right?

17 A. No. No. Of the bearing to USLM.

18 Q. I'm sorry. I thought you said that the
19 bearing, in terms of the degrees --

20 A. Yes.

21 Q. -- is the same?

22 A. Right.

23 Q. But the distance that you --

24 A. Right.

25 Q. The distance to the point that you claim

1 is the start for 75-11 is different from the
2 distance --

3 A. Start it there.

4 Q. -- to start 1755?

5 A. Right. So it's all in this direction
6 (indicating). Okay.

7 Q. So what I think you said was, we have to
8 decide which is the right point and then resurvey
9 the island.

10 Did I understand that right?

11 A. Based on the discrepancy that's brought
12 up, yes. Somebody has to decide.

13 Q. But I think what I just heard you say was
14 that Plat 75-11 shows a -- the same meander corner
15 as 1755.

16 So wouldn't that be the correct one? And
17 if you wanted to do something different, you would
18 have to amend it?

19 A. I don't know if that's the correct one,
20 which one they're using or I'm using, which is the
21 correct meander corner.

22 Q. But you told me that they're different
23 meander corners; right?

24 One that --

25 A. One --

1 Q. -- 75-11 is at one meander corner --

2 A. Yeah.

3 Q. -- and that you think --

4 A. In position, yes.

5 Q. But that they were intended to be

6 different.

7 Did I understand that right?

8 A. No.

9 Q. No? Okay.

10 A. No.

11 Q. Let's go back to my original question,

12 then.

13 A. They're not intended to be -- the bearing
14 of the -- from the USLM was held; right?

15 Q. Yes.

16 But when you created Plat 75-11, did you
17 intend to start it at the same --

18 A. Yes. Yes. Based on the X that was
19 recovered.

20 Q. Do you think that the point that you've
21 marked as Meander Corner 75-11 is the same point as
22 Meander Corner 1 on 1755?

23 A. I thought at that time, yes, it was.

24 Q. What do you think now?

25 When you filed this amended plat, what did

1 you think?

2 A. Well, when somebody marks another point or
3 identifies another point, there must be a
4 discrepancy somewhere. I don't -- I don't know if
5 it's my survey, their survey, survey before, or
6 what.

7 Q. So you aren't sure if you were in the
8 correct point on this --

9 A. I'm sure where my X was when I started the
10 survey.

11 Q. Okay. So you're sure of where your X was
12 when you started the survey?

13 A. Yeah. Right.

14 Q. And you intended for that to be --

15 A. I assumed --

16 Q. You were trying to find --

17 A. I assumed that --

18 Q. -- Meander Corner 1 --

19 A. Right.

20 Q. -- in U.S. Survey 75-11?

21 A. Yes. Based on the bearing and the
22 distance from the X. The bearing from USLM and the
23 distance from the X.

24 Q. But now, if I understood you correctly,
25 you are no longer sure if that point where you

1 started the survey is, in fact, witness Corner 1
2 and 75-11?

3 A. Somebody has marked another corner. I
4 don't know -- identified in the field, yes.

5 Q. Do you have an opinion about which of
6 those is correct?

7 A. I think mine's correct.

8 Q. Okay. So just to clarify, because I am a
9 little bit confused about the testimony.

10 In 1970, when you were creating
11 Plat 75-11, you did set out to start it in the same
12 point as U.S. Survey 1755?

13 A. I sure thought I was, yes.

14 Q. Okay. Good. That's -- that's what I
15 needed to understand.

16 A. Yeah. I wouldn't -- there was no
17 intention -- it's based on the information I found
18 at the time in the field.

19 Q. Great.

20 A. Which the evidence is still there. Except
21 for I did set the monument based on the new record
22 of survey.

23 Q. Okay. So then the -- is your
24 understanding of the dispute -- did I understand
25 correctly, your understanding of the dispute is,

1 where is the correct Meander Corner 1 to
2 U.S. Survey 1755?

3 A. Yes.

4 Q. Okay. Have you looked at the
5 field notes --

6 MR. BRUCE: Object to the form of that
7 question.

8 A. Okay.

9 MS. HARRISON: Okay.

10 MR. BRUCE: That's fine. You can keep
11 going.

12 MS. HARRISON: Sure. I mean, I could
13 rephrase it if you would like.

14 BY MS. HARRISON:

15 Q. What do you think is the dispute between
16 your survey and R&M's in this case?

17 A. Where we are on the island.

18 Q. And how -- where does that start? Where
19 does it come from? Why are you in different places
20 on the island?

21 A. I have no idea, except for --
22 two different surveys' comments and procedures.

23 Q. Have you looked at the field notes to
24 U.S. Survey 1755?

25 A. Yes.

1 Q. Okay. I'm going to make them an exhibit
2 as well.

3 (Exhibit 32 duly marked)

4 BY MS. HARRISON:

5 Q. Do you know if these field notes describe
6 Witness Corner 1 to Meander Corner 1?

7 A. Yes, it has a description.

8 Q. I'm sorry. I didn't hear you.

9 A. Yes, it has a description.

10 Q. Can you --

11 A. On page 3 it says that he marked an X with
12 the letter WC MC1 Survey 1755 for witness
13 Corner 2 -- Corner 1 and meander corner of this
14 survey.

15 Q. And that's what I read, too.

16 So do you think that that means that -- I
17 guess, how do you think that he marked it with
18 those letters?

19 A. Only way he could was on a stone, carved
20 it. In them days, they had scribe, special
21 surveyors that did scribing.

22 Q. So inscribed into a stone, is that how
23 they would have marked it at that time?

24 A. I would have thought, yes.

25 Q. And so given this description that there

1 should be the letters WC MC1 S1755 inscribed into
2 the stone, and the witness corner that R&M use has
3 those letters inscribed into the stone, and the one
4 that you use does not, why do you believe that
5 yours is correct and R&M's is not?

6 A. Because sometimes the scribes didn't do
7 an excellent job. Depends on the stone. It could
8 have failed over that many years. You can see the
9 year this was done. How long would it last if you
10 sat and rubbed on it for 20 to 30 years? Would the
11 scribing stay? That's a decision you have to make
12 if you -- to find -- finding something that was
13 already scribed in the field. I find a lot of them
14 with just Xs. The scribing is wore off or full of
15 moss and, you know, hard to identify. Or the rock
16 gets chipped. You never know.

17 Q. And then from the field notes and the
18 survey, am I right that the other piece of
19 information we have to identify the witness
20 corner 1 is the distance to USLM 1285?

21 A. In what relationship? when you say
22 distance --

23 Q. Sure. I'm sorry. Maybe I should just ask
24 the question this way.

25 So when we're looking to try to figure out

1 where witness Corner Meander Corner 1 is for 1755,
2 one thing we might look at is the description in
3 the field notes?

4 A. Yes.

5 Q. And what else might we look at to locate
6 that spot?

7 A. Well, nowadays I would look at the
8 distance, too. But I didn't have the equipment to
9 do the distance. It was triangulated. which he
10 established it by triangulation, in a sort, too.
11 But he traversed and triangulated based on his
12 field notes.

13 Q. So I think I remember you testified a
14 moment ago that when you -- when you did
15 Plat 75-11, you did not measure the distance.

16 A. Right. Right.

17 Q. Okay. Do you know what the distance
18 U.S. Survey 75 -- 1755 says should be between
19 witness Corner 1 and --

20 A. Yep.

21 Q. Okay. And do you have that number with
22 you?

23 A. Well, it's -- it's on --

24 Q. We have the other exhibits here, too, if
25 you would like to look at them.

1 A. Would have to be in the notes, have to
2 multiply it by 66. (Reviewing documentation)

3 Q. Maybe we could do it this way by looking
4 at some of the other plats. would it be on your
5 first survey which measured to witness Corner 1,
6 would it be the number in parentheses?

7 A. Yes.

8 Q. And that's Exhibit 3?

9 A. Correct. Yeah.

10 Q. Okay.

11 A. Here it is. I knew I had it somewhere.

12 Q. Sure.

13 So that number is 3814.61. Tell me if I
14 read that right.

15 A. 3814.61, yes.

16 Q. All right. And have you now measured the
17 distance --

18 A. Yes.

19 Q. -- between your witness Corner 1 --

20 A. Yes.

21 Q. And what was the distance that you
22 measured?

23 A. 3841.62.

24 Q. So that's about -- more than 20 feet
25 farther?

1 A. Yes. Yes.

2 Q. Okay. What other information do we have
3 about how to locate witness corner 1? Is there any
4 other information to look at?

5 A. No, I don't think it's ever been surveyed
6 from any other direction. Yeah.

7 Q. So if the distance that you measured
8 between your X is 20 feet longer than the field
9 notes said that it should be and your X does not
10 have the scribed letters and numbers that the field
11 notes --

12 A. I --

13 Q. -- state should be there, why do you think
14 your X is the correct spot?

15 A. It's the correct spot for where I started
16 the survey on the island. That's why it's the
17 correct spot. Not saying that it was the true
18 meander corner based on the notes, but that's where
19 we started the survey, which got rudely interrupted
20 by lawsuits and problems and no pay.

21 Q. Right. Which is a problem.

22 A. Yes. So it was -- never been able to
23 confirm it, everything, at that time.

24 Q. So am I understanding you right that it's
25 possible when you made Survey 75-11 that you

1 intended to start with Meander Corner 1 for 1755,
2 but you made a mistake and got the wrong spot?

3 A. I didn't say I made a mistake, no. I
4 could have made the mistake, yes.

5 Q. You could have made the mistake?

6 A. Yes. But I didn't make the mistake based
7 on where I started the survey and laying the -- the
8 lots out from.

9 Q. Okay. So I do understand that -- well,
10 let me just confirm that what you're saying is, the
11 X that is marked 75-11 --

12 A. Yeah.

13 Q. -- you are sure is the point that you
14 started with your survey work?

15 A. For the subdivision.

16 Q. For the subdivision.

17 But that at this time, you're no longer
18 sure if it's supposed to be Meander Corner 1 to --
19 or Witness Corner 1 to Meander Corner 1 to 1755?

20 A. It's still questionable, yes, uh-huh.

21 And also, could I bring up another point
22 about the USLM?

23 Q. Please.

24 A. Okay. You know that there -- at the time
25 I did that, there was an X on that rock. Not the

1 brass monument that's there. And I could not find
2 any carving on the -- on that rock this time when I
3 shot the distance over to it. So there could be an
4 error in that direction, too, without more
5 extensive surveying or how that was set, the brass
6 cap was set, on the USLM. I'm sure there must be
7 data from Cadastral Surveyors or D&R how they did
8 that and why they did it. But I remember there was
9 carving there, too, which is not there.

10 Q. Okay. Well, let's go on to some other
11 questions that I have about the amended plat. So
12 why did you make the amended plat?

13 A. Because there was a -- when I backed the
14 backhoe to where I found the X, which I hadn't done
15 this, to the X, and I found that there was some
16 discrepancies in the distance in the -- I think
17 about two feet.

18 MR. BRUCE: Have you made this an exhibit?

19 MS. HARRISON: Yes. I think it is now
20 Exhibit 31.

21 MR. BRUCE: Yeah, I just wanted to know.

22 THE WITNESS: 31.

23 BY MS. HARRISON:

24 Q. Okay. You're going to have to unpack that
25 one for me, too. So you said, when I backed it up

1 to the X, I found there were some discrepancies.

2 Could you just describe, starting from the
3 very beginning, what the fieldwork was that you did
4 and how you came to that conclusion, step-by-step?

5 A. The same procedure that I explained to you
6 at first, about holding this bearing and using the
7 distance from the X that I found on the rock and to
8 position that point.

9 Q. So when was that? When was it that you're
10 talking about doing that?

11 A. In -- when I did this right here.

12 Q. So was it before or after you filed your
13 original survey --

14 A. After.

15 Q. After.

16 why did you decide to go back?

17 A. Because it was requested by the client.

18 Q. Okay.

19 A. To set an object at the point of beginning
20 of the plat.

21 Q. And that's the X in the rock?

22 A. No. That's the monument that I set.

23 Q. And you set -- I'm sorry. You set that
24 monument based on an X in the rock; is that right?

25 A. That I found.

1 Q. When did you find that X in the rock?

2 A. Well, I found it in the '70s, and then I
3 found it again when I back over there when I
4 checked to shoot the distance.

5 Q. You say you found it again when you
6 checked over there to shoot the distance. Was that
7 before or after you filed your original --

8 A. After.

9 Q. -- survey?

10 A. After.

11 Q. After.

12 So in your original survey, you had not
13 yet found that X in the rock?

14 A. No. I was using control that I had set on
15 the island, as identified, the rebars in the
16 drawing.

17 Q. Okay. So let's just go back to that for
18 that moment. So when did you go back to look for
19 that X?

20 A. In this -- these dates here (indicating),
21 when I did this work here.

22 Q. I don't see any dates on this. I'm sorry.
23 You'll have to identify them for me.

24 I mean, was it in the summer of this year?
25 In the winter of last year? I mean, any -- even

1 something like that?

2 A. I'm not good with dates. I don't try to
3 remember.

4 Q. All right. That's fine.

5 A. I'm sorry. 8/15.

6 Q. Okay. So August '15.

7 A. Yeah.

8 Q. You went back to look for the X at the
9 client's request at that time?

10 A. Yes. To set the point of beginning, yes,
11 of the plat that I had used.

12 Q. Okay. And had Mr. Collins or Mr. Lockwood
13 identified a point they thought was the X, that
14 they showed to you on that trip?

15 A. They had -- had a rusty spot on a rock
16 that they thought was it.

17 Q. Were they right?

18 A. No.

19 Q. Okay. So how did you find that X? Just
20 looking around? Or what methods did you use?

21 A. Memory.

22 Q. Okay. So then, now that you found the X,
23 then what did you do?

24 A. I set up the gun, the same thing. Had
25 a -- what they call a prism over on the USLM. Shot

1 the distance and shot the X on the rock that I
2 recovered and repositioned where the starting point
3 was, based on the distance from the WC and the
4 bearing from USLM.

5 Q. And then what did you do?

6 A. Set a point to set a monument in that
7 position.

8 Q. Okay. And then what did you do?

9 A. Went home.

10 Q. All right. So in that case -- so what
11 you -- when I first asked this question, what you
12 said was, I backed it up to the X and I found there
13 were discrepancies.

14 Can you tell me about that process, what
15 that means, backed it up to the X --

16 A. Oh.

17 Q. -- and what discrepancies you found?

18 A. Because I have control points setting on
19 the beach already that I used and referenced them,
20 which are reference to these corners here.

21 Q. Okay. So first of all, when did that
22 happen? You must have come back to the island
23 later?

24 A. '90s -- not '90 --

25 Q. That was when you set the control points?

1 A. No.

2 Q. No?

3 A. No. No. When I did the original corners
4 in '90, yeah.

5 Q. Okay. So but for this -- for this amended
6 plat, you said that you went and you found the X
7 and you measured back to the USLM, and then you
8 went home.

9 And now we're talking about the part where
10 you backed up to the X and found there were
11 discrepancies. When did that happen?

12 A. In the -- at the computer.

13 Q. With the computer. Okay.

14 So tell me how you did that with the
15 computer.

16 A. By coordinates.

17 Q. Tell me more. I don't know what that
18 means.

19 A. By coordinates. You do bearings and
20 distances and come up with the distances that you
21 shot and everything. And then you compute the
22 coordinates that I have set on this lot.

23 MR. BRUCE: When you say "this lot," what
24 lot are you referring to?

25 THE WITNESS: 14.

1 It was the only way you can figure the
2 ties from here to here to here, any surveyor,
3 based on the original plat distances.

4 BY MS. HARRISON:

5 Q. And I'm sorry. I still don't understand.
6 What data did you use to compute this
7 first distance, which is 378.19? And how did you
8 do it? walk me through the whole process, please.

9 A. If you take the original plat.

10 Q. 75-11?

11 A. Yeah.

12 Q. Got it.

13 A. Okay. You have this point (indicating)
14 right here. This point right there.

15 Q. Okay. So this is the --

16 A. Okay. Let's start back --

17 MR. BRUCE: Meander Corner 2?

18 BY MS. HARRISON:

19 Q. No, the meander corner is here, so it's --

20 A. Right there, starting back here at 14.

21 Q. Okay.

22 A. Right here (indicating)?

23 Q. Uh-huh.

24 A. That distance and bearing is from there to
25 that point right there, based on this plat.

1 Q. But it's not. It's not. This distance is
2 466.78. And this distance should be -- and on the
3 Plat 75-11, it is 463.51. And let's run the
4 numbers to make sure I'm right about that.

5 A. 466.78 it was.

6 Q. So I'm looking at Plat 75-11.

7 A. Right.

8 Q. And first -- and so we're starting at
9 Lot 14. And we want to get back to this point --

10 A. Right.

11 Q. -- which is one dot before the meander
12 corner.

13 So we have one, two, three, four 100-foot
14 lots, which is 400 feet; is that right?

15 A. Right.

16 Q. And then a ten-foot easement; is that
17 right?

18 A. I don't --

19 Q. I'm looking at the plat, and it's a bit
20 small here.

21 A. Yeah, got 10 up there. Not 20.

22 Q. And then I see that there's another leg
23 here that is 43.51 feet.

24 A. Right.

25 Q. So if we add that all up, we have 400 plus

1 10 plus 43.51, which equals 453.51; is that right?

2 MR. BRUCE: Therein lies the problem.

3 A. Be 400.

4 BY MS. HARRISON:

5 Q. 400 plus 10. Or is it 20?

6 A. I think it's 20.

7 Q. Oh, that would actually make more sense.

8 A. Yeah.

9 Q. So 400 plus 20 plus 43.51 --

10 A. Right.

11 Q. -- equals --

12 MR. BRUCE: So there's a variation of
13 about three feet.

14 A. Right.

15 BY MS. HARRISON:

16 Q. So there's a variation of about
17 three feet. So that's why I'm confused --

18 A. That's because of the meanders around the
19 main island. That's the error of closure on
20 the main meanders.

21 Q. But I guess --

22 A. So you prorate it out.

23 Q. So when I first asked this question, I
24 said, how did you figure out this to go
25 466.78 feet?

1 A. Okay.

2 Q. And you said, I looked at Plat 75-11.

3 A. Right. Then I prorated the error that I
4 figured that was -- when you do a closure of the
5 whole lots and everything, there's an error in the
6 plat, so --

7 Q. So tell me how you prorated it. Where did
8 you -- how did you prorate it?

9 A. Put it back into this distance there,
10 because it's a large piece of property. So each
11 one of these would have a hundred feet so that
12 every lot would be normal to their -- to their
13 description, a hundred feet wide.

14 Q. So -- and so where did the extra
15 three feet go?

16 A. Into this number right here.

17 MR. BRUCE: When you say "this number" --

18 BY MS. HARRISON:

19 Q. I don't know what number you're talking
20 about.

21 A. This 440 -- 40 -- I can't read it,
22 but it's 40 --

23 Q. So you made Tract A a little larger?

24 A. Right. Yes.

25 Because if you come around the island this

1 way (indicating) with the error, it changes this
2 closure into one. And if you go this way
3 (indicating) around the island, then it changes the
4 error into the closure into that point. So there's
5 a fluctuating distance around the whole island.

6 Q. So you actually used a different distance
7 that is shown on Plat 75-11 and added three feet to
8 the edge of Tract A. And the reason that you did
9 that was because of a discrepancy in closing --

10 A. No.

11 Q. -- Area 1.

12 A. No.

13 Q. Did I understand that right? No?

14 A. No. The U.S. Survey. The island survey.

15 Q. Oh, I'm sorry. I misunderstood, then.

16 A. Yes.

17 Q. I thought that the discrepancy we were
18 talking about was the discrepancy --

19 A. No.

20 Q. -- that Mr. Hall identified. No? I'm
21 sorry.

22 So explain the discrepancy to me. And
23 explain why it should come out of Tract A.

24 A. Earlier I said when you do the closure of
25 the whole island, based on the field notes, it does

1 not close within a couple feet or something, I
2 can't remember. When you -- then that error is
3 floating around all the time, if you hold these
4 bearings, like you asked me. These are the same
5 exact bearings. But they can't be the same exact
6 bearings until it's balanced out.

7 So I put the error when I came around from
8 No. 1 and came this way and this way (indicating)
9 and held the error at that point right there and
10 made it close at that point. So that's the extra
11 two feet there, or three feet.

12 Q. So did you, in the field, traverse that
13 distance, the 466 feet?

14 A. (Witness shakes head.)

15 Q. No?

16 Say it out loud.

17 A. No. No. No.

18 Q. Thank you.

19 A. You mean physically set up the
20 instrument --

21 Q. Yes. Did you physically --

22 A. No.

23 Q. -- set up an instrument and measure and
24 take a bearing --

25 A. No.

1 Q. -- and walk that distance?

2 A. No.

3 Q. Okay. So then I actually have another
4 question for you about that leg, which is that the
5 bearing is also slightly different from what's on
6 Plat 75-11.

7 A. Yeah.

8 Q. And I'd like to know why that would be.

9 The bearing, you said, is -- on your
10 amended plat is north 24 degrees, 30 --

11 A. 41.

12 Q. -- minutes, 41 seconds west. And on this
13 plat, it is north 24, 25 west.

14 A. 34. 34, 25, yes. That's the same
15 reading, around the outside of the island, the --
16 for the original, to get it to close. You adjust
17 the bearings and distances, proration.

18 Q. Why didn't you do this on your original
19 survey?

20 A. How come?

21 Q. Uh-huh.

22 A. Because I didn't have the opportunity.

23 Q. Why didn't you have the opportunity?

24 A. They took the plat and recorded it.

25 Q. I'm sorry. When I said "your original

1 survey," I meant when you first did your survey for
2 Mr. Collins that was recorded as --

3 A. Because I didn't put that time into it. I
4 was just using the information, so --

5 Q. Okay. Is it standard surveying procedure
6 to correct a plat like that?

7 A. Happens all the time. There's tons of
8 them in the recording office. R&M does it a lot.
9 I know DOWL and Toner-Nordling used to do it.

10 Q. Is it simply done like this, by recording
11 a survey, even though it gives three feet to a lot
12 that didn't have it before, without their consent
13 or knowledge?

14 A. It's -- to balance the survey, yes. Yeah.

15 Q. Golly, I hope that happens to my house
16 one day.

17 A. Well, they could take it away from you,
18 too.

19 Q. Well, that's my next question. Your next
20 leg is significantly shorter than what's shown on
21 Plat 75-11 and takes away about 12 feet from Lot A.

22 Shall we go over that?

23 A. Yeah.

24 Q. So again, looking at Plat 75-11.

25 A. Yeah, that one does.

1 Q. Yeah.

2 So can you tell us what the difference is
3 between the -- essentially the western edge of
4 Tract A on your amended plat and what it is on
5 75-11?

6 A. Yep, that's because of the position on the
7 island, where that meander is.

8 Q. So am I correct that it's about 12 feet
9 shorter?

10 A. Right.

11 Q. Am I correct in understanding that your
12 amended plat really changes the boundaries of
13 Tract A?

14 A. Yes, it does. Yes.

15 Q. Did you talk to the owners of Tract A
16 about this?

17 A. Nope.

18 Q. Would it be standard surveying procedure
19 to record something that changes the lot's boundary
20 without telling the owners?

21 A. It only changes it very minute. Not --
22 it's not a big change, not like a hundred feet
23 or --

24 Q. Well, if I'm looking at --

25 A. -- and if the --

1 Q. Oh, I'm sorry. Go ahead.

2 A. And somewhere it has the corrections have
3 to be put somewhere.

4 Q. So what I'm looking at here for Tract A is
5 that the -- is that the other side of Tract A is
6 about 422 feet.

7 A. Uh-huh.

8 Q. So if you took 12 feet away from Tract A
9 on its eastern side and you multiply that by
10 422 feet along the other end, that's 5,000 square
11 feet that's been removed from Tract A.

12 Is that not a significant change?

13 A. I don't understand how you calculated
14 that.

15 Q. Okay. I'm sorry. When we calculate area,
16 it's length times width; right?

17 A. Right.

18 Q. So if you remove 12 feet this way and you
19 want to find out what the effect is on the area of
20 the lot, wouldn't you then multiply it by the
21 width?

22 A. Well, you'd only do it half, because of
23 the angle direction.

24 Q. Explain that more to me.

25 A. You got a pie shape instead of a

1 perpendicular error.

2 Q. So are you saying that you also changed
3 the bearing of that leg?

4 A. Yes, I thought I did.

5 Q. I think you did, too. Let's see what it
6 is.

7 A. 13.32 and 12.39, yes.

8 Q. So it's about one degree of difference?

9 A. Right.

10 Q. Does it make Lot A larger or -- Tract A
11 larger or smaller?

12 A. If you're looking northwest at 12, and it
13 was at 13, so 12 would be inland. Yes, be smaller.

14 Q. So it makes it smaller?

15 A. Yes.

16 Q. So, in fact, it's more than 5,00 square
17 feet that you've cut out of Tract A at this point;
18 isn't that right?

19 A. No.

20 Q. Why not?

21 A. I wouldn't be able to tell you exactly.
22 Unless I compute it out by coordinates, I can tell
23 you.

24 Q. Well, can we just do a -- I guess it's
25 fine. I'll move on.

1 A. Yeah. Yeah, they're doing it --

2 Q. But you changed the borders of Tract A --

3 A. Yep. Yeah. Right. Yep.

4 Q. -- without talking to the owners, in a way
5 that makes it somehow smaller; is that right?

6 A. Right. Smaller or bigger, I have no idea.

7 Q. Well, didn't you --

8 A. Unless I could --

9 Q. We just -- I think, if I understood your
10 testimony right, you added --

11 A. By distances. By distances, yes.

12 Q. Okay.

13 A. I don't know about area.

14 Q. Okay.

15 A. And because area from a meander -- area is
16 figured based on where the meander is and only for
17 computing area. And meanders change constantly.
18 It's based on where the water is. There could be
19 erosion. Different surveys. Meanders are not true
20 boundaries.

21 Q. But what I'm understanding from when we're
22 talking about where is Tract A, we look at
23 Plat 75-11. And Tract A on Plat 75-11, as I
24 understand it, has defined boundaries. And --

25 A. No.

1 Q. No?

2 A. Only defined boundaries is inside this.
3 Outsides are meander. It's along the ocean.
4 They're meander lines.

5 Q. But you just testified that you moved this
6 inland; is that right?

7 A. Yes.

8 Q. So was there erosion or something that
9 changed the meander line?

10 A. Could have. I don't know.

11 Q. Because you didn't go out to the field --

12 A. No.

13 Q. -- to actually look at that --

14 A. No. Right.

15 Q. -- did you?

16 A. Yep. No.

17 Q. No.

18 So you also don't know where that change
19 in Tract A, how that might affect buildings or
20 improvements on that property; you haven't been out
21 there to look?

22 A. Nope.

23 Q. No. Okay.

24 I have another question, actually, about
25 these differences that we've been talking about --

1 A. Right.

2 Q. -- between 75-11 and your amended survey.

3 A. Right.

4 Q. In the amended survey, I see that in the
5 notes, you wrote: when measured bearing and/or
6 distance differ from the record, that of record is
7 shown in parentheses.

8 A. Right.

9 Q. Why aren't any of those differences shown
10 in parentheses?

11 A. That one is there. Let's see this one.
12 They didn't get put on there. That's why.

13 Q. Okay.

14 A. (Reviewing documentation.)

15 This is on there. These didn't get
16 referred to. Looks like they didn't get put on the
17 drawing, yeah.

18 Q. Okay.

19 A. Yeah.

20 Q. So --

21 A. One did, but other --

22 Q. So they should have been put on there?

23 A. Yes. Based off of this drawing here
24 (indicating).

25 Q. Then also with the same question with the

1 distance that you measured between USLM and your
2 MC-75-11, should there have been a parentheses
3 there for the different --

4 A. Yes.

5 Q. -- distance?

6 A. Yes. Yes.

7 Q. Because as we discussed, it was about --

8 A. Yeah, right there it is, yes, on the other
9 drawing, which didn't get changed, because they
10 relate to each other.

11 Q. I guess another question about the
12 difference between these two surveys that you did
13 is, why did you -- why in the first survey did you
14 state that the basis of bearing is between
15 USLM 1285 and WCMC-1, and on your amended survey
16 state that the basis of bearing is between
17 USLM 1285 and MC-75-11? why that change?

18 A. Because I set a monument. There's a
19 physical monument there now. And at that time
20 there was not a physical --

21 Q. And was -- I think this was your
22 testimony, but just to confirm. The difference --
23 the 12-foot difference that we were talking about
24 in the western border of Tract A, was that also
25 related to closing the plat or closing the meanders

1 or was it related to something else?

2 A. Closed in the meanders of the main survey.

3 Q. And why would you have that whole
4 difference happen on Tract A instead of prorating
5 it out across the whole island or on a different
6 tract or something like that? why did 12-A get all
7 the changes? why did Tract A get all the changes?

8 A. Because that's where I decided to push the
9 error.

10 Q. So could another surveyor have decided --

11 A. Yeah.

12 Q. -- to push the error --

13 A. Yes.

14 Q. -- to some other tract?

15 A. Yes. It depends on what survey he was
16 doing, yes.

17 Q. So two surveyors could survey the same
18 thing and get different results because they pushed
19 the error to two different places?

20 A. And starting points, yes.

21 Q. So something else I just -- I think that I
22 heard you say this, but I just want to make sure I
23 understand it right.

24 For your original survey that you did for
25 the Collinses, which is Exhibit 3 --

1 A. Right.

2 Q. -- what fieldwork did you do to create
3 this survey?

4 A. The fieldwork? I set on these corners
5 that were already set, secondary corners and topo'd
6 and as-built the features by turning angles to --
7 and then creating a -- also a topo map showing how
8 the terrain changes elevation.

9 Q. Did you go out to --

10 A. Negative.

11 MR. BRUCE: Let her finish the question.

12 BY MS. HARRISON:

13 Q. Yeah. So someone who can't see what we're
14 doing.

15 Did you go out to what's marked as Meander
16 Corner USS 1755?

17 A. No.

18 Q. Did you measure a distance between --

19 A. No.

20 Q. Then so where does the number in that
21 survey come from that says the distance between
22 USLM 1285 and witness Corner Meander Corner 1, it
23 says that it is 3836.80, which is significantly
24 different from the number of record. Where did
25 that number come from?

1 A. You take this and push the field corners
2 here. And then you compute them across over to
3 there, then inverse to that, the distance that was
4 there.

5 Q. I'm sorry. You're going to have to
6 explain that to me more about how you do that.

7 A. By coordinates, you put coordinates on the
8 points. And then you compute across the bearings
9 and distances to position that, what I assume to be
10 where that was.

11 Q. I see.

12 So you took --

13 A. And that --

14 Q. I'm sorry. Go ahead.

15 A. Where this MCWC is for the plat.

16 Q. So you figured out the coordinates for
17 each of the corners --

18 A. Right.

19 Q. -- that you placed on Lot 14; right?

20 A. Right. Yes.

21 Q. Then mathematically you computed from that
22 coordinate the two legs to reach witness corner
23 Meander Corner 1?

24 A. Of the -- yes, of the plat, yes.

25 Q. Of the plat.

1 A. And then you have a coordinate based on
2 this, based on the original.

3 Q. So you have a coordinate for USLM --

4 A. Right. Right.

5 Q. -- 1285?

6 A. Right.

7 Q. So using those coordinates, you're able to
8 determine that this basis of bearing would be
9 longer than of record?

10 A. Right.

11 Q. I see.

12 And then for the amended plat, the
13 fieldwork that you did, if I understand it right --

14 A. Right.

15 Q. -- is you actually --

16 A. Physical shot it.

17 Q. You did a physical shot of the distance
18 and bearing --

19 A. Right.

20 Q. -- between USLM 1285 and MC --

21 A. Right.

22 Q. -- 75-11.

23 A. Right.

24 Q. And that was the only fieldwork you did
25 for this?

1 A. Right.

2 Q. Everything else was done on the computer?

3 A. Right.

4 Q. Okay. Did you do any work to check if the
5 coordinates -- do that same coordinate work to make
6 sure that with your changes to the bearings and
7 distances that you would still end up with the same
8 monuments that you already placed according to
9 their coordinates?

10 A. Yes, based on the control points that I
11 had around the island on this end of the island.

12 Q. Did you have coordinates for those control
13 points?

14 A. Yes.

15 Q. So explain to me how that process worked,
16 what information you put in. And if you break it
17 down enough, hopefully I can follow.

18 A. Well, you take -- you traverse down
19 around --

20 Q. I'm sorry. I thought you didn't do any
21 traversing when you did this. I thought this was
22 all on the computer.

23 A. No. Before.

24 Q. What I want to know is particularly to
25 create this plat --

1 A. When I set the corners. The corners were
2 already set there.

3 Q. The corners were already set.

4 So what did you do to create this plat on
5 the computer after you had measured this distance
6 and set this corner (indicating)?

7 A. Well, I'd have to show you on the computer
8 to show you the actual computations and everything.

9 Q. Talk me through it. When you talked me
10 through the last one, I think I understood. So
11 talk me through this one.

12 A. Well, you take the bearings and distances
13 and load them into the computer. Where you start
14 here, you have a coordinate. And you put that
15 bearing and distance in and that bearing and
16 distance in.

17 Q. So then when you ran this bearing and
18 distance --

19 A. Right.

20 Q. -- and this bearing and distance from the
21 coordinates, did you come up with the coordinates
22 that you'd computed for MC-75-11?

23 A. Right. Yes. And then using the field
24 shot distance and bearing out to where the USLM is.

25 Q. Here's what I don't understand, and maybe

1 you can explain it to me, between these two plats.
2 If the bearings and distances are different between
3 the meander corner and the edge of Lot 14, how can
4 they possibly locate the same points in space?

5 A. Because they're in field -- in the field.
6 I held them in the field where they're at.

7 Q. So I understand that. But I --

8 A. In relationship to where I found the USLM.

9 Q. So that's what I don't understand. So if
10 these coordinates are the same for the corners of
11 Lot 14 on both --

12 MS. HARRISON: I'm sorry?

13 MR. BRUCE: I think we're going to have a
14 very confused record. Because you're going,
15 these bearings and this bearing. And without
16 tying it into an exhibit --

17 THE WITNESS: Yeah.

18 MR. BRUCE: -- we're just going to have a
19 bunch of gobbledegook. I mean, I appreciate
20 what you're trying to do. I just think you
21 need to kind of pin it down with a little more
22 specificity.

23 THE WITNESS: Lot 14 to --

24 MR. BRUCE: Yeah. So that we know what
25 this bearing is and this bearing, instead of

1 just this bearing, this bearing, this bearing.

2 THE WITNESS: Yeah. Okay.

3 BY MS. HARRISON:

4 Q. Okay.

5 A. Okay. Yes.

6 Q. Let's try that again.

7 A. Okay. Before this survey on Lot 14 was
8 done, okay, the survey I'm talking about is the
9 location of the buildings in the topo, that these
10 corners were already set from the previous survey.

11 So I took -- to find this point here now, I took
12 the bearings and distances of the plat, which is --

13 Q. 75-11.

14 A. -- 75-11, and come up with the coordinate
15 out at this point here.

16 MR. BRUCE: And this point is what?

17 A. This point being the meander corner of the
18 Plat 75-11. And then when I set out here and
19 computed -- not computed -- shot from a control
20 point which I had set out here to reference myself
21 so I could see this point of the X on the rock of
22 the original 75-11 plat that I did and shot the
23 distance out to the USLM brass monument. And then
24 you rotate into the right position to where the
25 monument was set. Okay?

1 Then I come up with a bearing and a
2 distance to where I set the monument from the USLM.
3 And then I held this, and I recompute --

4 MR. BRUCE: "This" being the corner of
5 Lot 14.

6 A. 14, yes. which is a meander corner, not
7 the actual monument, but the actual corner based on
8 the distance of the plat of Lot 14, of 150 feet.

9 And then I compute, by using these
10 bearings and distances, to get a tie over to there
11 in relationship to the original plat of 75-11,
12 which there is variation that varies in distances
13 across tract -- on the corner, Tract --

14 MR. BRUCE: A?

15 A. -- Tract A. Just -- oh, there it is.
16 Tract A, yes. And that's the best I can explain
17 it.

18 BY MS. HARRISON:

19 Q. So let me try to explain my question a
20 little better.

21 A. Okay.

22 Q. Maybe I should start with this. Do you
23 believe that the point marked Meander Corner 1
24 USS 1755 on your original survey plat 2014-46 is
25 the same spot as MC-75-11 on your amended plat?

1 A. No.

2 Q. No.

3 A. No.

4 Q. How far -- why do you think that, and how
5 far apart do you think they are?

6 A. Maybe two feet, two feet of discrepancies.
7 That's because of the time the surveys were done
8 and the lapse of time and the type of gear and the
9 accuracy of the gear at the time it was surveyed.

10 Q. You say that the corners for Lot 14 were
11 already placed by the time that you did your first
12 survey, 2014-46; is that right?

13 A. Yes. Yes.

14 Q. And as I understood it from your last
15 deposition, that was based on stakes and control
16 points that you had set over many years?

17 A. Back in the '70s.

18 Q. Back in the '70s, and forward?

19 A. When we started the subdivision.

20 Q. Okay. When you set those stakes back when
21 you started the subdivision, would you have used
22 the bearings and distances stated on Plat 75-11 to
23 determine them?

24 A. Yes.

25 Q. So if I'm understanding you correctly,

1 what you're saying now is that you have used the
2 exact same point for witness corner 1 as you used
3 in the 1970s in your amended plat, but you used
4 different bearings and distances from what's stated
5 on 75-11, and yet you came up with the exact same
6 corners for Lot 14; is that right?

7 A. Well, you can't say that.

8 Q. Why not? Explain to me what's wrong.

9 A. Because this is a paper plat. Okay? This
10 is not a physical location.

11 Q. Sure.

12 A. This is a physical location in the field
13 now that was set based off of the old control
14 points.

15 Q. So what you're saying is, the physical
16 location of Lot 14 in the field is not consistent
17 with where 75-11 says it should be?

18 A. I do not know. It's a paper plat. I
19 can't --

20 Q. So --

21 A. It's a hard question to answer. You're
22 asking me a general question, which is not a
23 reality question.

24 Q. So here's my reality question.

25 A. But --

1 Q. Let's say I'm going to take this
2 Plat 75-11 and I go stand on the point that you
3 have marked as your X --

4 A. Right.

5 Q. -- where you originally started. And then
6 I literally walk north 13 degrees, 32 minutes west
7 for 390.72 feet.

8 A. Right.

9 Q. And then I turn. And then I walk on a
10 bearing of north 24 --

11 A. Right.

12 Q. -- for the distance of --

13 MR. BRUCE: Whatever the distance.

14 A. 400.

15 BY MS. HARRISON:

16 Q. Whatever we said it was.

17 A. 400.

18 Q. And I stopped walking.

19 would I be standing on one of your corners
20 for Lot 14?

21 A. It would be very close.

22 Q. But I would not be standing on the corner
23 for --

24 A. No --

25 Q. -- Lot 14?

1 A. -- because it's on top of the bank.

2 Q. I'm sorry. would I be standing on --

3 A. At the --

4 Q. -- a line where --

5 A. Yeah.

6 Q. -- Lot 14 --

7 A. Yes.

8 Q. -- starts?

9 A. Yes, you would.

10 Q. Okay. But that's not what your amended
11 plat says, is it?

12 what your amended plat says, if I
13 understand this right, is I stand on the point that
14 you say is MC-75-11, and instead I walk a
15 different -- a one degree different and 12 feet
16 different and then less than a degree and
17 three feet different, and I'm standing on the lot
18 line for Lot 14.

19 How can both those things be true? That's
20 what I'm asking.

21 A. Not in logic, no, they cannot be true.

22 Q. How can they be true in fact?

23 A. Because -- see, how do you say that?

24 Because this is positioned on -- based on the

25 U.S. Survey.

1 Q. You said, this is positioned based on the
2 U.S. Survey. You said that's because 75-11 is
3 based on the U.S. Survey?

4 A. Yes, because it says that down in that.

5 Q. But what I understood you to testify was
6 that whether or not the meander corner for 75-11 is
7 the same as the U.S. Survey, you're sure that it is
8 the same as the point marked Meander
9 Corner 75-11 --

10 A. No.

11 Q. -- now that you marked in your amended
12 plat --

13 A. No.

14 Q. -- is that right?

15 A. No. I said that's where we started --
16 what I assume, based on the X, where the plat was
17 started.

18 Q. So my question --

19 A. And -- and that there is errors in the
20 plat, because it's a paper plat, did not get to be
21 finalized. So there's going to be errors. There's
22 errors in the plat, because it was never finalized,
23 because the job never got done. So that's --

24 Q. So if I have a deed to some land.

25 A. Yes.

1 Q. Let's say I have a deed to Tract A,
2 according to Plat 75-11.

3 A. Yes.

4 Q. How do I find the corners of my property?
5 what do I do?

6 A. Hire a surveyor.

7 Q. What does my surveyor do?

8 A. Tries to find the proper corners based on
9 the information in the field.

10 Q. Walk me through it step-by-step. What
11 does that surveyor do?

12 A. What he'd do?

13 Q. Yes.

14 A. First, he'd go out and see if there's
15 corners on the lot.

16 Q. Okay.

17 A. Survey them in, tie them into any
18 existing -- other monuments in the area. And then
19 position -- that would position the lot where it
20 was, based on putting in this data and trying to --

21 Q. When you say "this data" --

22 A. From the plat.

23 Q. -- based on putting in the data from
24 75-11?

25 A. Yes. And try to get the best fit where

1 that lot is.

2 Q. What if there aren't any corners and I
3 need someone to put in corners? I don't have them;
4 they're starting from scratch. What do they do,
5 according to Plat 75-11?

6 A. Try to use the known information that
7 starts in that area some -- from existing
8 monumentation.

9 Q. Such as?

10 A. And try to get a bearing. Bearings's the
11 most important, yes.

12 Q. So --

13 A. And if --

14 Q. -- the first thing they would do would be
15 to try to establish a basis of bearing --

16 A. Yes.

17 Q. -- is that right?

18 A. Yes.

19 Q. So right now, first of all, that person
20 has two different possible points to use as the
21 basis of bearing; is that right?

22 A. The basis of bearing is still the same in
23 the same direction.

24 Q. I'm sorry.

25 A. Yeah.

1 Q. What would you -- I've been referring to
2 Meander Corner 1 as the basis of bearing. How
3 should I refer to it to indicate that I'm talking
4 about the starting point for this survey? What
5 would be a good word to use for that?

6 A. A good point.

7 Q. A good point? Okay.

8 So --

9 A. The point is that it's the X that I found
10 on the rock.

11 Q. So I go to the X that you found on the
12 rock --

13 A. Right. Yeah.

14 Q. -- which you have marked here.

15 A. Right.

16 Q. Although, there is -- if I'm the surveyor,
17 I also can't help but notice that there's a point
18 engraved nearby with --

19 A. Well, if it was. I don't know.

20 Q. Right now, if I'm trying to find --

21 A. Okay. Right now. Yes.

22 Q. -- right now, and I look --

23 A. Yes.

24 Q. -- and I say, gosh, look, here's --

25 A. Now you're going to find the discrepancy.

1 okay?

2 Q. Tell me --

3 A. That's what it --

4 Q. -- what you mean, I'm going to find the
5 discrepancy.

6 A. Because you're seeing the other object
7 that is marked with an X on the rock, is what I'm
8 saying.

9 Q. So if I'm trying to follow 75-11, which of
10 those two do I use?

11 A. You'd have to make the decision, as the
12 surveyor, which one to use.

13 Q. So it's a judgment call which one to use?
14 And one surveyor might use one, and another
15 surveyor might use another one?

16 A. Could be, yes.

17 Q. If I'm -- okay. I think we said
18 originally that Plat 75-11, just looking at it,
19 looks like it is the exact same --

20 A. Yes.

21 Q. -- thing as Plat 17 -- as Survey 1755.

22 A. Yes.

23 Q. So if I'm looking at Plat 75-11 and I want
24 to do exactly what it says, wouldn't I use -- try
25 to use the meander corner for Survey 1755?

1 A. Yes. But you have two of them now. Which
2 one do you use?

3 Q. Okay. So -- but we accept that my goal is
4 to use the meander corner for U.S. Survey 1755? Is
5 that my goal?

6 A. Yes.

7 Q. Okay.

8 A. Whichever one is right, yes. Yep.

9 Q. Okay. So it's a decision, but that's what
10 we're trying to figure out.

11 A. Yes.

12 Q. Okay. So now I want to survey --

13 A. That's -- that's --

14 Q. -- Tract A.

15 A. -- that's all --

16 Q. What do I do now that I've picked one?
17 What do I do?

18 A. What do you do? Start surveying on it
19 and make sure -- first, you compute it to make sure
20 it closes on paper by coordinates.

21 Q. So by that, you mean --

22 A. Put it in each bearing and distance and
23 traverse around it on paper with the coordinate
24 system.

25 Q. What bearings and distances do I put in?

1 A. On the recorded plat.

2 Q. From 75-11.

3 A. Yeah.

4 Q. What do I make of this other amended
5 survey that you filed that has different --

6 A. Because you --

7 Q. -- do I have to follow that or not?

8 A. Because that's a discrepancy, if it's
9 recorded, then you have to use it in your
10 knowledge, yes, to be able to accomplish that.
11 Then you would check down to Lot 14 and prorate the
12 difference out. If there's an error, see if
13 there's a computed error on the plat.

14 Q. So you're telling me that in order to
15 figure out my boundaries of Tract A, I have to go
16 down to Lot 14?

17 A. Yes, because there's existing corners
18 there.

19 Q. Okay.

20 A. We do this all the time and -- in our
21 surveying of plats in Juneau that has no corners.

22 Q. So just --

23 A. You have to do the whole subdivision and
24 adjust to make sure there's no errors, which
25 there's errors in almost all subdivisions.

1 Q. But when you did your survey of Lot 14,
2 you didn't survey the whole subdivision, did you?

3 A. No.

4 Q. But now you're telling me that in order to
5 figure out a lot, I have to survey the whole
6 subdivision; is that right?

7 A. I didn't say survey. Compute.

8 Q. Compute the whole subdivision?

9 A. Right. And then use your field
10 information to see where the stuff is in the field
11 in relationship to those numbers.

12 Q. So here --

13 A. What you're going to get are
14 discrepancies.

15 Q. Yes.

16 A. Yep.

17 Q. So I'm trying to figure out the borders of
18 Tract A. I see your amended survey. So I go down
19 to Lot 14, and I see where you've set those
20 corners.

21 A. Right.

22 Q. But I say to myself, I don't want these
23 12 feet to come out of my client's lot; I want them
24 to come out of Lot 18. Can I then just make my
25 client's lot the size it should be on Plat 75-11

1 and cut down 18, by 12 feet, instead?

2 A. No. You prorate it out.

3 Q. How does that work?

4 A. You take the average error and prorate it
5 so that everybody uses the same loss or the same
6 gain.

7 Q. But I thought that you did not do that. I
8 thought you just testified that when you did your
9 amended survey --

10 A. Right, I did not.

11 Q. -- you put it all into Lot A?

12 A. I did, yes.

13 Q. But now you're telling me that, in fact,
14 it should be prorated among all the lots?

15 A. No, I said if I was doing a survey. You
16 was asking me to explain how to survey Tract A --
17 or Tract B.

18 Q. But you did --

19 A. Based -- based --

20 Q. I mean, I guess I'm confused. You did
21 survey Lot 14, and you did not prorate any
22 differences that you found?

23 A. No. But you asked about Tract B, if I was
24 going to survey Tract B.

25 Q. So the first guy who surveys gets to

1 decide where the discrepancy goes?

2 A. No.

3 Q. I don't understand.

4 A. No. You do a field survey of existing
5 features there now, present, day one. Disregard
6 everything in the past. You find what's out there.
7 Then you pull the record surveys and check that
8 against what you found in the field, based on the
9 bearings and distances. Then you'd overlay the
10 subdivision of 75-11 to see how it fits with that
11 field information.

12 Q. So what you're telling me is, when I get a
13 deed to Tract A on 75-11, I can't look at Tract A
14 and know how much land I'm going to get? I can't
15 look at 75-11 and know how big my lot is going to
16 be; is that right?

17 A. In round numbers, probably, yes. There's
18 no guarantee.

19 Q. I thought that a warranty deed saying that
20 I had title to a lot would be a guarantee; is that
21 not right?

22 A. Not that I know of.

23 Q. Okay.

24 A. In a perfect world.

25 Q. We all wish we lived there.

1 A. Yes.

2 MS. HARRISON: Sorry. I'm just looking
3 over my notes.

4 MR. BRUCE: No worries.

5 MS. HARRISON: Make sure we've gone over
6 the things I want to go over.

7 THE WITNESS: Could I have a break to go
8 to the bathroom?

9 MS. HARRISON: Yeah, this would be a good
10 time.

11 (Off record)

12 MS. HARRISON: Back on record.

13 BY MS. HARRISON:

14 Q. If a judge decides that the point that's
15 engraved with the numbers and letters is the
16 correct Meander Corner 1 to U.S. Survey 1755, does
17 that mean R&M's survey is right and yours is wrong?

18 A. Based on -- yes, if that is the right
19 position, yes, it would be, if the judge made the
20 decision, which he has the right to do.

21 Q. So that's really --

22 A. Right or wrong or --

23 Q. -- that's really the only difference. And
24 if that were resolved --

25 A. Yes.

1 Q. -- then if it was resolved that the point
2 with the engraving was the correct point --

3 A. Right.

4 Q. -- then R&M's would be correct?

5 A. Yes.

6 Q. I want to just ask a couple questions --

7 A. You were talking about Exhibit 5; right?

8 Q. Yes. R&M's survey is Exhibit 5.

9 A. Yes. Okay.

10 Q. That's exactly what I meant.

11 A. Yes.

12 Q. I just would like to talk for a moment
13 about ATS 1620, which is Exhibit 7.

14 A. Right.

15 Q. And then I want to talk about the detail
16 up in the left-hand corner, about the basis of
17 bearing.

18 MS. HARRISON: Do the two of you have
19 copies? Do you need a copy?

20 MR. BRUCE: I can just stand up and look.

21 MS. HARRISON: Okay.

22 BY MS. HARRISON:

23 Q. So looking at this detail about the basis
24 of bearing, I see that it describes -- has -- it
25 describes witness Corner Meander Corner 1

1 USS 1755 --

2 A. Right.

3 Q. -- as having those letters engraved on
4 vertical shale rock.

5 Am I right about that?

6 A. Right. Yep.

7 Q. Why did you write that?

8 A. Because that's the rock that I found that
9 is identified in the field now.

10 Q. But I don't understand that. Because
11 you -- in here you have a little drawing of a
12 rock --

13 A. I know.

14 Q. -- and you write --

15 A. But the --

16 Q. -- that the letters and the numbers --

17 A. Yes.

18 Q. -- are engraved into it.

19 A. But it's this one that they're identifying
20 in the field now is the one I found then when I did
21 this survey.

22 Q. So the one that R&M was using is the one
23 that you found when you did your survey?

24 A. Yes.

25 Q. Do you remember in your original

1 deposition in this case, you told us you'd never
2 seen that vertical rock engraving --

3 A. In the --

4 Q. -- before?

5 A. In the '70s.

6 Q. In the '70s. Okay.

7 A. And then I saw -- this is the first time I
8 saw it, yes.

9 Q. And at that time, you believed it was the
10 correct witness corner to Meander Corner 1?

11 A. Yes. Uh-huh.

12 Q. So the -- this tideland survey, then, is
13 based on the point that R&M used, that has the
14 engraving on it; is that right?

15 A. Right. Yes.

16 Q. So --

17 A. And the USLM brass monument was found at
18 that time, too.

19 Q. That's for 1285 --

20 A. Right.

21 Q. -- is that right?

22 A. And that's where I started this survey
23 from. It was their -- back side of that X on the
24 rock that -- their X that was found, yes. Then I
25 tied into U.S. Coast & Geodetics and positioned

1 this ATS.

2 Q. And at that time, you said that you
3 sighted that distance. And I believe it's marked
4 in the notes --

5 A. Right.

6 Q. -- what -- the distance that you found?

7 A. Right.

8 Q. Which is very similar, is that right, to
9 what --

10 A. Right.

11 Q. -- R&M found it to be?

12 A. Yes.

13 Q. Okay. And so if a surveyor were to try to
14 survey Tract D now and use the point that you have
15 marked as MC-75-11 in your most recent amended
16 survey, would that result in different corners on
17 the ground for Tract D?

18 A. I cannot be positive.

19 Q. What do you think --

20 A. There could be a discrepancy of a couple
21 feet or over ten feet.

22 Q. Okay. But do you think that it would
23 change --

24 A. Yes.

25 Q. -- the result?

1 A. Yep.

2 Q. And then, again, looking at this tideland
3 survey, I know it's small.

4 A. Yeah.

5 Q. It shows that from that --

6 A. From there to there (indicating), yes.

7 Q. Yeah, "there to there" won't work for
8 the --

9 A. Okay.

10 Q. -- people reading along --

11 A. Right here. Okay.

12 Q. -- at home. So --

13 A. Along -- from the --

14 Q. From the meander corner down to what you
15 placed as witness Corner Meander Corner 1 to the
16 ATS 1620 --

17 A. Right.

18 Q. -- there's a distance and a bearing marked
19 there.

20 A. Right.

21 Q. And so for those reading at home, it's
22 North 23; 1952 west; 2404.94 feet? [as spoken]

23 A. Yes.

24 Q. why that distance and number?

25 A. Because it's computed from the found X on

1 the rock identified on the plat, to the set
2 monument in the field.

3 Q. Okay. And why did you compute that
4 particular number and distance?

5 A. So you could position it in relationship
6 to Tract D.

7 Q. And Tract D, is that according to
8 Plat 75-11?

9 A. Right. Yes.

10 Q. So am I understanding correctly that that
11 bearing and distance is a computed distance to
12 locate Tract D according to Plat 75-11; is that
13 right?

14 A. Yes. On the meander line, yes.

15 Q. And did that -- when you calculated that
16 number and distance, were you using the distances
17 and bearings that are written in on Tract 75-11
18 along this Area 1?

19 A. No.

20 Q. Am I understanding that right?

21 A. No. It was by field tie, by doing --
22 setting on this USLM, sighting the WCMC, and
23 turning an angle over and setting this point here.

24 Q. That's the witness corner --

25 A. Right.

1 Q. -- for the ATS?

2 A. Right.

3 Q. Yes.

4 A. And then computing the tie back to where
5 you came from.

6 Q. So why did you decide to put the witness
7 corner for the ATS there?

8 A. Based on the fifteen-five tideline.

9 Q. I guess what I don't understand is, is
10 this 2,404-foot distance, is that an arbitrary
11 number? You just could have put that anywhere and
12 just made that distance whatever you wanted it to
13 be --

14 A. Yes, because --

15 Q. -- or was there some reason it had to be
16 that distance?

17 A. Because I'm creating this property that's
18 not -- that's out here in the tidelands.

19 Q. So then did you use -- I guess my question
20 is, then, it's -- so it's just a tie --

21 A. Yes.

22 Q. -- to figure out where that witness
23 corner 1 is?

24 A. Yes. Uh-huh.

25 Q. And what about the corners of Lot D? How

1 did you determine those? Tract D.

2 A. Based on these bearings and distances.

3 And here this has -- shows a discrepancy here to WC
4 set here at 16 on Tract D.

5 Q. So Dan is right; we're going to have to
6 describe this a lot better.

7 So I'm in sort of the northwest corner of
8 Tract D.

9 A. Uh-huh.

10 Q. How did you figure out where that should
11 go?

12 A. Based on the 75-11.

13 Q. Based on 75-11?

14 A. Right. These -- Tract D, yes.

15 Q. With the distances --

16 A. There -- yes.

17 Q. -- and --

18 A. Right.

19 Q. -- bearings, as marked on Tract D?

20 A. Yeah. The original meanders.

21 Q. But now in --

22 A. And I'll show the original meanders from
23 the U.S. Survey 1755.

24 Q. Right.

25 So then in your amended plat when you

1 changed those first two legs in terms of both their
2 bearings and their distances, will that now affect
3 the location of Tract D since you've changed some
4 things up here north of it?

5 A. No, because these monuments are in
6 position where they're at in the field.

7 Q. And when you say "these monuments," you're
8 pointing to the witness corner. But I'm curious
9 about the corners of Tract D itself.

10 So if the corners of Tract D were
11 somewhere else, then they could be closer or
12 farther to the witness corner that you're talking
13 about; is that right?

14 A. Could be, yes. Could be.

15 Q. Okay. Have you talked to anyone at Allen
16 Marine about your amended survey or --

17 A. No.

18 Q. -- how it might affect their Tract D?

19 A. No. No.

20 MS. HARRISON: I think that's all my
21 questions, but let me just look through my
22 notes one more time.

23 Yeah, I think that's all I have.

24 Dan, do you have some questions?

25 MR. BRUCE: Yeah.

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EXAMINATION

BY MR. BRUCE:

Q. Going back to the hypothetical that you were asked by Ms. Harrison on Tract A, and I think she said you've found two points in the field that give you a conflict as to the witness corner -- the meander corner witness corner to do your work; correct? One is the monument that you've now set, and then you've got carved in rock U.S. Survey 1755 and then X?

A. Yes, that's right.

Q. So you're in that position. What do you do to try and resolve that discrepancy?

A. That's what I was trying to do until this --

Q. No. No.

I mean, you're no longer --

A. Right.

Q. -- John Bean --

A. Right.

Q. -- who placed --

A. Yeah.

Q. -- a monument.

A. Right.

Q. You're John Doe surveyor. And you see

1 there's a survey done by John Bean and he placed
2 this monument and then there's this thing carved in
3 the rock.

4 How do you resolve the conflict?

5 A. What I keep saying is, as a surveyor, you
6 would go out and locate all the existing monuments
7 in the area, everywhere in that area. And then you
8 would take and position them onto a -- the plat of
9 75-11 and see what kind of fit you're getting in
10 relationship. Then you would have to make certain
11 decisions on this -- on the areas of the lots and
12 where they're at, to solve the problem.

13 Q. Is surveying an exact science?

14 A. Nope. Math is.

15 Q. The math is. But the actual surveying is
16 not?

17 A. Is not. Can't be. The earth moves
18 constantly. And monuments move.

19 Q. Okay. Well, if you were John Doe
20 surveyor, would you call John Bean and say --

21 A. Yes, I --

22 Q. -- why is this here?

23 A. Yes, I would check to see why and how --
24 why he set it there, yes. I call them. I call the
25 other firms quite often, yes.

1 Q. And has anyone ever contacted you about
2 75-11 and the discrepancies or differences that
3 have been noted in --

4 A. Negative.

5 Q. Okay. Your starting point, when we go
6 back into the '70s, you intended your subdivision
7 plat to start where there is currently, today --

8 A. Yes.

9 Q. -- this monument (indicating); correct?

10 A. Yes.

11 Q. "This monument" being the one that's shown
12 on --

13 MR. BRUCE: What exhibit did you make
14 this?

15 MS. HARRISON: Oh, I'm sorry. I don't
16 think we made that an exhibit. That's the
17 land monument.

18 (Exhibit 33 duly marked)

19 A. Yes, Exhibit 33, yes.

20 BY MR. BRUCE:

21 Q. So 75-11, in your mind, would be -- the
22 starting point would be where it now says: John
23 Bean, 75-11, MC, et cetera, et cetera, as shown on
24 Exhibit 33?

25 A. Yes. That's correct.

1 Q. And do you know what the property owner's
2 intention was when you started the plat to do the
3 subdivision work in 1975?

4 A. To come up with recreational lots.

5 Q. Right.

6 But I mean, did they intend the
7 subdivision to start where you said it started?

8 A. Yes. That was the decision made in the
9 field at that time, yes, by observing the X on the
10 rock, yes.

11 Q. When you say the decision was made in the
12 field by observing the X, was anybody there, other
13 than yourself?

14 A. Howard Lockwood and Mr. Black.

15 Q. And neither one of them in -- whenever
16 this meeting took place, pointed out to you the
17 carving in the rock 20-some feet away?

18 A. Negative.

19 Q. And Ms. Harrison asked you a question
20 about if a judge decided that the correct meander
21 corner -- or witness corner Meander Corner 1 was
22 the one cut in the rock, then R&M would be the
23 correct plat.

24 Then, conversely, if the court decided
25 that the witness corner that you have set recently

1 is the place that you started from and was intended
2 to be the starting point for the subdivision, then
3 plat number -- or Exhibit No. 31 would be correct;
4 right?

5 A. Right.

6 Q. And when you did -- let's see.

7 MR. BRUCE: which is the original drawings
8 for Lot 14 that he did?

9 A. Right.

10 MS. HARRISON: This one?

11 MR. BRUCE: Yeah.

12 MS. HARRISON: 2014-46, Exhibit 3.

13 BY MR. BRUCE:

14 Q. So it's my understanding you went, in
15 2009, to set the corners for Lot 14; is that
16 correct?

17 A. Well, more than Lot 14, yes. 14, 13 --
18 there was five of them. Five lots that I went out
19 to stake, that Shumway was the -- as the owner
20 then.

21 Q. That's --

22 A. That one --

23 Q. There was a dispute going on --

24 A. Right.

25 Q. -- at that point --

1 A. Right.

2 Q. -- between Shumway and other --

3 A. Yep.

4 Q. -- owners of the --

5 A. Right. And I talked to them and it -- I
6 had identified the lot lines for them so they would
7 know where their lot corners were, based on the
8 existing control points that I found on the island
9 from the original '70s survey.

10 Q. Now, there's some dispute in the
11 interrogatories that have been filed. Have you
12 reviewed those interrogatories? Not filed, but
13 have been received -- that are showed as responses
14 to first set of interrogatories.

15 A. Yes, I read that, yes.

16 Q. And had you checked on the control points
17 that you just referenced when you were doing the
18 work in 2009? Was that the first time you looked
19 for those control points after you set them in the
20 '70s?

21 A. No. I'd used them to stake Alline's (sic)
22 lot down, further down. That was a long time. I
23 didn't know in what year that was I staked that
24 one. And Marion Hobbs and Allines had a lot down
25 there.

1 THE REPORTER: What was that?

2 A. She built the cabin.

3 THE REPORTER: I didn't hear the first
4 name.

5 THE WITNESS: Alline.

6 THE REPORTER: Alline?

7 THE WITNESS: Alline. No, that's their
8 last name.

9 MR. BRUCE: Allwine, A-L-L-W-I-N-E.

10 THE REPORTER: Thanks.

11 THE WITNESS: Yep.

12 A. Which they have a building built on it.

13 BY MR. BRUCE:

14 Q. And is that the only survey work that
15 you'd done between the mid-'70s and when you did
16 the work on Allwine's? Is that the -- was that the
17 first surveying work you did --

18 A. Yes.

19 Q. -- after the '70s?

20 A. Yes.

21 Q. And did it appear to you that the control
22 points that you had set in the '70s had been
23 tampered with, altered, or moved in any fashion?

24 A. Negative. No. Only brush had grown up
25 around them.

1 Q. And did those control points show on
2 any -- they don't -- do they show on 75-11, on
3 Plat --

4 A. Negative.

5 Q. -- 75 --

6 A. Negative. They do not show.

7 Q. If I had hired a surveyor to set -- to do
8 those -- the work you were doing for the Allwines,
9 would it have been the usual and customary practice
10 in surveying for my surveyor to contact you to find
11 out if there were any control points set?

12 A. Not -- no, not that I -- not control
13 points. But property corners, maybe.

14 Q. But -- no.

15 My question was, if I hired a surveyor to
16 do the work that you did for the Allwines --

17 A. Right.

18 Q. -- and they had 75-11 and they saw that
19 John Bean had done that, but they don't see
20 anything on the plat --

21 A. Oh, yes.

22 Q. -- would they -- would it have been usual
23 and customary for them to contact you and ask you
24 if there were things out in the field that they
25 should be looking for?

1 A. Sometimes it does happen. Most of the
2 time it doesn't.

3 Q. And you said that the ULM 1285 (sic), when
4 you saw it in the '70s, there was more than an X
5 there; correct?

6 A. Yes. There was X with carving on it,
7 said: USLM 12 -- whatever the number is, 12- --

8 Q. 85.

9 A. -- -85.

10 Q. And when was the last time you were in
11 that area?

12 A. When I did the accretion -- the tideland
13 survey and found that the -- there was a brass cap
14 set on there.

15 Q. Did you see any evidence of the X or
16 the --

17 A. I did not really look for it. All I saw
18 was the brass cap. I didn't observe that much
19 more. But it didn't stand out and say, hi, here I
20 am, the carvings did not.

21 Q. When was the first time you saw witness
22 corner -- the carving that's at the other witness
23 corner that's -- we're -- the --

24 A. The time -- at the time I did the ATS
25 survey.

1 Q. And what's the date on that drawing?

2 So it says date prepared. It looks like
3 07 February 2004.

4 A. It should say on survey, it was started.
5 Survey started in '02: 6/04/02. That's when the
6 survey was started. That's right up in the
7 paragraph.

8 Q. And how was it that you saw the carvings
9 in 2006 -- or 2002? Pardon me.

10 A. I set so I could see up the channel up to
11 this other coastal geodetic monument. And I set a
12 point over there to identify, also to tie in to
13 what I thought at that time was the meander corner
14 of the U.S. Survey, number --

15 Q. 1755?

16 A. -- 1755. But I observed that, instead of
17 the X that I used to start the survey of the plat
18 of 75-11, because it was more prominent. And
19 that's -- and that's what I used. Because the
20 survey of 17-11 (sic) was not on my mind at that
21 time to see why I started there or I didn't start
22 there.

23 Q. You mean 75-11 wasn't?

24 A. 70 -- yep.

25 Q. I think earlier you testified that

1 Dahlquist didn't shoot between 1285 and the witness
2 Corner 1 on 1755; correct? He did it by
3 triangulation?

4 A. By triangulation and traversing.

5 Q. And traversing.

6 And so how reliable a method is that of
7 establishing distance?

8 A. It depends on his angle, closures and what
9 he says on his notes, that he had good angles and
10 bearings. Depends on his records and where he
11 positioned -- because he surveyed down the meander,
12 I think, four or five meanders down the side of
13 U.S. Survey 1755. Yeah, five meanders. And then
14 he took a shot across to the USLM, only by angle.
15 And also he did the same by angle from the WC that
16 he had set with an angle.

17 So it depends on his -- what he did. He
18 could do it -- mathematically you could make it
19 close, or -- unless you physically do it the way he
20 did it, to see if it did work, would be the only
21 other way to prove whether it's right or wrong.

22 Q. And earlier you used a term: Balance the
23 meanders. what does that mean?

24 A. Because when you survey, when you set here
25 mathematically and start it, what they call

1 Meander 1, and you punch in that bearing and
2 distance here. And they're off of their meander
3 schedule here, I guess it is. And then you plot
4 all of these in, based on bearing and distances.

5 And when you get back to this point, which
6 is off of Meander 22, you do not end up at the same
7 position that you started out. There's a gap. So
8 there's an error of a closure. And it -- and so
9 what you do is, you take that error, amount of
10 error, and balance it all the way through the
11 numbers and the bearings around the complete island
12 to make it so when you're done, it ends up at the
13 same point. And it changes every bearing and
14 distance, depending on the direction and the
15 distance.

16 Q. Okay. So is it fair to say that the
17 difference lies in the ground and not in the math?

18 A. No, it lies in the math.

19 Q. It lies in the math.

20 A. I have no idea of the ground unless you
21 physically survey it to see where it is on the
22 ground. I mean, they could be up on a rock. They
23 could be out away from a rock. I don't know. But
24 if they physically surveyed each point, I'm not
25 positive. You can't tell by their field notes.

1 They may have just surveyed around and
2 took shots in, just swing-tied shots in and say,
3 well, there's where the meander changes, by
4 eyeball, and create a point. And then you go
5 around the island and do the same thing, instead of
6 actually following that bearing and distance around
7 the island that's on the plat. Then they just
8 punch it in there and come up with these bearings
9 and distances.

10 Q. As a matter of surveying, when you have --
11 purely as a surveyor, when you have, like we have,
12 a starting point -- a dispute as to the starting
13 point, how do you solve that?

14 A. How do you solve that? By -- what I said
15 was, to survey the existing features, houses,
16 trails, and then prorate and try to make sure
17 everybody gets a hundred by -- whatever, a hundred
18 by -- 100-by-150-foot lots, which is the norm along
19 the beach, that each one of them ends up with their
20 square footage and their facilities on the property
21 that they -- because they failed to have it
22 surveyed when they built, and they lived based on
23 where the objects were that they thought was the
24 property lines for so many years, so they've
25 occupied that area.

1 So then you could do a replat of the
2 information and come up with a new replat of the
3 17 -- 1755 -- or 75-11 plat. And then everybody on
4 the plat -- on the ownership of that land would
5 sign the plat and accept it, that is where the
6 boundaries are.

7 Q. I've heard the term: Retracing the steps
8 of the surveyor --

9 A. Yes.

10 Q. -- to establish what is the controlling
11 survey or what should be the controlling survey.

12 And in this instance, we have the
13 U.S. Survey 1755. And then we have Plat 75-11.

14 A. Yes.

15 Q. And to determine the rights of the
16 property owners in -- isn't John Bean the only
17 surveyor for Plat 75-11?

18 A. Yes. Until R&M filed their record of
19 survey.

20 Q. But they were supposed to be retracing
21 your footsteps; right?

22 A. Right. Yes.

23 Q. And if they started in a place different
24 than you started, they can't be following your
25 footsteps, can they?

1 A. And plus, they were -- no, they can't, no.
2 without -- they didn't follow my footsteps, because
3 they didn't -- they tied down some of the existing
4 corners but not everything in relationship to the
5 island.

6 Q. And if -- if for -- hypothetically, you
7 were wrong in 1975 when you said this X --

8 A. Yes.

9 Q. -- is MC --

10 A. WC.

11 Q. -- or WCMC-1 --

12 A. Yes.

13 Q. -- as established by Dahlquist, but you
14 think that's the right spot and you stop there,
15 doesn't that starting point -- doesn't where you
16 actually start control over where the real witness
17 Corner Meander Corner was?

18 A. That -- based on my data in the field,
19 yes, but not based on the original survey tie if
20 you was doing it by distance, which is right or
21 wrong. But where I started is where I started the
22 subdivision, yes.

23 MR. BRUCE: Okay. I have no further
24 questions.

25 EXAMINATION

1 BY MS. HARRISON:

2 Q. And I'm sorry. I didn't really understand
3 the answer to Dan's last question. So let's just
4 go back to it.

5 If you made a mistake, hypothetically, and
6 the MC-75-11 that you marked in your amended plat
7 is not Meander Corner 1755 --

8 A. Right.

9 Q. -- which one do we use?

10 A. Well, at this point, we decide based on
11 the courts, because it's turned over, that --

12 Q. What question is the court asking? Is the
13 court asking where is Meander Corner 1755? Or are
14 they asking, where did John Bean start his survey,
15 even if it's wrong?

16 A. Either one. Depends on what they --
17 depends on what they want to find out about the
18 survey and which one they are going to accept in
19 the -- so the problem can be solved.

20 Q. So you don't think that there's one
21 legally right answer to that question of which one
22 is -- what is it that we're looking for? Are we
23 looking for where John Bean started? Or are we
24 looking for Witness Corner 1 to 1755?

25 A. No.

1 Q. Okay.

2 MR. BRUCE: Of course there's one right
3 answer.

4 MS. HARRISON: We like to have one right
5 answer, being lawyers.

6 BY MS. HARRISON:

7 Q. So then, the other thing that Dan asked
8 you, that I was also a little confused about the
9 answer, was to say that weren't you the only
10 surveyor on the island. And you said, yes, until
11 R&M came out.

12 When we're talking about retracing
13 footsteps, are we talking about retracing the
14 footprints that you left in Plat 75-11, i.e., doing
15 what you wrote on 75-11, or are we talking about
16 literally retracing your footsteps even if you made
17 mistakes?

18 A. Both ways. Should be checking both
19 directions, if there is a mistake, to prove that
20 there was a mistake and by -- based on what they
21 found in the field and based on the plat that is
22 recorded. And so that's --

23 Q. Right.

24 So when those two things conflict, the
25 plat that's recorded and what you find in the

1 field, you don't have an answer for how you resolve
2 that?

3 A. No. It has to be resolved, but it can be
4 resolved.

5 Q. And the way that it has to be resolved, if
6 I understand you right, is either by the courts or
7 everyone agreeing to a replat?

8 A. Right. Right.

9 Q. Oh, there was something that you said,
10 that I thought was interesting, that I wanted to
11 follow up on, that you said that when you were --
12 if you were doing a replat and you were trying to
13 solve everything by going out and looking at what's
14 there and looking at the facilities and so on,
15 something that I think I heard you say was that a
16 goal would be to have the lots be the proper
17 dimension according to the original plat and have
18 all of the facilities for each lot be contained
19 within their lot.

20 Did I understand that right?

21 A. Yes. See if you could meet that goal is
22 what I'm saying -- meant.

23 Q. So just to confirm. When you did your
24 survey of Lot 14, in both the original 2014-46
25 version and the amended one, you actually showed

1 that some of the Halls' facilities, their shed and
2 their outhouse, crossed onto Lot 14; is that right?

3 A. Yes.

4 Q. But R&M showed that all of the Halls'
5 facilities are contained within their lot. Is that
6 right? And that's Exhibit 5.

7 A. No.

8 Q. No?

9 A. No.

10 Q. Show me where.

11 A. Their garden.

12 Q. Okay. So there was a garden. But that
13 didn't go onto the Collinses' property. That goes
14 onto the Property Lot 16.

15 A. Yeah.

16 Q. Is that right?

17 A. Yes. But they did show the proper
18 dimension of the lot, 100 by 150, which is on the
19 plat.

20 Q. And that was one of the other goals --

21 A. Yes. Yes.

22 Q. -- that you identified, was facilities on
23 the lot and correct dimensions.

24 A. Right.

25 Q. This just goes back to something I'm --

1 and I don't know, maybe it's not worth going back
2 over, but I still don't totally understand it.

3 when I asked you at first if we were to
4 change what's written on lot -- on Plat 75-11 and
5 change one edge of Tract A or two edges of Tract A
6 to make the whole thing close or whatever, you said
7 that would not require a replat and consent. But
8 then when you were talking about how to solve this
9 problem, you talked about a replat and consent.

10 why does the solution that you're talking
11 about require consent, but the changes that you
12 made in your amended plat to those boundaries not
13 require consent? what's the difference?

14 A. Okay. when you look at this drawing of
15 exhibit -- sorry. Got the wrong one.

16 Q. Oh, that's -- the amended plat is 31, I
17 think.

18 MR. BRUCE: It's right here.

19 A. Yeah, 31. There it is.

20 BY MS. HARRISON:

21 Q. Yes.

22 A. 31. The amended plat. when you observe
23 that this -- what you keep asking me is, along this
24 area of Tract --

25 Q. A.

1 A. -- Tract A --

2 Q. Yes.

3 A. -- is, these are ties back to that point
4 (indicating). It doesn't refer to Tract A in this
5 sense. Okay? It refers to the starting point. I
6 could have computed a point from here (indicating)
7 to there (indicating) with no relation and call --
8 and have a distance and a tie. So you have a tie
9 back to where you started from. And this is trying
10 to follow some sort of meander line based on the
11 plat, as close as you can get it.

12 Q. Right.

13 And so -- but that's -- I guess that's
14 what I don't understand, is that even though this
15 document, your amended plat --

16 A. Yeah.

17 Q. -- doesn't say Tract A, it's pretty clear
18 from --

19 A. Yeah.

20 Q. -- comparing it that --

21 A. Yeah.

22 Q. -- what you're talking about is this
23 border with Tract A. So I don't see how you can
24 say that your amended plat doesn't -- doesn't
25 affect the border of Tract A.

1 I mean, isn't -- aren't those the --

2 A. Well, I'm not saying that -- that it
3 doesn't. I'm not saying that it does or doesn't
4 affect it. It's just this is the survey tie-back
5 by using the relationship of the meanders to get
6 back to the starting point of the survey it was
7 tied to.

8 Q. So why would the replat require consent of
9 owners but these changes not require consent of
10 owners? That's what I don't understand.

11 A. I --

12 Q. You said if we were going to redo
13 everything and figure this all out, you'd have to
14 do a replat and get everybody's consent.

15 Did I hear that right?

16 A. Yes. It has to be done if you're doing a
17 large replat. Yes, then you would get everybody
18 involved that owns the land. But on this here,
19 we're trying to solve a problem with only on an
20 individual lot position in the middle of anywhere
21 based on numbers.

22 Q. I guess, but those numbers are somebody
23 else's property line, aren't they?

24 A. Not necessarily. They're computed ties to
25 the point.

1 Q. With your computed ties to the point, can
2 I physically fit Lot A in here?

3 A. Yes.

4 Q. Yes.

5 A. But not exactly.

6 Q. But with different --

7 A. Yes.

8 Q. Yes.

9 A. Perimeters, yes.

10 Q. But this is -- but you don't need Lot A's
11 consent for that?

12 A. Not that I know of, no.

13 Q. Okay. All right.

14 I don't understand it, but we'll move on.

15 A. I mean, I don't -- I don't understand
16 where the question is coming from, so that's what
17 I'm trying -- I'm trying to -- trying to figure it
18 out.

19 Q. Right.

20 I guess where the question's coming from
21 is, it seems to me that what you've done in the
22 amended plat makes changes to 75-11, that you've
23 done something different in your amended plat than
24 75-11 says to do. And so why doesn't that require
25 change -- amending 75-11?

1 A. Because this is a record of survey. It
2 shows what is physically in the field, what I am
3 relating to. That's why you use a record of survey
4 instead of a platting and going through the
5 Platting Authority to change everything. Then I
6 would have to have the people's consent to adjust
7 their boundary lines. This is showing what is
8 found in the field and this --

9 Q. So what is found in the --

10 A. Same thing with R&M. They're showing what
11 they found in the field. And they set nails at the
12 corners, and they show where my corners are. And
13 that's just -- theirs is a record of survey. It's
14 not a plat. But it's a record of survey showing
15 the existing -- and this distance number here, I
16 don't know if that's the same or this one is the
17 same as on the --

18 Q. It is.

19 A. -- on the plat.

20 Q. It is the same as what's on the plat.

21 So then what you're saying, maybe what I'm
22 understanding, then, is that the corners that you
23 set for Lot 14 are what you found in the field
24 based on the corners that you set in 2005.

25 A. Right. Yeah.

1 Q. And the MC-75-11 is what you found in the
2 field based on that X?

3 A. Yes.

4 Q. And the distances and bearings between
5 them are what you wrote down --

6 A. Yeah. Correct.

7 Q. -- on this --

8 A. Right.

9 Q. -- amended plat; is that right?

10 A. Yes.

11 Q. And they are not the same --

12 A. As --

13 Q. -- as what 75-11 says?

14 A. Right, they're not.

15 Q. But when R&M went out -- so R&M set their
16 own corner. So my understanding is that R&M
17 actually traversed down the island and did
18 fieldwork and placed those corners.

19 A. No, they didn't.

20 Q. How do you think they placed those
21 corners?

22 A. They set control points, same thing.

23 Q. How did they set the control points?

24 A. From this point or that point (indicating)
25 and set it out here on the water and then surveyed

1 these in.

2 Q. well, but --

3 A. But --

4 Q. -- so these -- sorry.

5 And however they did it --

6 A. Yeah.

7 Q. -- they did some fieldwork to determine
8 where those --

9 A. Yes, they did.

10 Q. -- points should be, based on what's in --

11 A. 75 --

12 Q. -- 75-11?

13 A. Yes. That's what I said.

14 Q. So R&M's survey 2012-32 is consistent with
15 75-11, based on what they placed in the field; and
16 your amended survey of 2015-37 is not consistent
17 with 75-11, based on what you found in the field?

18 A. No. No.

19 Q. No? That means I'm correct? That I'm --

20 A. Yes, you're correct, yes.

21 Q. Okay. So you're not representing in that
22 case -- am I understanding this right? Are you
23 representing that these corners are accurate
24 according to 75-11? Or are you just saying, this
25 is what I found when I went out here in the field?

1 A. No, they're accurate in, based on where I
2 started the original 75-11 from.

3 Q. So when you started that original 75-11
4 and went down to locate Lot 14, did you use the
5 distances and bearings stated on Plat 75-11?

6 A. Yes.

7 Q. So how can this be accurate if you're
8 use -- if you have a different distance and bearing
9 between that point and the corners of Lot 14?

10 A. Because of the adjustments of the
11 subdivision, by coordinates, the boundaries of the
12 coordinates.

13 Q. But you hadn't made those adjustments in
14 1970 --

15 A. No.

16 Q. -- as I understand it.

17 A. No, because I didn't -- hadn't completed
18 the survey yet.

19 Q. Let's -- again, to talk about those
20 control points that you placed in 1970, they would
21 have been based on the bearings and distances in
22 75-11 --

23 A. Correct.

24 Q. -- I think you said?

25 A. Yes.

1 Q. Yes.

2 And then did those control points say --
3 have your name and information on them?

4 A. No. They were wood hubs with tacks.

5 Q. So when Dan Bruce asked if you would -- if
6 a surveyor had found one of those stakes, would
7 they call you, am I correct that they wouldn't have
8 known to call you, because they would have just
9 found a stake and they wouldn't have known who set
10 it?

11 A. Right, they wouldn't.

12 Q. So the --

13 A. Only the knowledge of the area, who
14 surveys and most like -- I mean, if I was off in
15 Anchorage somewhere, I wouldn't have the slightest
16 idea.

17 Q. Sure. You'd have to have --

18 A. But a local surveyor --

19 Q. -- local knowledge --

20 A. -- local knowledge.

21 Q. So just to make sure that I understand
22 this right, then when R&M did their surveying in
23 2012, they were the first surveyors to put formal
24 monuments that were recorded on the island; is that
25 right?

1 A. There's no formal monuments.

2 Q. Well, I'm sorry. That there's a recorded
3 document that said: I put something in the ground
4 right here.

5 Are they the first people to do that on
6 Colt Island?

7 A. Yes.

8 Q. Okay. Sorry. Except for your --

9 A. Yes.

10 Q. -- ATS.

11 A. Yes. And these are not visible in the
12 field, that I could tell.

13 Q. Yes, I think that's right.

14 A. I don't know why they say they surveyed
15 them, but -- they're not physically in the field,
16 by my knowledge of looking for them when I was
17 there. But they show mine, physical.

18 Q. And those were wooden stakes?

19 A. No. These are plastic caps.

20 Q. These were plastic caps?

21 A. Yep.

22 Q. They would have had your name and
23 information --

24 A. Yes.

25 Q. -- on them --

1 A. And they --

2 Q. -- at that point?

3 A. And they have it on there.

4 Q. When did you set those plastic --

5 A. That's the -- that --

6 Q. -- caps? That was the 2009?

7 A. Yes.

8 Q. Okay. Got it.

9 Oh, yes. One more question I wanted to
10 follow up on. It was actually the first question
11 that I think that Mr. Bruce asked you was, if you
12 were a surveyor, new to this, and you were
13 trying --

14 A. Yes.

15 Q. -- to figure out to do, what would you do.
16 And you said, the first thing that you would do is
17 to locate the monuments in the field.

18 A. Every --

19 Q. Was that right?

20 A. Everything that I could find.

21 Q. Everything that you could find.

22 So that would -- if we're talking about
23 monuments in the field, essentially -- I guess are
24 there any other monuments in the field on this
25 boundary that we're talking about, other than

1 your --

2 A. This --

3 Q. -- monuments and R&M's monuments?

4 Is that right?

5 A. Well, R&M's not there. Not there.

6 Q. Okay.

7 A. I could not find those. I looked for
8 them.

9 Q. Okay.

10 A. And this monument, this monument, that
11 there.

12 Q. So that was USLM --

13 A. Yeah.

14 Q. -- 1285 --

15 A. That.

16 Q. -- the witness corner 1, whichever one you
17 think it is.

18 A. And then my record of survey. Then all
19 these corners. And then down with the tideland
20 survey.

21 Q. "All these corners" being the ones
22 around -- that are now set --

23 A. Yes.

24 Q. -- around 14 --

25 A. Yes.

1 Q. -- and 15.

2 A. Yes. And then the ones down at the ATS
3 survey.

4 Q. For the tideland survey.

5 A. And then maybe more in -- on Horse Island
6 for a different reference, or Admiralty Island, to
7 see if there's a tie difference somewhere. You
8 could do a massive correction survey, since we know
9 that there's a discrepancy now, you know, which
10 brings it to light, so --

11 Q. And that discrepancy that you're referring
12 to, again, is which witness corner --

13 A. Yes.

14 Q. -- do you use; is that right?

15 A. Right. Yes.

16 MS. HARRISON: All right. I think that's
17 all my questions.

18 MR. BRUCE: I have a follow-up.

19 EXAMINATION

20 BY MR. BRUCE:

21 Q. Actually, maybe just a couple of
22 clarifying.

23 Did you set corners at Allwine's?

24 A. Yes.

25 Q. So that was 2005 --

1 A. Yes.

2 -- you think?

3 A. Yeah.

4 Q. And going back to the hypothetical where I
5 said, you know, I'm going to survey this. People
6 would have been put on notice that the surveyor --
7 I mean, and when I look at 75-11, it has your name
8 on it; right?

9 A. Yes.

10 Q. So if I wanted to find out if you had set
11 controls or monuments, I'd just pick up the phone
12 and call you; correct?

13 A. Yes. Yes.

14 Q. So it's not a mystery as to who might have
15 control points out there?

16 A. No. No. Or who's been surveying in that
17 area.

18 Q. Yeah, who's worked --

19 A. Yes.

20 Q. -- in that area.

21 A. Yes. I do that. All surveyors call when
22 they want to, if they think they should, yes.

23 Q. So 75 -- 75-11 is recorded.

24 2002, you do the tidelands survey.

25 A. Yes.

1 Q. ATS 2016; is that it?

2 MS. HARRISON: 1620.

3 MR. BRUCE: 1620. My dyslexia is showing
4 through.

5 BY MR. BRUCE:

6 Q. Then Allwines, 2005. Then the Shumway
7 dispute in 2008, 2009, that --

8 A. Right.

9 Q. -- actually, that survey work kind of sets
10 the boundaries for Lot 15, in terms of the
11 dispute --

12 A. Right.

13 Q. -- that you've placed them right here.

14 Because they didn't really need to -- if
15 they didn't want to, didn't need to survey it if
16 they wanted to accept the corners that you put in
17 for Collins and --

18 A. Right.

19 Q. -- Shumway; correct?

20 A. Right.

21 Q. And then the next time you do a survey on
22 Colt Island is when? After 2009.

23 A. '96, Shumways -- whenever Shumways was
24 done. 2005?

25 Q. So after -- but, no, I mean after Shumway.

1 A. Oh.

2 Q. After --

3 A. I went back to do this record of survey to
4 show the facilities and the contours on plat -- on
5 Exhibit 31, on this date here.

6 Q. Okay.

7 A. Which is -- '14. 9/29/14 -- no, that's
8 not the right one. The original one. Here. Yes,
9 that is the -- 9/29/14, when I did the location of
10 Lot 11 features and topo and recorded the record of
11 survey of Lot 14, based on the corners set in 2005.

12 Q. In 2009 when you did Lots 14 and 16, did
13 you do any on the upland side of --

14 A. Yes.

15 -- Totem Trail?

16 A. Yes. 13, Lot 13 and Lot 12.

17 Q. So how many surveys is that?

18 A. How many lots did I survey at that time?

19 Q. Yeah. How many lots have you surveyed and
20 set corners on in Colt Island by --

21 A. 2000 --

22 Q. -- 2009?

23 A. Six.

24 Q. And by 2013 or 2014, how many have you
25 done?

1 A. None -- or -- none. I haven't set no
2 corners -- oh, yes, I have. Yes, I started
3 surveying down on the other side of -- when the
4 discrepancy come up, I was trying to set in Area --
5 right here -- 8 and 7 and 6, I think. In this area
6 down here.

7 Q. When you did that surveying work, did you
8 put down --

9 A. Rebar.

10 Q. -- rebars with the yellow cap on it
11 that --

12 A. Aluminum caps.

13 Q. -- aluminum caps that show JW Bean --

14 A. Yeah. Right.

15 Q. -- and your surveying number?

16 A. Yes. Yep.

17 Q. And --

18 A. which I haven't finished. I started
19 surveying until this discrepancy arised, and so I
20 quit. I --

21 Q. What about Barry Rohm's lots in 2011? Did
22 you do them?

23 A. 2011? Yeah, I -- no, I didn't survey his
24 lot. All I did was check one of his corners that
25 he'd requested, right after I'd set these corners

1 here on the -- up on Lots 14, 13, and 12.

2 Q. Did that tie in --

3 A. Yes.

4 Q. -- with everything?

5 A. Yes.

6 Q. And --

7 A. That's all he needed to know about his --
8 selling his property.

9 Q. During this time, no one has contacted --
10 no other surveyor has contacted you about work that
11 you've done or --

12 A. Negative. Nobody. I have not
13 communicated with another surveyor on it, no.

14 MR. BRUCE: I have no further questions.

15 MS. HARRISON: I don't either.

16 You're finally off the hook.

17 (Off record at 3:20 p.m.)

18 (Signature reserved)

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WITNESS CERTIFICATE

Re: Collins vs. Hall, et al.
Case No.: 1JU-14-771 CI
Deposition of: John W. Bean
Date Taken: December 14, 2015

I hereby certify that I have read the foregoing deposition and accept it as true and correct, with the following exceptions:

=====

Page	Line	Description/Reason for change
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Please sign your name and date it on the above line. As needed, use additional paper to note corrections, dating and signing each page. If you have no corrections, please write the word "None" above and sign, date, and return this page.

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C E R T I F I C A T E

S T A T E O F A L A S K A)
FIRST JUDICIAL DISTRICT) SS.

I, BRITNEY E. DUDLEY, Registered Professional Reporter and Notary Public duly commissioned and qualified in and for the State of Alaska, do hereby certify that the foregoing proceedings were taken stenographically and thereafter reduced to typewriting by me or at my direction.

That each witness, if any, before examination was first duly sworn by me to testify truthfully; that the transcript of the proceedings is a full, true, and correct transcript of the proceedings.

That all documents and/or things marked for identification as exhibits to the proceedings have been annexed to and included with said proceedings, unless orally waived by the witness and the respective counsel.

That I am not a relative or employee or attorney or counsel of any of the parties in these proceedings, nor a relative or employee of such attorney or counsel, and that I am not financially interested in said proceedings or the outcome thereof.

IN WITNESS WHEREOF, I have set my hand and affixed my Notarial Seal this 5th day of January 2016.

BRITNEY E. DUDLEY, RPR,
Notary Public for Alaska.
My Commission expires 6/21/19

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