

May 21, 2019

The Viejas Band of Kumeyaay Indians  
Office of the Attorney General  
5000 Willows Road  
Alpine, CA 9190  
(619) 659-1710

RE: Supplemental Comments on Land Description Review Certification for a  
16.68 acre Cuyapaipe Land Acquisition.

Dear Ms Uyen D. Le,

Per your request this letter gives my professional opinion of the comments by H. Alan Kimbrough, BLM Indian Land Surveyor and Jon L. Kehler, Chief Cadastral Surveyor, Bureau of Land Management, in their letter to Pacific Region, Attn: Arvada Wolfin, dated December 19, 2018.

On page 3, their statement is as follows:

"As a professional Land Surveyor, it is my opinion that the proposed acquisition of the 16.68 acre parcel is contiguous to Cuyapaipe Reservation Tract T1123. My opinion was based on possible future public right-of-way vacations by the State of California and the County of San Diego. The common rule of vacation of a right-of-way is that when current ownership of each parcel adjoin the public right-of-way is held by two different persons/entity, the right is split at the centerline and each property owner would be granted their perspective part and would cause the new boundary line to be common and touching. If the property on both sides of the right-of-way to be vacated is owned by the same person/entity, the entire right-of-way would be granted to the person/entity and the new boundary line would be common and touching."

I respectfully disagree with the above statement by Mr Kehler and Mr. Kimbrough for two reasons:

1. Currently, the 16.68 acre parcel and the Cuyapaipe Reservation Tract T1123 are separated by Willows Road a San Diego County Public Right-Of -Way, Interstate Highway 8 a State of California Public Right-Of -Way and Alpine Blvd a San Diego County Public Right-Of-Way. These three roadways will never be vacated/closed/relinquished and there are no plans to relocate them.

I do not believe it is proper to use an impossible scenario as the basis for their opinion.

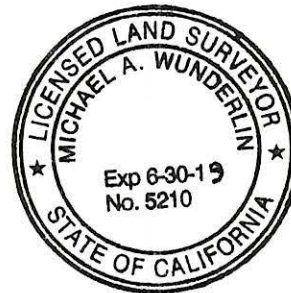
A handwritten signature in blue ink, appearing to be 'RW', is located in the bottom right corner of the page.

2. Historically these two properties have never been contiguous, being separated by public roadways and private property.  
See attached excerpts from "Brown's Boundary Control and Legal Principles" Section 8.13, Dividing Private Street Ownership and Figure 8.1  
There are two statement which apply:
- "Ownership lines in a street are determined by the original ownership lines as they existed before the easement or dedication of the road."
  - "Reversion rights are determined by property lines that existed before dedication."
- Therefore, if the impossible occurred and Willows Road, Interstate Highway 8 and Alpine Blvd were all vacated/closed/relinquished, the 16.68 acre parcel and Cuyapaibe Reservation Tract T1123 may not become contiguous because the governing body processing the relinquishment may recreate the properties that existing before the dedications.

Sincerely,



Michael A. Wunderlin, LS 5210  
Wunderlin Engineering, Inc  
(760) 644-2944



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# BROWN'S BOUNDARY CONTROL AND LEGAL PRINCIPLES

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Fifth Edition

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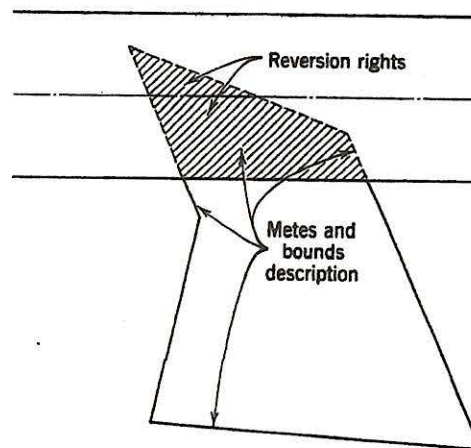
### 8.13 DIVIDING PRIVATE STREET OWNERSHIP

**Principle 10.** *Ownership lines in a street are determined by the original ownership lines as they existed before the easement or dedication of the road. A private conveyance of land abutting on a road, the fee to which belongs to the adjoining proprietors, is interpreted, if possible, to pass fee title to the centerline thereof; otherwise, the contrary must be shown.*

It is recognized that many easements are described by metes and bounds descriptions. These descriptions often define or delineate the limits of private ownership. Although falling within the easement boundaries, the private ownership lines existed prior to the creation of the easement (see Fig. 8.1). When it is found that the bounds within a street are given or identified, the surveyor should not assume the center of the street as the boundary. The presumption may not exist. Deeds may be found that expressly exclude the street, but unless they do, the inference is that the street is included. Before a surveyor can positively state how the division should be made, an investigation of the original lines must be made, and if it is determined that the owners on each side did not contribute equally to the easement, the presumption fails.

Surveyors often rely on subdivision maps to depict the extent of easements, but in most states these recorded maps will not show the extent of the private boundaries. Many presumptions are accepted with subdivision maps. Seldom does a deed for a lot mention the streets. It is usually assumed that the streets are included, to the centerline. Once all the lots in a subdivision are sold, the developer has no further interest in maintaining streets and utilities relative to maintenance, taxes, and so on, and the lot owners find that these items are assessed against their lots. This issue was raised in Maine when a developer indicated that the lots extended only to the respective side lines, not to the centerline of the streets.<sup>15</sup>

Surveyors will find that landowners will generally try any means in an attempt to keep from paying taxes and assessments. Texas landowners refused to pay their street assessments using the theory that their metes and bounds descriptions followed along the street but did not include the street itself. The court found that deeds to a city lot that fronted on a street carried fee to the center of the street, unless there were clauses expressly declaring a contrary intention.<sup>16</sup>



**Figure 8.1.** Reversion rights are determined by property lines that existed before dedication of the street.