



Noisy Quads on Public or Private Lands

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For Immediate Release

When the weekend warriors saw the sign that said, 'no trespassing' on the sandbar they drove their quads right past it. This land was public land and no one had the right to keep them out. They moved the obstacles placed over the access trails and enjoyed a wild time on the sandbar.

The land in question was a sandbar that had over many years developed along the bank of a major Alberta river. The landowner with land adjacent to the sandbar claimed the sandbar as an extension of his own land and erected the 'no trespassing' signs. As far as he was concerned, the people with quads were trespassing. He kept putting up more barricades to keep visitors out.

Who was right—the quaders or the landowner?

The quaders contacted Alberta Sustainable Resources and complained that the landowner was illegally denying them access to the sandbar. Coincidentally a gravel extraction company wanted access to the same sandbar. The eventual resolution to the ownership dispute came from an investigation by an Alberta Land Surveyor (ALS) retained to conduct a boundary survey to determine actual boundaries and the true ownership of the land. Determining natural boundaries is one of the many activities of a professional land surveyor.

The land surveyor considered various factors—was the intent of the original survey to have the property boundary defined by the water body (a natural boundary)?, had the boundary gradually changed due to long-term natural actions of the water?, was the vegetation on the sandbar aquatic or upland?, what was the nature of the original Land Title?, what was the survey history of the area?, and what did historical aerial photos of the site show?

He first determined that the sandbar could potentially be within the landowner's titled area. The land title read: "All that portion of said quarter section which lies to the north of the left bank of the river." A landowner can gain or lose lands if the boundaries described in the title are affected by water gradually receding or rising. Land can be added (accreted) or lost (eroded) if the changes are gradual and not man-made. The added land cannot increase the amount of land beyond the boundaries described on the property title but they can add to lands within the titled area.

The land surveyor noted that the sandbar had become permanently dry except for annual spring flooding. Over the years upland vegetation had slowly crept out onto this sandbar and currently formed a distinct line against the aquatic vegetation on the shoreline. The land surveyor determined that this vegetation line marked the bank of the river and was thus the natural boundary of the property. Nearly all of the sandbar was within the natural boundary and within the area described on the landowner's land title. The result was that the areas of the sandbar under dispute belonged to the landowner and neither the quaders nor the gravel company had any right to access.

To learn more about this issue and similar boundary issues visit the www.alsa.ab.ca. The Alberta Land Surveyors' Association formed in 1910, is a self-governing professional association legislated under the Land Surveyors Act. The Association regulates the practice of land surveying in Alberta for the protection of the public and administration of the profession.

This article is distributed as a public service by the Alberta Land Surveyors' Association. It is a true story. Names have been omitted to respect privacy.

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