



Digging Deeper: Uncovering the Hidden Potential of Historical State and Local Records

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This presentation focuses on some historical state and local government records of use to environmental practitioners. This presentation covers only the tip of the proverbial iceberg of what's out there, but hopefully it will provide you with a sense of how useful such historical research can be in a variety of legal matters.

Of course, I should preface my comments by stating that there are numerous historical federal records that can also be useful to environmental practitioners. I discussed some of these records during a technical roundtable I gave last fall at the Section's annual meeting in New Orleans.

First, a brief word about my company. History Associates is a historical consulting firm headquartered just outside of Washington, DC. Since our founding in 1981, History Associates has worked on over a thousand litigation-related investigations covering a wide range of subject matters.

We specialize in conducting research into federal government records collections as well as research into state and local records collections. By my count, since our founding we have conducted research in 47 states (in case you're wondering, South Dakota, Nebraska, and Iowa are the three outliers).



Presentation Outline

- Survey of Local Records
- Locating Historical Photographs
- Locating Historical Maps
- Using Historical Newspapers
- Records on Federal Facilities in Local Repositories
- Effective Public Records Act Requests



2

In today's presentation, I will provide an overview of some of the types of records that can be found in state and local records collections that have proved useful in environmental litigation matters.

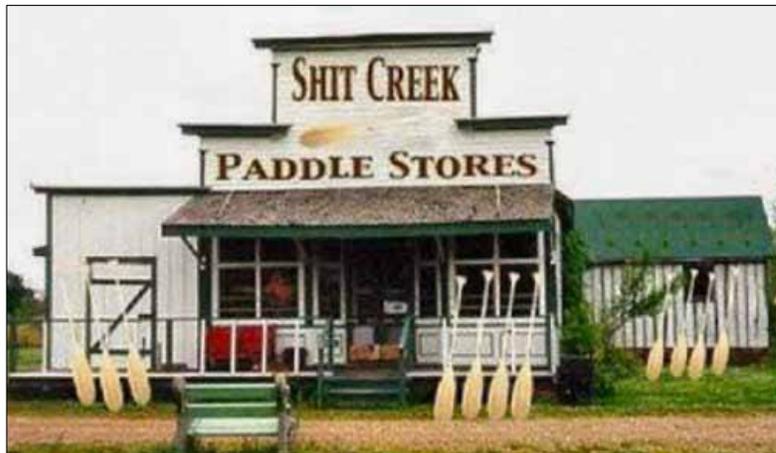
As much as possible, this presentation focuses on types of records that can be found in most states and municipalities. As you can imagine, different state and local governments historically created and maintained different types of records in different ways. And, records that exist in one state do not exist in others.

Obviously, your specific legal matters will dictate the records of interest to you, as will the records creation and retention policies of the state and/or municipality in which you are conducting research.

Indeed, to (poorly) mix metaphors, the challenge in conducting historical research into state and local records is to cast a wide enough net during your research to capture as much information as possible, while not losing the forest for the trees.

In the end, though, we believe it is more important to look at as many state and local sources as possible because, to paraphrase Forrest Gump, such research can at times be like a box of chocolates. You never know what you're going to find.

The Value of Effective Historical Research



3



My take-home message for this presentation is contained within this slide. If you take away nothing else from this presentation, please remember that many legal matters can benefit from effective historical research into state and local records.

Moreover, the results of your research efforts will be greatly enhanced if you have sufficient knowledge of the historical, regulatory, and governmental context of your jurisdictions of interest.

In other words, the more you know about where to look for records and how to look for them, the better the chance that you can provide your client with one of these paddles.



Select Legal Drivers

- CERCLA Matters
- PRP Searches
- NRD Cost Recovery and Sharing
- Toxic Torts/Product Liability Matters
- Common Knowledge Issues
- All Appropriate Inquiries for Brownfields
- Historical Land Use Matters



4

Now, I am not a lawyer...nor did I stay at a Holiday Inn Express last night...so I will not offer any legal advice in this presentation.

However, I do want to say that there are many legal drivers, including the ones listed on this slide, that can benefit from effective historical research into state and local records collections.



Key Records Questions

- Who created records?
- What records were created?
- What records were kept?
- Where are the records now?



5

Before conducting any research into state and local records, you should first develop a work plan, which in part should be based upon answers to the questions in this slide.

In preparing your work plan, it is important to develop an historical understanding of the agency context for your jurisdictions of interest. What do I mean by this?

In short, you need to identify the state and local agencies that may have historically kept records of interest to you, what records they may have created and preserved, and where those records are now. A quick “story from the field” to illustrate this point.

In Massachusetts, we have often consulted the published annual reports of the State Health Department (which date back to the 19th century) for information on public health complaints and pollution nuisances in specific Massachusetts cities.

The full run of these published annual reports is available in various libraries in the state. However, by digging a little deeper, you can find that the Massachusetts DEP Library maintains a run of the waste inspection surveys that were used to produce these annual reports.

And by digging a little deeper still, you can find that the DEP Library also has copies of the even more in-depth field notes that were used to produce the waste inspection surveys...that were used to produce the Health Department annual reports.



Municipal/County Agencies

- Assessor Office
- Engineer Department
- Fire Department
- Health Department
- Municipal/County Archives
- Municipal/County Clerk
- Planning Department
- Public Works Department
- Surveyor Office



6

In conducting research at the municipal/county level, a visit to city hall (and/or the county government complex) is a logical place to start. This slide lists some of the local agencies that are worth a visit.

In most instances, I recommend devoting at least a day to walking the halls of city hall, stopping into as many offices as possible. While most offices will probably not have records of interest to you, you never know. In making your rounds, remember the old adage that you can catch more flies with honey than vinegar. In other words, a little patience and good manners often can pay off for you.

Another story from the field. A number of years ago some colleagues of mine were spending a week researching records in a small town in Massachusetts.

On the first two days of the visit, they spoke with the City Clerk about the town's records, only to be informed that the city archives burned up in a fire. On the third day of their visit, as they researched other records at City Hall, the Clerk approached them and said, conspiratorially: "Hey, you guys look like good guys – very considerate. Here are the keys to the city records down in the basement – go knock yourselves out and just bring the keys back before the end of the day. I get so tired of all the genealogists coming in here asking for their family tree that I just tell 'em the archives burned up in a fire."

Other Records of Interest

- Court Records
- State Historic Preservation Office Reports
- Dredging Records
- Railroad Records



7

Outside of City Hall, there are numerous other documentary records that may be of use to you, especially if you are researching the past uses of industrial sites.

Court Records. Local courts often had original jurisdiction for the types of cases that may yield information on the historical activities at industrial sites, including public health complaints, nuisance suits, and workers' compensation cases. Thus, we recommend visiting the clerk of the local court and reviewing any historical docket books or plaintiff/defendant indices for cases of interest.

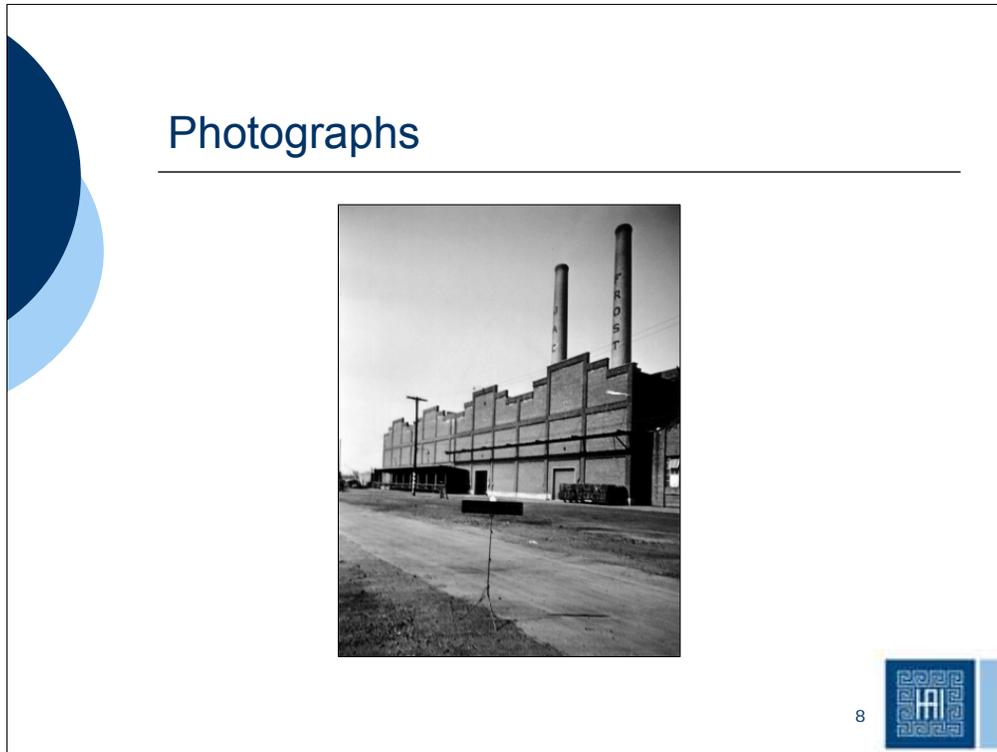
SHPOs. State Historic Preservation Offices and their local-level counterparts maintain copies of environmental assessment reports and Phase I archeological/historical assessment of sites.

Dredging Records. When researching historical dredging and filling activities, the first place to look is obviously U.S. Army Corps of Engineers records, as the Corps was historically responsible for the maintenance of America's navigable waterways. However, you can also find dredging-related records within state and local sources, especially for dredging activities around piers and wharves.

For example, in Rhode Island the Coastal Resources Management Council, the successor organization to the Rhode Island Harbors Commission, maintains a large collection of historical permit files (a page from the index to this collection is on this slide). These records, especially when used in conjunction with Corps records, can shed valuable light on historical dredging and filling activities in Rhode Island.

Railroad Records. Historical railroad records can be found in many public and private sources, including Interstate Commerce Commission records at the National Archives. Many states, though, also had railroad bureaus or commissions that oversaw state railroad activities.

For example, the New Jersey State Archives maintains a large collection of railroad company annual reports and plans. Within this collection are railroad-created right-of-way maps, like the one on this slide, which show specific railroad structures and sidings located on right-of-ways.



Sometimes the old adage is true about a picture being worth a thousand words.

When researching the historical uses (and owners) of former industrial sites, photographs can be an invaluable resource. Of course, the challenge is knowing where to look for these photographs....again, an understanding of the historical and regulatory context can help you know where to look.

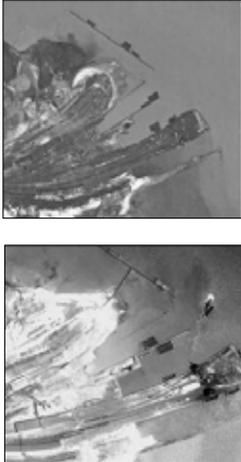
For example, many state historical societies/archives maintain copies of Works Project Administration photographs from the late-1930s. As you may recall from your high school history classes, the WPA was a New Deal agency that employed millions of Americans on various public works projects. As part of its efforts, the WPA often photographed their activities, copies of which can sometimes be found at local records repositories.

For example, the Washington State Archives Office maintains records from the WPA-sponsored King County (Seattle) Land Use Survey. Under it, the King County Assessor's Office surveyed all properties in King County in the late-1930s for tax assessment purposes and took photographs of nearly every structure standing in King County at the time.

Similarly, from 1939-1941, the New York City Department of Taxes photographed nearly every building in the 5 boroughs for tax assessment purposes. This slide shows one such photograph from Queens that we collected from the New York City Municipal Archives' collection of these photographs.

Historical Aerial Photographs

- National Archives
- U.S. Geological Survey
- State Archives
- Colleges/Universities
- Historical Societies
- Local Government Offices
- Private Vendors



9

Beginning in the 1930s, federal and state agencies and private companies blanketed the United States with aerial reconnaissance flights. These aerial photographs, either of the vertical (straight-down) or oblique (from an angle) variety, can provide valuable clues about everything from the changing footprint of sites to the location of sewer outflows and waste piles.

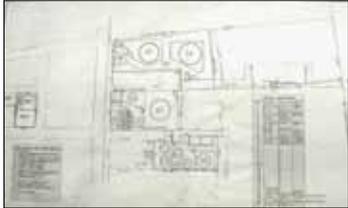
In addition to well-known federal government collections of aerials (e.g., National Archives, U.S. Geological Survey, and USDA Aerial Photography Field Office), there are numerous public and private collections of aerials. And, while in some cases just ordering aerials via EDR or other on-line sources is sufficient, in many cases it can be useful to consult as many sources as possible.

The two aerials in this slide show a New Jersey railroad freight terminal during the mid-20th century. The first photograph was obtained from Aerial Archives, a California-based company that has connections to sources of aerials across the country. The second photograph was collected from the Fairchild Aerial Collection at the New Jersey State Archives.

Of interest to our client in these photographs was the absence of one of the piers at the complex between the top photograph (1940) and the second photograph (1951). With the visual information gleaned from comparing these photographs, History Associates was able to research what happened to the pier.

Maps

- Sanborn and other Land Ownership Maps
- Atlases
- Tax Maps
- Real Estate Plat Maps



10

In researching the historical uses of industrial sites, watersheds, and other areas, you should also consult historical maps, as these sources can be used to trace the changing industrial footprint of sites.

I'm sure everyone is familiar with EDR's collection of Sanborn fire insurance maps, and the ability to order them from your desktop.

Your cartographic research, though, should not necessarily be limited solely to Sanborns, as city and county atlases, tax maps, and real estate plat maps can also provide useful information about industrial sites.

Again, local libraries and historical societies often maintain copies of these maps, as do various local government agencies, including the Planning Department, Fire Department, Surveyor's Office, and Public Works Department.

In addition, State Archives sometimes maintain map collections. For example, the map in this slide was found at the Rhode Island State Archives. It depicts and lists structures at an oil company historically located in Providence.

Historical Newspapers

- ProQuest
- Newsbank
- NewspaperArchive
- LexisNexis
- Clippings Files
- Newspaper Morgues



11

Historical newspapers can also be an invaluable source of information for many topics of interest, as a diligent newspaper search can turn up such varied information as (1) historical contract awards, (2) descriptions of industrial plants, (3) information on public health complaints, and the (4) names of personnel at specific companies and plants. Newspaper research can also provide key leads to other sources of interest.

The challenge with such research, of course, is that local newspapers are rarely full-text searchable (as are national “newspapers of record” like the *New York Times*). Thus, researchers often must rely on a careful search of newspaper clippings files, which are typically found at local libraries or historical societies and were created by librarians who literally clipped articles out of each newspaper and organized them into subject-specific vertical files.

For example, this newspaper is from a port city in northern Ohio and concerns a coal conveyor belt that transported coal across a river. Of interest in this article is that it references a previously unknown U.S. District Court case in which citizens sued a company to prevent the spillage of coal from the conveyor belt into the river. From the newspaper article, History Associates was able to guess the plaintiff’s name in the case and then locate a copy of the lawsuit’s case file at the National Archives’ regional facility in Chicago.



State and Local Records of Interest concerning Federal Facilities

- Real Property Records
- Maps and Surveys
- State Agency Reports
- Historical Local Newspapers
- Photographs

12

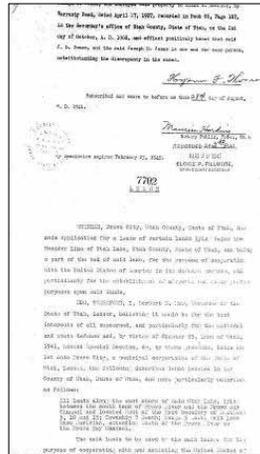


I now want to turn to a particular type of research that can benefit from historical research into state and local records: research into historical activities at federal facilities.

Activities at federal facilities are often very important to states and local communities, both as sources of jobs and civic pride and, on the flip side, sources of pollution and public nuisance complaints. In both instances, local government agencies are likely to keep records on activities at federal facilities, including the types of records listed on this slide.

What follows are some examples of the records available on federal facilities (specifically Formerly Used Defense Sites) within state and local records collections in Utah.

Real Property Records



13



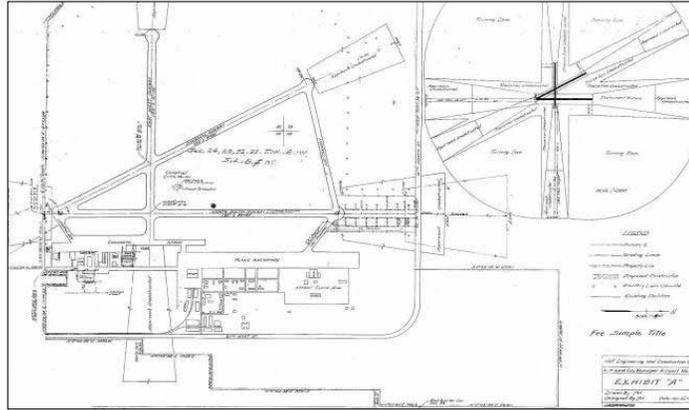
Real property records for federal facilities are often absent from readily accessible federal records collections, or are only found through diligent research at the National Archives.

Such records, though, are often available within local real property records at the City/County Clerk/Recorder's Office.

For example, this slide shows a lease concerning the construction of Provo Municipal Airport in the early 1940s for national defense purposes. It was found at the Utah County Recorder's Office.

In passing, I'll note that real property filings sometimes contain more than just a deed, lease, or easement. Indeed, occasionally you can find copies of site maps, blueprints, or even copies of federal contracts.

Maps



14

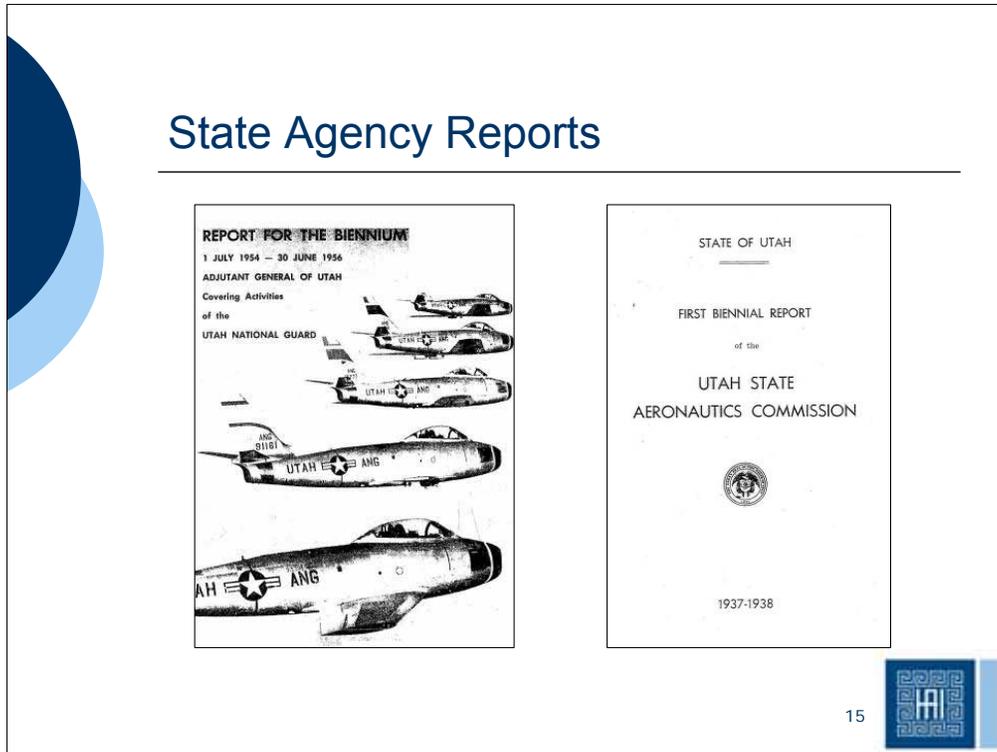


There are also maps of many federal facilities in the files of various state and local agencies, including the:

- Planning Department
- Public Works Department
- Fire Department
- Surveyor Office

You can also find maps within state and local archives and historical societies.

For example, this 1948 map of the Salt Lake Municipal Airport comes from the Utah State Archives' collection of airport records.



Another potentially valuable source of information on federal facilities is the published reports of state agencies.

For example, if researching historical National Guard facilities, local records are much more likely to yield relevant information than federal records.

Indeed, specific National Guard facilities and units are often scantily documented at the federal level, unless the unit is activated for national service, at which point the unit is typically sent abroad and any records relate to the mission, and not the “home” facility.

Instead, records regarding National Guard facilities are more commonly found at the state level within records of the State Adjutant General (the senior military officer and *de facto* commander of a state's military forces).

In Utah, the State Archives maintains a run of Adjutant General reports that include information on specific National Guard sites and activities.

Newspapers



16



Although historical issues of many “national newspapers of record” are increasingly available electronically (and are worth searching because they often contain information of interest even on seemingly local topics), many local newspapers are neither digitized nor OCR’d for full-text recognition.

As we have seen, though, thanks to the yeoman efforts of local librarians, you can often find clippings files of newspaper articles at local libraries and historical societies.

For example, the Utah State Archives maintains a voluminous clippings file from the *Salt Lake Tribune*, in which can be found this 1960 article about the Air Force’s Hurricane Mesa Test Facility in southwest Utah.

Photograph Collections



17



Some local repositories also maintain collections of newspaper print and photograph morgues (collections of clippings files maintained by newspapers for use by their researchers and reporters).

For example, the Bancroft Library at the University of California-Berkeley maintains the print and photograph morgue of the defunct *San Francisco Examiner*.

Sometimes, though, these morgues can be in geographically distant places. Thus, the University of Texas-Austin maintains the photograph morgue of the defunct *New York Journal-American*.

The photographs in this slide, which also depict activities at the Hurricane Mesa Test Facility, were found within the Utah State Archives' well-catalogued collection of photographs.

Published and Unpublished Histories

Brief Histories of Three Federal Military Installations in Utah

KEARNS ARMY AIR BASE

HURRICANE MESA

and GREEN RIVER TEST COMPLEX

by **THOMAS G. ALEXANDER**

Utah Historical Quarterly
Spring 1968

The first decade of settlement in Utah had scarcely passed when U.S. troops founded Camp Floyd, which was to become only the first of Utah's numerous bases or military installations. Troops of infantry and cavalry were stationed at the first camp. Since that time, practically every branch of the military has either had bases in Utah, has had components attached to bases, or presently has personnel serving in reserve units in various parts of the state. These military posts and personnel have had a profound effect upon the history of Utah. Topographical surveys were made, roads and bridges were constructed, Indians were subjugated, civil authorities were supported in their positions, mineral discoveries were made with their subsequent development, and above all the economy of the territory and the state has not only been bolstered but from time to time it has been to a large degree supported through military expenditures. During the past three years, 10 articles have appeared in the Utah Historical Quarterly concerning Utah's military installations and their impact upon the social, political, and economic life of the state. These three brief histories complete the series initiated in the Winter 1963 issue of the Quarterly.

18



Finally, we also recommend searching local history collections at municipal and county libraries and historical societies. Often, local academics, history buffs, or even former base personnel will write histories of federal facilities and donate them to these repositories.

While the historical quality of these publications varies considerably, they can still provide useful information and leads to other sources.

Public Records Act Requests, or Channeling your Inner Geppetto

- Not just “any and all records”
- Guide agency records officers as they conduct research on your behalf
- Provide as much information as possible



19

My final slide concerns Public Records Act requests, which are known by different names in different states (e.g, Freedom of Information Law (FOIL) requests in New York; Public Records Act (PRA) requests in California; or, Government Records Access and Management Act (GRAMA) requests in Utah).

Effective public records requests are crafted, and not just generated assembly-line style where you ask as many agencies as possible for “any and all” records on a particular topic.

Remember that with a public records request you are basically asking an agency records officer, who probably knows little if anything about your topic, and cares even less, to conduct research on your behalf into their agency’s records.

Thus, the more information you can provide in your request, the more likely you are to eventually get relevant records.

In short, think of yourself as a puppeteer when submitting public records act requests, guiding an agency records officer to locate records of interest to you.

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20

