

December 18, 2009

**DIRECTOR OF SURVEYS
POLICY**

SURVEYS ACT

1. The *Surveys Act* applies to all surveys performed by Alberta Land Surveyors that determine the positions of boundaries that govern the extent of interests in land.
2. Public land surveys completed on or after February 1, 2010 must be signed as follows.

Alberta Land Surveyor's Affidavit

I, (name of surveyor), of the (place of residence), Alberta Land Surveyor, make oath and say:

1. *that the survey represented by this plan was made under my personal supervision,*
2. *that the survey was made in accordance with good surveying practices and in accordance with the provisions of the Surveys Act, and*
3. *that the survey was performed between the dates of _____ and _____, _____, and that this plan is true and correct, and is prepared in accordance with the provisions of the Public Lands Act.*

SWORN before me at the
_____ of _____
in the _____ of _____
this ____ day of _____, _____

Alberta Land Surveyor

A Commissioner for Oaths
in and for the Province of Alberta
Commission expires on _____, _____

Frequently Asked Questions (FAQ)

1) What rationale was used to develop this policy?

The Director of Surveys Office has always understood that the *Surveys Act* applies to all surveys performed by Alberta Land Surveyors that determine the positions of boundaries that govern the extent of interests in land. Section 2 states the Act applies to surveys of any land within Alberta that is within the legislated competence of the Legislature. This includes, for example, public and private land (disposition) surveys, real property reports, and fence line surveys.

Application of Act

2(1) This Act applies to surveys of any land within Alberta that is within the legislative competence of the Legislature.

This understanding is acknowledged in the last paragraph on page eight of the Association's April 16, 2008 *Opinion Regarding Statutory Iron Posts Placed on Public Land Disposition Surveys*. The paragraph reads as follows:

Based on the review of various court cases, dictionary definitions, and other statutory provisions dealing with land surveying and cadastral surveying, I believe that the general meaning of the term "surveys of land" is quite broad. Any survey conducted to determine or establish boundaries of a parcel of land or to determine the boundaries of any right of interest in land or any survey conducted to determine the location of anything relative to a boundary for the purpose of certifying the location of the thing would fall within this term. Therefore, in general terms, the *Surveys Act* applies to most surveys of land conducted by Alberta land surveyors.

The Practice Review Board has also acknowledged this understanding for public land surveys. In their 4-1999 interpretive bulletin, *Wellsite Surveys and Public Land Dispositions*, the first paragraph on page three reads as follows:

GENERAL

The Practice Review Board interprets this section as requiring these surveys to be done in accordance with the *Surveys Act*, but with a reduction in accuracy (ref: Part C, Section 1.5 MSP).

The 1988 *Surveys Act* contemplates that public land surveys (surveys in un-surveyed territory and well location surveys) were surveyed in accordance with the provisions of the *Surveys Act*. Sections 45 and 47, Part 4, authorized regulations that set the requirements for surveys in un-surveyed territory and well location surveys.

The requirements under these regulations were significantly different than the current requirements under the Act. For example, there was no requirement to place statutory iron posts (section 10), there was no requirement to establish or re-establish Part 2 survey monuments (section 44), there was no requirement to intersect surveyed parcel boundaries (section 45), and there was no requirement to re-establish Part 3 survey monuments (section 46).

Under the 1999 regulatory reform initiative, the regulations were repealed and the requirements moved to the MSP. Moving the public land survey standards to the MSP did not change the application of section 2 of the Act. It still applies to surveys of any land within Alberta including public land surveys. Also, the standards for public land surveys have not significantly changed from those that were found in the 1988 *Surveys Act* regulations with those found in the current MSP. Thus, the intent is clear that all surveys, including those on public lands, are done in accordance with the *Surveys Act*

- 2) Am I signing a false affidavit if I have not completed all of the requirements of sections 10, 44, 45, and 46?

No, surveyors are not signing false affidavits. The current *Surveys Act* contemplates other surveys, arguably public land surveys, but concentrates on surveys to be registered at the Land Titles Office and the Metis Settlements Land Registry. The Act is generally silent on public land surveys, however section 2 contemplates that the Act applies to public land surveys. Further, the 1988 *Surveys Act* regulations allowed for a lesser standard than what is required in the current sections 10, 44, 45, and 46. The MSP also allows this lesser standard. Thus, it is reasonable to conclude that Alberta Land Surveyors have always carried out their public land surveys in accordance with the provisions of the *Surveys Act* and continue to do so.

The *Surveys Act* applies to public land surveys, following the existing standards, and surveyors are **not** contravening the Act when they sign the new affidavit.

- 3) What are the new standards going to be for public land surveys in 2011?

The Director of Surveys will continue to work with the Association to define new standards for public land surveys. One of the key requirements will be to monument all public land surveys with statutory iron posts and marker posts. Other issues to define include determining the extent of intersections and re-establishments required for public land surveys.

- 4) Will the *Surveys Act* or the MSP be updated?

The Director of Surveys is recommending the Minister not amend the *Surveys Act*. The Director of Surveys recommends that the MSP be updated once all of the issues have been addressed.

p. michael michaud

P.M. (Mike) Michaud, ALS, CLS
Director of Surveys

