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Deadline dates for submission of material to ensure printing are as follows: February 15th, June 1st, September 1st, and December 1st. Opinions expressed by the editor or individual writers are not necessarily endorsed by the Council of the Alberta Land Surveyors’ Association. Original articles may be reprinted with due credit given to the source and with permission of individual writers or where no writer is indicated, with the permission of the Editor. ALS NEWS is published by the Alberta Land Surveyors’ Association for circulation to the Association Membership. Address all correspondence to:

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The cover is a scan of a pop-up postcard provided by Fort Edmonton Park. This year's theme night at the AGM will take place at the Park.
The Modernized Survey Profession

For over twenty years, we have talked about the expanded survey profession, and we haven’t really accomplished anything in Alberta.

The Association of Canada Lands Surveyors (ACLS) has created an expanded scope of practice to include hydrography, photogrammetry, geodesy and land information. Ontario (AOLS) has done essentially the same. Both the ACLS and the AOLS have a significant number of members registered in those specialties. Membership in the Association of Ontario Land Surveyors is moving rapidly towards the field of Land Information Management. This year, the AOLS registered nineteen new Geographic Information Managers and are evaluating another one hundred applications. Saskatchewan has created a category of professional surveyor but to date have only one non-cadastral member registered in that category.

It has always been my concern that in a country as large as Canada but with a relatively small number of surveyors, there is little or no demand for specialized licensing of hydrographers, photogrammetrists or geodesists on a provincial basis. Provincial boundaries have no relevance to these specialties in the way that legislative jurisdictions have relevance to land surveyors. In my opinion, we only need one national body, such as the ACLS, to provide a system of registration for these disciplines. If you want to specialize in photogrammetry, for instance, you are not likely to confine your practice to any single province—in fact, you will likely be looking at the global marketplace. You, therefore, should look to a national or international body for certification.

Land information and land management, on the other hand, are a different story. Land-related specialties are concerned with provincial boundaries and the legal anomalies of provincial legislation. Under the Canadian Constitution, Property and Civil Rights are the exclusive domain of the provincial legislatures, and thus each province has taken a different path in legislating both on real property and professional legislation.

If we, in Alberta, are to expand the scope of the surveying profession, we need to look very carefully at the one aspect of professional legislation that gives us an exclusive scope of practice and requires protection of the public interest. And what is that exclusive field but cadastral surveys, which is based on boundaries and ultimately on land.

The Land Supports Us All, is the title of a recent land use conference I attended a few months ago. I was somewhat flattered when a small town reporter asked me why I was there, and when I told her I was President of the Alberta Land Surveyors’ Association, she said “Oh, you’re the honest brokers.” When I thought about it, in the context of the conference, where there were many conflicting land interests represented, I thought that that was an interesting perspective. Land surveyors don’t take sides in land use disputes—our mandate is to represent all sides in providing reliable information about land—our most important resource—we are, in fact, honest brokers.

What I am leading up to is that if we truly want to expand the survey profession, we need to look at ourselves as land professionals. Let’s reflect back at the 1980 model of the modernized survey profession proposed by the Canadian Council of Land Surveyors.1

This model clearly shows the core of the modernized survey profession as cadastral surveys with an exclusive role, which is in accordance with all professional statutes related to surveying. The locus of the leadership role includes three sectors - positioning and measurement, land information and land management. Positioning and measurement are all about the tools and the technology of measurement, an essential element of the surveying profession - an element upon which our training is focussed. Land information and land management, on the other hand, are about the application of measurement technology to the solution of society’s land related problems—problems that are becoming ever so complex with the many competing interests in land. We only need to scan the daily newspa-

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March 2002 www.alsa.ab.ca

ALS News • 5

by Ken Allred, ALS
I am consistently impressed by the outstanding dedication of my fellow members to our Association’s committees. Their commitments of time, their insights, and their enthusiasm has been of incalculable benefit to our Association.

Challenges to our Profession

Record amounts of capital expenditure in Alberta’s economy is placing a high demand on professionals in many land-related disciplines. To quote the APEGGA vision, “emerging disciplines and fringe disciplines continue to challenge the need for professional licensure as the professions struggle to define what exactly is the practice of engineering and geoscience and how the professions must change in order to remain relevant to society. Globalization and rapid advances in technology and communications are changing the face of the professions and creating greater demands for ease of mobility both nationally and internationally.” It is incumbent upon us to build strong bridges with our affiliated associations, construction groups, exploration industry, governments, and the public to thrive in the next decades.

I keep reading that good communications and public relations skills are the missing ingredient that holds land surveying back from other skilled and highly successful professions. One interesting attribute of many of the people who need survey services is that they have no idea what we do or how we do it. All they know is that somehow they need us. This is a perplexing scenario for our profession. Many professional organizations have been recently looking at their mandate and the services they provide to determine whether they are fulfilling their required roles. These tasks are in the hands of our volunteer Public Relations Committee. Although they work diligently, volunteers can only do so much with their limited time and resources. That is why the Association has developed comprehensive promotional, marketing, and communications strategies to improve our visibility and educate the users of our services. An experienced public relations consultant is helping the Committee carry out such a strategy. The ALSA is now starting to work on public relations initiatives not only on a provincial scale but also on a national scale, with involvement of CCLS and other provincial organizations.

It may be perceived by many that the role of the Director of Surveys (DOS) in the land survey system in Alberta has been waning over the last fifteen years. A strong, sufficiently resourced DOS office should be able to carry out its statutory responsibilities and provide benefit to the public and stakeholders. The stated role of the DOS is to coordinate the establishment, maintenance, and preservation of the provincial land survey system and the provincial spatial referencing system. It would appear to me that, as members, we need a strong DOS office and the ALSA should assist and lobby for this goal.

Several of our fellow survey associations in Canada have the Surveyor General or Director of Surveys sit on Council as a statutory member. Having the DOS as member of Council would create a more positive working relationship between the government and the profession and it would promote improved dialogue and early resolution of issues. Obviously, there may be situations where conflicts of interest may arise that would require the DOS to excuse himself from discussions. Having the DOS on Council, however, would hopefully be a positive and worthwhile move for the ALSA and the office of the DOS.

Registration and Examination Committee

The implementation of the Mutual Recognition Agreement (MRA) has taken considerable amount of time for the Committee, as the Examination
there has been a great deal of survey-related information in the news lately. You may not have noticed some of the items as a couple of them appeared in the funny pages. No, not the news from Ottawa, but the comic strips.

The first one shows Rudy of Rudy Park going down to the Computer Villa to buy a global positioning system. He selects the AutoTalker 2000 which is described as “the first truly life-like directional system.” The fourth panel in the cartoon, as you can see, shows the GPS system telling Rudy to “turn left, you idiot.”

The next day, Rudy’s new GPS system is still giving him trouble. It tells him he failed to come to a complete stop and that his driving is erratic. When Rudy asks what is next, the GPS system says that it questions his career path.

Several years ago, I read a newspaper article in which a German couple had a GPS system installed in their new luxury vehicle. They were travelling on unfamiliar roads at night in a rural part of Germany. The GPS system indicated to them that they should turn left, cross the river, and carry on their journey on the other side. What it did not tell them, was that they were supposed to wait for the ferry to carry them across the river. Their brand new luxury vehicle, and its GPS system, ended up in the river.

Mike Baldwin, the artist behind the comic strip Cornered had his own commentary on GPS. As you can see, shows the GPS system transforming a maître d’ by tying a GPS unit to the back of a man who is going to have to wait for a table at this restaurant. I have been to a couple of restaurants where this would have come in handy.

On a more serious note, The Calgary Herald published a story in which the Government of Alberta is reportedly considering tracking sexual offenders by satellite. Apparently, there are approximately a dozen jurisdictions in the United States which, “track sex offenders on parole or probation using wrist bands linked to global positioning satellites. It will allow officials to pin point offenders’ locations around the clock.” As you can imagine, civil libertarians have expressed concern about such surveillance techniques while others say we must protect our children first and foremost.

I don’t mention these stories, both funny and serious, because Cornered is one of my favourite comic strips (even though it is) or because I want to promote my point of view on tracking sexual offenders (even though I do have a strong opinion on the subject). I want to mention these stories to illustrate that global positioning systems have entered the public consciousness. In reality, GPS entered the public’s mind well before these comic strips appeared in the newspaper. But, quite clearly, global positioning is no longer solely within the realm of surveyors, geomatics people, and academics. Television ads promote the Onstar System which is General Motors GPS based navigation system. Hand-held GPS units are inexpensive and easily available from the local Canadian Tire or Wal-Mart store.

Not that long ago, I received a call from a land owner who was complaining about an Alberta Land Surveyor who apparently short-changed him eighty feet of land by putting the iron post in the “wrong spot.” What proof did he have of this terrible mistake by a land surveyor? His hand held GPS unit told him so.

This incident occurred before selective availability (SA) was turned off. I presume that selective availability (SA) was turned off.

March 2002
The Dominion Land Surveyors were of the stature for which the early plan preparation. We have lost much to date with advances in survey tools of the trade in order to keep up. Since the 1950s, the training of surveyors has become focused on the cadastral surveys. As measurement technology has advanced, we have lost the expertise to bring society together to resolve these difficult issues—issues that land surveyors have spent many years working on.

It is a subject which I am sure will arise sooner rather than later. I was still reading the newspaper when I came across another article which had absolutely nothing to do with GPS but is interesting to the profession nonetheless. The newspaper story dealt with the labour dispute between the Alberta Teachers’ Association and the Government of Alberta. According to the article, Premier Ralph Klein apparently said that it is “a problem” for him that the Alberta Teachers’ Association is supposed to regulate the profession but also advocates for members’ self-interest. The article goes on to note that other professions, such as lawyers, doctors, and nurses, divide the two roles into separate bodies. There is the Alberta Medical Association for labour issues and the College of Physicians and Surgeons which regulates the professional side. The same article quotes ATA President Larry Booi as saying that if the Government of Alberta wants to split the ATA into two groups, “they’re going to have another fight on their hands.”

The Alberta Land Surveyors’ Association, of course, does not conduct labor negotiations with the Government of Alberta. In fact, the ALSA has enjoyed a very good relationship with the Government over the last several years. However, this does not mean that the Association would not get caught in a cross-fire of Government policy potentially forcing all professions to clearly separate their professional regulatory responsibilities from their other non-regulated activities. As a non-land surveyor, I am often impressed with how often committees and Council ask themselves if what they are proposing to do is in the public’s interest. However, such a scenario is not unheard of in the surveying profession. In Ontario, there is the Association of Ontario Land Surveyors and the business/lobby group known as the Consulting Surveyors of Ontario. I understand that their relationship has not always been smooth. I do not expect that splitting the ALSA (or even the ATA) into two distinct groups is a government priority at this time. It does tell me, however, that the Association should continue to remind itself that its role is to act in the public interest and should continue to communicate that effort to the Government of Alberta.

2002 is off to an interesting start!

Where do land surveyors fit in? I would suggest that we do not fit in with the architects and the engineers, even though we probably have had a lot in common with them over the years. It is my thesis that we need to look towards a grouping of land disciplines—perhaps to include the community planners, appraisers, assessors, and agents, realtors, and so on—perhaps even the agrologists and foresters—along with our own membership who most definitely should include the expert measurers who utilize photogrammetric, geodetic and hydrographic skills as part of a broader land surveying practice.

Food for thought or words for nought?

G.K. ALLRED, ALS

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PRESIDENT’S MESSAGE

continued from page 5

pers to read stories about conflicts between natural resource development and forestry; agriculture and urbanization; or recreational trails and landowners’ rights—these are all land issues—issues that land surveyors have the expertise to bring society together to resolve these difficult philosophical positions on land use.

Unfortunately, with the technological boom in measurement technology since the 1950s, the training of surveyors has become focused on the tools of the trade in order to keep up to date with advances in survey instrumentation, computerization, and plan preparation. We have lost much of the stature for which the early Dominion Land Surveyors were recognized, mostly because other professions have developed to fill the gap left by surveyors who concentrated on the tools to the detriment of the softer application related issues such as town planning, land information and land management.

We should also study the organizational models of the Royal Institute of Chartered Surveyors and the International Federation of Surveyors for other concepts that may be applicable to a modernized survey profession. Both of these organizations have a much broader scope of practice to include areas like: town planning, land economy, positioning and measurement, hydrography, precision surveys, and land information as well as cadastral surveys.

The Alberta government has been looking towards grouping similar professional and occupational groups together under umbrella legislation such as the Health Professions Act.

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Food for thought or words for nought?

G.K. ALLRED, ALS

1The Canadian Surveyor (1981), Vol.35-3, p.211-213
Scholarships

I would like to take this opportunity to thank you and your organization for selecting me to be the recipient of this year’s Alberta Land Surveyors’ Association Graduate Studies Scholarship. I feel greatly honoured by this scholarship and will use it to accomplish additional aspects of my research.

My intention was to write back to your Association and thank you for the scholarship award but unfortunately I underwent knee surgery in December of 2001. I have just resumed university this week and felt that responding to your organization was a matter of urgent concern. I will endeavour to prepare an article for your quarterly magazine in order to provide your members with information regarding the progress of my proposed research.

Once again, thank you.

Thank you for your ongoing support of advanced education at the Southern Alberta Institute of Technology. It is my pleasure to inform you that the Alberta Land Surveyors’ Association Award for 2001 valued at $1,250 has been presented to Rheal Bourgouin, a student of the Geomatics Engineering Technology program.

On January 10, 2002, I received the Alberta Land Surveyors’ Association scholarship in the amount of $1,250. I would like to say thank you for making this scholarship available to hard working students, such as myself. I will use this money to pay for my final semester at NAIT.

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It is with great pleasure that I write to you today to inform you of the completion of the selection process for the 2001-2002 recipient of the Alberta Land Surveyors’ Association Academic Achievement Scholarship. The profile of the student chosen by this year’s Scholarship Committee is highlighted below.

Mr. Kevin Gray is currently in the Bachelor of Science/Engineering (geological engineering) degree program. Kevin has an assessment year grade point average of 3.6 and is pleased to receive an award valued at $2,500.

Your Association’s generosity and acknowledgement of the needs of UNB and our students are great appreciated. Thank you for your continued support.

Wow! Where do I begin? I guess what’s so great about this award or any other award for that matter, is that it shows the students that their hard work and studying doesn’t only pay off when they are done their education, but it even pays off while they are still doing their studies. The good thing about that is that students like myself, and probably mostly all students, have very little money as it is, so a bonus like this is just astounding. I figured that if I got any award, I would be pleased; but to get an award for $1,250 is just too good to be true. Thank you so much for offering this award. You made my day.

My name is Craig White and I am the recipient of the third year J.H. Holloway award this year. I would like to thank yourself and the Association very much! The money will come in handy for tuition next month as I am getting married at the start of January. Once again, thanks a lot and I look forward to meeting you and becoming a member of the association.

I would like to thank the J.H. Holloway Scholarship Foundation for supporting me throughout my Geomatics Engineering studies at the University of Calgary.

I first began my geomatics career in 1997 when I entered the program at NAIT. Upon completing their diploma program, I felt that there was
more that I wanted to learn about the geomatics discipline. Since Calgary was the closest university to Edmonton that offered Geomatics Engineering, in the fall of 1998 I packed everything and headed south. I am currently completing the last year of my degree and looking forward to beginning the articling process next summer to become an Alberta Land Surveyor.

Because of my past education and the move away from my family, I had to rely heavily on scholarships to get me through these four years. I am very grateful to the J.H. Holloway Scholarship Foundation for providing this scholarship to transfer students. I give you my sincerest thanks and hope that you continue to support students in the future.

**Christmas Card Received**

Let me digress from the subject at hand for a moment to explain some background history.

I commenced work with one C.H. Snell, ALS, DLS, P.Eng. the first of April 1957 and from that date, have been in contact with the Alberta Land Surveyors’ Association and its members and employees in one fashion or another.

During this period, as a commissioned surveyor, I ran across a square iron bar (the preferred monument for lot corners) that had been accepted by another surveyor, one Bill Wooley-Dod. Due to its location, the said iron bar, I accepted it too, but checked with Mr. Wooley-Dod as to the history of the monument and his surmise was it must have been planted by The Phantom Surveyor and I concurred.

Also, for a number of years, any plan forwarded for registration was examined by the Director of Surveys for the Province of Alberta. If there were any errors or omissions, the aforementioned Director would have the plan returned to you to correct or add information as he deemed necessary. If there were more errors or omissions than he deemed reasonable, there would be a notation to the effect that “the enclosed plan must have left your office without your personal attention.”

Now, to the subject matter. I have received a very nice Christmas card much in tune with the season. However, there is no name on the envelope, thus I suspect it was intended for The Phantom Surveyor and though I have been accused of being he/she, let me assure you that it is not only not true but I have no idea of the identity or whereabouts of this individual.

Also, because of the rush during this time of the year I suppose, there is not one signature on the said card, which leads me to believe that it was mailed without your personal attention.

Be that as it may, my best wishes go out to each and every one of you.

**Field Staff Training Seminars**

On February 1, 2002 Director of Practice Review Lyall Pratt took part in a staff meeting for our Calgary operations which all of our land surveyors attended with approximately twenty-five of our staff.

The agenda for the meeting also included safety and other company issues. However, we felt that by allocating the first time segment to Lyall, he would have the full attention of the attendees.

Lyall’s presentation covered relevant parts of the Surveys Act, the Manual of Standard Practice, Field Notes, Bulletin 38 and many interesting photos of monuments inspections. Feedback from staff indicates that they found the presentation very valuable and Lyall a most credible presenter.

This is the second seminar that Midwest has participated in, the first being presented by Al Nelson. As a company, we feel that these seminars are valuable not only for the field staff but also for office technicians and land surveyors. We thank the Practice Review Board for the initiative in allowing Lyall and his staff the time to present the seminars and will request additional sessions in the future to cover our other centres.

**Mid Canada Radar Line—1955**

I am in the process of writing a story about the legal surveys on the 98 Mid Canada Radar Line sites across Canada in 1955. To date, I have accumulated material through the net and from Ottawa covering construction of these sites but little on the legal surveys.

I was one of the land surveyors who performed the surveys in Manitoba. Mr. Charlie Weir, ALS and Mr. Earl Little, ALS signed the plans across Saskatchewan and parts of Alberta.

Is there anyone out there who may have also been on these sites across Canada and might have data, photos, stories, names, etc.? I would appreciate any information and all material will be returned.

**Buffalo Soldiers**

I am writing with respect to the article in ALS News, December 2001, Vol. 30-4, entitled “Buffalo Soldiers: Analysis of Johnson et al v. Alberta” by Dr. Brian Ballantyne. It seems appropriate that your readers be fully informed of this case and its implications.

First, the intriguing legal issue analyzed is under appeal to the Court of Appeal of Alberta. This should serve as a caution to anyone treating the decision as authoritative. Another major issue in the case—that being the determination of the natural boundary or “bank” of Buffalo Lake remains to be tried. It will be the first known judicial consideration of Section 17 of the Surveys Act.

Second, anyone relying on Pitt v. City of Red Deer should do so with
due caution. All the available evidence was not before the Court: there were township surveys, plans, and surveyors’ notes omitted from the case which show that the Red Deer River never moved out of the NE 13-38-27-W4 into the NW 18-38-27-W4 at the location in question, which historical aerial photographs and physical examination on the ground has subsequently confirmed. Much of the evidence was simply not brought before the Court.

Like the Boychuk case, Pitt has questionable legal footings. I attribute that in part to what I call the “title syndrome.” Most Alberta jurists come by this honestly having been taught as early as law school that “the register is everything,” “title is indefeasible [absolute]” and that the integrity and symmetry of our Torrens title system must be maintained at all costs. Let me say that, in my respectful opinion, the register is not everything, title is relative, the Torrens system of title registration has nothing to do with the Alberta Township System of surveying, and so called “anomalies” such as riparian rights (and adverse possession) do not threaten the integrity or the symmetry of our Torrens system. They merely threaten adjoining land owners, which the Land Titles Act addresses by providing for notice to or the consent of such owners in appropriate circumstances. Loss of clarity with respect to a parcel of land as the basic unit of the title as it is defined on the ground inevitably leads to these erroneous concepts.

Third, the fixation on title, while able to accommodate accretions to a limited extent, detracts from and obscures the pre-eminent place of a natural boundary of a parcel of land with respect to riparian law. A natural boundary is as much a legal boundary as any other duly constituted boundary for which provisions are made in the Surveys Act and the Land Titles Act, including all of Section 91 of the latter and not just the part Dr. Ballantyne cites. Indeed, Survey Law in Canada ranks a natural boundary at the top of the hierarchy of legal boundaries.

Finally, the significance of Johnson et al cannot be overstated: the outcome will determine the extent of Crown rights versus private property rights vis-a-vis riparian land throughout the province and, of course, the concomitant extent of mineral titles and the potentially large effect this will have on the oil and gas industry.

I leave you with the following citation from the Canadian Encyclopedic Digest (West 3rd) which is founded on the three leading Supreme Court of Canada cases in this area of law: “At common law, the right of accretion is one of the riparian rights incident to all land bordering on water. In particular, the right does not depend on the ownership of the bed of the body of water. Moreover, the doctrine applies to all land coming to the water’s edge under the grant, “regardless of the manner in which the land is described in the grant.” (emphasis added)

The Buffalo Lake soldiers know not only where they are coming from, but also where they are going. I hope you will continue to follow this case in ALS News since it is of fundamental importance to both the surveying and legal profession.

McLaughlin New UNB President

We are delighted to share the following news with our colleagues across Canada.

Dr. John McLaughlin, NBLS, P.Eng. has recently been selected to be the next President and Vice Chancellor of the University of New Brunswick. John’s term will start in July 2002, when the current president leaves office.

John received his NBLS commission in 1969 and became a life member in 1990. He served as Association Secretary-Treasurer from 1977 to 1979 and as President in 1981. John was also very active in and supportive of the CCLS, serving in a number of capacities, including President in 1983-84.

We extend our congratulations to John and wish him the best in this exciting and challenging position.

STEPHEN B. HARTLEY, NBLS, P. ENG.
EXECUTIVE DIRECTOR, ASSOCIATION OF NEW BRUNSWICK LAND SURVEYORS

Geomatics Career Day 2002

Thank you for helping make Geomatics Career Day 2002 a success. There were many interesting displays and presentations that exposed us to some of the exciting things that the field of geomatics engineering has to offer. Many students were impressed with meeting and talking to company representatives, learning about the industry, and hearing about job opportunities. We truly appreciate the effort that you made to attend and hope that you enjoyed the day as much as we did.

Since this is a student-organized event, Career Day would not have been possible without your financial support. Thank you very much.

MICHIELE MARTIN

City of Calgary Appoints New General Manager Development and Building Approvals Business Unit

Mr. Gary Klassen from Strathcona County, has been appointed the new General Manager, Development and Building Approvals Business Unit. Mr. Klassen will commence his employment with The City of Calgary on February 19, 2002.

Mr. Klassen presently is Manager, Planning & Development Review Services in Strathcona County. Within his responsibilities as Manager, he is responsible for planning applications, building regulations, development agreements, real estate, and enforcement inspection activity. He has held other roles such as Deputy Manager and Coordinator. Prior to joining Strathcona County, Mr. Klassen has
been a Planner in Red Deer and Medicine Hat.

Mr. Klassen has twenty years of directly related experience and has worked closely with Council Members, Development and Construction Industry, communities and the general public. He is a professional planner and has held the role of President of the Canadian Institute of Planners.

TERRY A MONTGOMERY, P.ENG.
EXECUTIVE OFFICER, LAND USE AND MOBILITY
THE CITY OF CALGARY

National Board of Examiners
(Letter to the Western Canadian Board of Examiners (WCBE) from the ALSA.)

This letter is initiated by the October 15, 2001 letter from the Corporation of Land Surveyors of the Province of British Columbia. While the Alberta Land Surveyors’ Association does not disagree with the points raised in that letter, we have a slightly different perspective. We believe that the evolution of the WCBE into a National Board of Examiners is a major step that should be made with the considered positions of all member associations on all issues relevant to the future educational requirements of land surveyors in Canada. In this context we fully support the BCLS call for a “thorough review of the process.”

First, the ALSA strongly endorses the move from regional boards of examiners to a national board. The intent of forming the WCBE in 1979 was as an interim step towards a national board. Much has transpired since that date such as the CCLS reciprocity policy, CCLS Accreditation program and more recently the Labour Mobility Agreement. These steps all make the move to a national board more obvious as the way to go. We support any moves towards a national board even if it only involves the amalgamation of one or more regional boards as the first step.

Concern has been expressed that some provincial associations are not obtaining the required number of students to maintain a stable membership roster. While Alberta is in an enviable position of having the University of Calgary housed within our borders and receiving the lion’s share of University of Calgary graduates who enter the field of cadastral surveying, we would caution the WCBE to not consider a dilution of the entrance requirements as a solution to regional recruitment problems. Western Canadian land survey associations made significant strides to raise our academic levels in the 1970s to a level where we can truly claim to have a “professional” standing from an academic perspective. It is significant to note in the Executive Summary of the Geomatics Sector Human Resource Study¹ that the percentage of university graduates employed in the Geomatics sector has grown from approximately 13% in 1991 to over 80% in 2000. That is an amazing increase (and perhaps questionable), although we would suggest that a lot of the increase is a result of more non-cadastral surveyors entering the geomatics sector in that period.

A number of other findings from that study are significant to the current and forthcoming debate on a National Board of Examiners:

- more education and training is required in the future, not less;
- cadastral surveying is the largest sub-sector in the geomatics sector;
- there is virtually no growth projected in the cadastral surveying sector;
- skill gaps have been identified in the soft skills areas of business, management, human resources, team work, languages, cultural sensitivities, entrepreneurship, report writing and presentations;
- there is a need to branch out into new areas such as land information and GIS.

Standardization of Passing Grades

On the surface it may seem irrational to accept different passing grades for accreditation and evaluation of different institutions and WCBE candidates. However, in analyzing this issue a number of questions arise. Are different institutions equal? Is a college education of the same standard as a university education? Is a student who has studied on his own and challenged a number of examinations equivalent in knowledge and understanding of the subject matter to a student who has earned a degree in surveying engineering? Before making any rash decisions on equivalencies, the ALSA is of the opinion that we need to study carefully the philosophy behind the establishment of these allegedly inconsistent standards. We established the WCBE as a route to obtaining a survey commission with the intention that the academic standard would be equivalent to a degree in survey engineering or survey science. Let’s not lose sight of that objective!

The ALSA would agree that there are three standards to achieve a Certificate of Completion:

- The graduate of an accredited university who gets a certificate upon providing proof of his academic qualification;
- The person who has the minimum academic credentials to allow him to challenge the full set of WCBE examinations;
- The person who falls somewhere between the person with minimum academic credentials and a recognized degree. Very often these persons are graduates of college, technical schools or other university programs.

The intention of the WCBE Certificate of Completion is to show that all entrants into the cadastral surveying profession have achieved a minimum academic standing that is equivalent to that obtained in earning a degree in surveying engineering or survey science from an accredited institution. We must not lose sight of this intention as it is the foundation of our academic entrance standard. A different level of pass mark may in
fact be required from some institutions or methods of qualification to achieve this standard.

**Frequency of Examinations**
At the national board level there should be a sufficient demand to warrant two sittings per year. This decision must however be weighed based on the cost of providing the service and the demand for the service. The examination process should be based on user pay.

**Timely and Consistent Evaluation of Educational Institutions**
The ALSA supports the need to evaluate all educational institutions in a timely and consistent manner. The evaluation of an institution should however only be done on application by the institution. That institution in turn is responsible for providing complete documentation of their total program. Perhaps it is timely for the CCLS to consider extending their accreditation process to include the evaluation of colleges and technical institutes. The initial thought behind the Accreditation program was that after the program was up and running that the universities would pay a fee for accreditation to cover the costs thereof. It may be timely to re-evaluate the cost structure of the accreditation program and consider the possibility of expanding it to include the evaluation of colleges and technical institutions, all on a fee for service basis. The bottom line is as the BCLS have so clearly stated to establish “a process of confirming that the programs . . . continue to meet or exceed the minimum standard.”

**Review of Minimum Requirements**
The ALSA supports the need to have an independent, objective evaluation of the minimum academic requirements for entry into the surveying profession. It has been our observation that the current syllabus has evolved from lists of examinations required by our respective associations several decades ago. To the best of our knowledge there has never been an in depth evaluation of our basic needs and requirements. We would suggest the engagement of a consultant to conduct a DACUM study to determine the needs and a prospective new syllabus of examinations for cadastral surveying. Conducting a DACUM study at the national level would seem appropriate, and could perhaps attract some Human Resource funding through the Geomatics Sector Study, or through the Labour Mobility process.

In principle, the ALSA does not have any concern with a set of core subjects with a number of optional subjects that may be based on regional or student preferences, so long as the core subjects cover the minimum academic requirements.

It is noted that the Geomatics Industry Human Resources Study lists some skill requirements for cadastral surveying. This list includes a number of subjects that are not included in the current WCBE syllabus but may be included in a university or technical school program.

**Governance**
The governance structure of the WCBE in itself seems appropriate. There may however be specific problems with association councils not having steps in place to ensure that the delegates that they appoint report back and follow the mandates that they are given. This then points to governance problems with the member associations as opposed to the WCBE. Management of the Board is a product of the delegates appointed to manage the affairs of the Board within the constitution, bylaws and policies adopted for and by the Board. The ALSA is concerned that we not “micro-manage” the affairs of the Board. If there are WCBE policies that are outdated, the Board needs to identify them and update them.

The ALSA does not agree that the WCBE should be “proactive with students.” Being proactive with students is a professional association responsibility. An examining board needs to remain at arms-length from the students that it may be placed in a position of evaluating or otherwise judging. They must be as independent, objective and as transparent as possible – but human and not bureaucratic.

**Fiscal Policies**
The ALSA is of the opinion that the current cost-sharing arrangement for the WCBE is both fair and reasonable. Every province has a statutory obligation to maintain some form of registration process to determine and assess the credential of applications for membership. The WCBE has provided this process, at least in part. It is not a function of the Board that an association has a low intake of students. The Board provides the structure for all to use at their will. The current fee structure is based on membership that, in the end, is the result of new applicants from the Board to an association.

**Conclusion**
The Alberta Land Surveyors’ Association reiterates the BCLS statement that “the WCBE or a national board of examiners is an important entity to us.” It is our opinion that despite a few administrative problems, the WCBE has served all provinces very well over the last 20 or so years. All provinces have worked co-operatively to make this happen and the WCBE continues to serve our students and prospective members well. A National Board of Examiners modelled on the WCBE has our support.

This letter has been endorsed by the Council of the Association.

G.K. ALLRED, ALS
ALSA PRESIDENT

1Canadian Council of Land Surveyors et al Geomatics Sector Human Resources Study, (c. December, 2001)

2A DACUM study is a process for “Developing a Curriculum.”<http://www.hacc.edu/DACUM/ dacum.html>
Changes to the Register

Abcan Surveys Ltd. new e-mail address: abcan.surveys@shaw.ca.

Warren Barlow, ALS is now a sole practitioner effective February 5, 2002. He can be reached at 720 - 15 Avenue SW, Calgary T2R 0R6; Tel: (403) 288-7656; E-mail: wsb@shaw.ca.

Boundary Technical Group Inc. has moved to #8, 421 East Lake Road NE, Airdrie T4B 2B9; phone, fax and e-mail address remain the same.

McElhanney Land Surveys (Alta.) Ltd. opened a branch office in Fort McMurray under the direction, supervision and control of Cameron Foran, ALS effective February 12, 2002. Address: #305, 9913 Biggs Avenue, Fort McMurray T9H 1S2; Tel: (780) 743-6328; Fax: (780) 743-6376; E-mail: cforan@mcelhanney.net

Geo Trek Land Survey Ltd. has a new fax: (403) 238-1746 and new e-mail address: geotrek@shaw.ca.

Can-Am Geomatics Corp. in Fort McMurray is located at 425 Gregoire Drive T9H 3R2

Interprovincial Surveys Ltd. has a new e-mail address: ips@ipsurveys.ca.

Lamarche Land Surveyors Ltd. new e-mail address: lamarche.land.surveys@shaw.ca.

Syd Loeppky, ALS: effective December 7, 2001 new mailing address: c/o Ram River Holdings Ltd., 1051 Edgemont Rd. NW, Calgary T3A 2J5; Tel: (403) 239-4612; Cell: (403) 861-6149; Fax: (403) 208-0145; e-mail address: ralriverhldgsltd@shaw.ca.

Lovse Surveys Ltd. main e-mail address is tom@lovsesurveys.com.

Midwest Surveys Inc. in Calgary has moved to 3950 - 12 St. NE T2E 6R8.

Judy Morrison, ALS (Ret.) e-mail address: morris5@telusplanet.net.

Rachynski Land surveys (1998) Ltd. e-mail address is racalb@mcsnet.ab.ca.

Raymac Surveys Ltd. has changed its e-mail address to raymac.surveys@shaw.ca. The following employees at Raymac Surveys have also had e-mail address changes:

Ray MacDonald: raymac.surveys@shaw.ca

Al Jamieson: al.raymac@shaw.ca

Dave McWilliam: dave.raymac@shaw.ca

Terry Hudema: terry.raymac@shaw.ca

Bryan Fleece: bryan.raymac@shaw.ca

SELS Geomatics Ltd. has changed its name to Fugro/SESL Geomatics Ltd. effective February 28, 2002.

Scott Geomatics Ltd. e-mail address: scott.geomatics@shaw.ca.

Summit Geomatics Inc. has relocated to 502 Lansdowne Avenue SW, Calgary T2S 0Z5.

Terry Skinberg, ALS: left The Focus Corporation effective August 31, 2001. He can be reached at 523 Butterworth Way NW, Edmonton T6R 2N4; E-mail: skinberg@powersurf.com.

Stewart, Weir & Co. Ltd. has opened a branch office in Bonnyville effective February 7, 2002 under the direction, supervision and control of Francis Prefontaine, ALS. The office is located at 4818 - 50 Avenue and the mailing address is PO Box 8149, Bonnyville T9N 2J4; Tel: (780) 812-3183; Fax: (780) 826-7545; E-mail: keyn@noralta.com.

Stewart, Weir & Co. Ltd. Calgary office is now located at Suite 900, 805 - 8th Avenue SW T1P 1H7; phone, fax and e-mail remain the same.


Terre-Alta Corp. no longer has a website address and the main e-mail address has changed to raschlachter@terrealta.com.

Tony A. Brown Surveys Ltd. new e-mail address: tonybrownsurveys@shaw.ca.

Usher Canada Limited in Fort McMurray will be staffed by Colin Jeschke and Hugo Enger on a rotational basis.

Westersund Surveys Inc. e-mail address is now pwestersund.wsi@shaw.ca.

Bill Wolley-Dod, ALS mailing address is 64 Strathearn Rise SW, Calgary T3H 1R6; Tel: (403) 242-7487.

Cansel Introduces GPS Discussion Forum

Cansel is pleased to introduce the Cansel Interactive Discussion Forum. Designed for GPS survey and mapping professionals, our GPS application webboard is a reference and medium for GPS application discussion and knowledge exchange. Post questions to our knowledgeable staff and your peers on how best to do a certain task, perform a function or even find the required key strokes for hardware or software. Share your knowledge and experience, provide tips and shortcuts...and check the board often for new ideas. We promise questions, answers and discussion from users of any brand of GPS equipment. Visit us today at www.cansel.ca and follow the link to the GPS Applications Discussion Forum.

Thank you for your support.

Chris Rennie
Marketing Team Leader
Cansel Survey Equipment Ltd.
New Member

#687 COUSINS, Cameron L.
Cam Cousins was born in Calgary, Alberta on November 10, 1965. He graduated from Crescent Heights High School in 1983 and from the University of Calgary in 1994 with a B.Sc.Eng.

Blaine Benson, ALS served as Cam’s principal from 1998 to 2002. Cam is also a commissioned British Columbia Land Surveyor and an Engineer in Training with APEGGA. The topic of the technical report submitted as part of the qualifying examination is Re-establishment of Boundaries of Canal R/W Plan IRR 62 in Sec. 18 - Twp. 223 - Rge. 27 - W4M.

Cam has been a member of the ALSA Professional Development Committee since 2000. He spent over three years working in the field of municipal surveying in BC and over four years involved in oilfield surveys while employed with Can-Cam Geomatics Corp. He enjoys a good game of golf and spending time with family.

Cam and Debbie Cameron and their daughter, Samantha, reside in Calgary.

New RICS Research Series

From the complexities and dangers of mapping refugee camps in areas of conflict to showing how local initiatives by farmers can improve their livelihoods, Our Common Estate—a new research paper series launched next week by the RICS Foundation—is concerned with examining differences in access to land and resources around the globe and the relationship this has with environmental, economic, political and social structures.

International academic experts in the areas of managing and operating land systems and markets are being invited by the RICS Foundation to focus on the worldwide aspects of both policy and practice within the built and natural environments in areas where there is currently a lack of research. These are identified as the impact of disadvantage in developed countries, especially in urban areas, empirical-based research in less-developed countries and the impact of land management and tenure policies on land markets and low-income groups.

The first four papers in the series highlight important issues affecting the Gaza Strip and Ghana. The paper on Gaza is particularly topical, exploring the special issues relating to the settlement of refugees. The other three launch papers concern themselves with the cultural and political minefields of land resource management and land registration in Ghana.

REPRINTED WITH PERMISSION FROM GEOMATICS WORLD
For President:
D.R. (Dave) McWilliam, ALS
-Began survey career in 1968.
-Received commission as Alberta
Land Surveyor in 1978 after
serving articles to W.A. Wolley-
Dod, ALS, exclusively.
-Own and operated McWilliam
Surveys Ltd. from 1980 to 1995.
-Joined the firm of Raymac Surveys
 Ltd. in 1995 and currently em-
ployed with them.
-1989 to 1993—served on the
Discipline Committee.
-1993 to 1997—served on the
Practice Review Board.
-1995 to 1997—served as Chairman
of the Practice Review Board.
-1997 to 1998—served on the
Practice Review Board SPR
Evaluation Team.
-Served as ALSA Vice President—
-Served on numerous community
and school based boards from the
1970s to 1990s.
-Live in Calgary with wife, Linda
and have two adult sons, Kirk and
Chad.

For Vice President:
J.G. (James) Halliday, A.L.S.
-Born in Shoal Lake, Manitoba.
-Graduated Red River Community
College, Survey Technology
-Employed by Midwest Surveys
Inc. since 1975.
-Moved to Edmonton in 1978.
-Served Legal Surveys Division in
various managerial roles since
1980.
-Served ALSA as:
-Auditor, 1986, 1987
-Finance Committee Member 1988,
1989, 1993;
-Practice Group Member 1989;
-Councillor for the ALSA 1991 to
1993;
-Practice Review Board Member
-Served the Canadian Institute of
Geomatics (CIG) as:
-Member in good standing since
1974;
-Edmonton Branch Councillor 1986
to 1989;
-National Executive Committee
Member 1998 to 2002.
-Served NAIT Geomatics Advisory
Committee 1996 to 2000.
-Served the Canadian Athletic Club
(an elite minor hockey club for
young athletes from 13 to 18 years
old) from 1994 to 2002.
-1995 to present – Member of the
Canadian Charter for Quality in
Geomatics.
-1978 to present – member of
Masonic Fraternity.
-1988 to present – member of Al
Shamal Shrine Temple.
-Married to Geri for 29 fantastic
years, two wonderful sons Stephen
(22) and Michael (21) and family
pet dog Tweed.

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young athletes from 13 to 18 years
old) from 1994 to 2002.
For Council:

**J.B. Lamarche, ALS**
No photograph and biography available at the time of publishing.

**J.W. (Bill) Lovse, P.Eng., ALS**
- Graduated from the University of Alberta with a B.Sc. in Civil Engineering in 1976 and from the University of Calgary with a B.Sc. in Surveying Engineering in 1992.
- Received ALS Commission—December 1998.
- Member of APEGGA since 1976.
- Served on the ALSA Professional Development Committee since 1998 and as Chair for 2000-2001.
- Moderator of digital data, natural boundaries, condominium and surveyor as expert witness seminars.
- Guest lecturer at University of Calgary.
- President, Terramatic Technologies Inc. of Calgary.
- Past President of Condominium Association.
- Married to Kathy; two children, Krista and Lisa.
- Enjoys hockey, skiing and hiking.

**R.O. (Ron) Hall, P. Eng., ALS, CLS**
- Born in Calgary, Alberta and raised in Fort Nelson, BC.
- Received his diploma in Surveying Technology from the Southern Alberta Institute of Technology (SAIT) in 1981.
- Furthered education at the University of Calgary, receiving a B.Sc. Survey Engineering in 1987.
- Articled to L. Leiman, ALS.
- Received Alberta Land Surveyor commission in 1989 under the supervision of Len Leiman, ALS.
- Received P. Eng. designation in 1989.
- Received his commission as a Canada Lands Surveyor in 1991.
- Contributed to profession as an ALS, sitting as a member on numerous committees including Registration, Convention & Social, Standards Subcommittee, and Continuing Education.
- Chaired both the Registration and Legislation committees and was the MRA Alberta representative.
- Member of CIG, APEGGA, ACSM and ACLS.
- President of The Focus Corporation Ltd.
- Active in community; has been a Rotarian and involved with minor hockey.
- Enjoys a good game of golf, hockey, and horseback riding.
- Resides in Cochrane with his wife Shirley and two sons, Aaron and Matthew.

COUNCILLOR’S FORUM
continued from page 7

and Training Regulation was reviewed; changes to the Affiliate membership category were proposed to reflect applications under the MRA. There are currently 66 articled pupils and 9 affiliate members in the system. Council has also approved the replacement of the technical report by three project reports. Pupils in the system currently will have the option of doing either.

**Coordinate Based Cadastre Study Group**
The final report from Brian Ballantyne entitled “Survival of the Fittest: Deferred Posting of Residential Subdivisions in Alberta” has been accepted by the Study Group and has been sent to Council. This report now finalizes Phase I of the Group’s scope of work. The report is an excellent document. The report’s title sums up the contents very well. Several recommendations on delayed posting and increasing the survivability of monuments have been forwarded to Council. The proposed Phase II - CBC pilot project, which would determine the cost/benefit and any associated problems with moving to a CBC has stalled getting off the ground. It was proposed that real data be collected on two trial subdivisions over a 5-year period. Willing practitioners were found, but several concerns and technical barriers to implementation have been encountered. The Study Group has concluded that the original test subdivision concept as put forward is not viable at this time. The group will rethink the test subdivision project and garner input from Council and the membership on the future direction of the study. There is no doubt among the committee members that the CBC concept can work and that, with emerging technologies, it is the future trend.

**Some final thoughts:**
“The most damaging phrase in the language is: “it’s always been done that way.”
Rear Admiral Grace Hopper

“There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things. Because the innovator has for enemies all those who have done well under the old conditions, and lukewarm defenders in those who may do well under the new.”

Niccolo Machiavelli
INCOME AND BENEFITS SURVEY—ACTIVE MEMBERS

Year of registration
1995-01 ........................................... 7
1990-94 ........................................... 4
1985-89 ........................................... 8
1980-84 ........................................... 5
1975-79 ........................................... 18
1970-74 ........................................... 6
Prior to 1970 .................................... 5

Nature of present practice
Sole Proprietor or Partner (29)
Work Week (hrs.) ...................... 47
Earnings .................................. $151,872
Vacation (weeks) ...................... 4

Private Practice - employee (20)
Work Week (hrs.) ...................... 43
Earnings .................................. $97,565
Vacation (weeks) ...................... 4

Industry (0)
Government and Education (4)
Work Week (hrs.) ...................... 40
Earnings .................................. $73,125
Vacation (weeks) ...................... 4

Percent of field of practice
Municipal .................................. 34
Resource Development ............ 38
Construction ............................ 11
Other ..................................... 17

Office of employment
Edmonton (16)
Work Week (hrs.) ...................... 42
Annual Earnings .................. $126,923

Calgary (23)
Work Week (hrs.) ...................... 45
Annual Earnings .................. $137,217

Other Alberta Centre (14)
Work Week (hrs.) ...................... 47
Annual Earnings .................. $104,379

Annual personal earnings
Median .................................. $101,000
Average .................................. $125,435

Employment benefits received
(Yes out of 53 replies)
- payment of annual registration fees .......... 51
- payment of professional development course fees ...... 49
- payment of Annual Meeting expenses ................. 50
- provision of car allowance, company car .......... 41
- provision of pension plan participation .......... 22
- provision of medical benefits plans ............. 42
- provision of stock options ..................... 17

Allied qualifications
(Yes out of 53 replies)
Other Commissions ...................... 22
MCIP ........................................ 1
Professional Engineer ................... 11

Comments:
The number in brackets represents the number of replies received.

Income and Benefits Survey for Active Members
The number of responses (53) was the same as last year. The median salary last year was $93,000; this year it went up to $101,000. The average personal earnings last year was $111,773; this year it went up to $125,435.

Wage Survey for Technical Staff
The wage levels, for the most part, are higher than they were in 2000. There were not enough replies for Table Draftspersons to report an accurate average.

TECHNICAL SUPPORT STAFF
(total number of replies = 24)
Party Chief II - capable of project control and management ..... (20)
ASSMT Rating . Senior Technologist
Average Number of Employees .... 5
Average Hours Per Week .......... 48
Average Hourly Salary .......... $18.38

Survey Assistant - experienced survey aide working under full supervision ............ (23)
ASSMT Rating . Technician
Average Number of Employees .... 8
Average Hours Per Week .......... 46
Average Hourly Salary .......... $12.42

Secretary/Receptionist ............ (16)
Average Number of Employees .... 3
Average Hours Per Week .......... 38
Average Hourly Salary .......... $13.70

CAD Operator II - capable of computing and drafting the most complex projects ........ (21)
ASSMT Rating . Senior Technologist
Average Number of Employees .... 3
Average Hours Per Week .......... 39
Average Hourly Salary .......... $24.37

CAD Operator I - capable of drafting average projects with minimal supervision .......... (18)
ASSMT Rating . Senior Technician
Average Number of Employees .... 5
Average Hours Per Week .......... 39
Average Hourly Salary .......... $17.53

Calculator Person - capable of computing from field notes and checking plans .......... (13)
ASSMT Rating . Senior Technologist
Average Number of Employees .... 3
Average Hours Per Week .......... 42
Average Hourly Salary .......... $21.15

March 2002
www.alsa.ab.ca
ALS News • 23
RESULTS OF THE 2001 UNIT PRICE SURVEY FOR LAND SURVEYING SERVICES

These rates are averages of 25 replies and are rounded to the nearest dollar or cent and do not include GST.

Hourly Rates for Personnel

Field Supervisor (i.e. Party Chief II) ........................................................ $63
Two Man Crew ..................................................................................... $91
Each Additional Field Person ................................................................. $28
CAD Operator II (person) ................................................................. $62
CAD Operator I (person) ................................................................. $57
Calculations (person) ....................................................................... $60
Plan Searching, Printing, ...
Job Setup ...................................................................................... $43
Final Plan Checker ........................................................................ $65
ALS Professional Fees ................................................................. $95
ALS Hours Charged in Relation to Crew Hours Worked ................. 1-8

Equipment, Material and Disbursements

Vehicle —2 wheel ........................................................................ $56/day or $0.45/km or $12/hr.
—4 wheel ...................................................................................... $96/day or $0.66/km or $13/hr.
ATV —2 wheel drive quad ........................................................ n/a
—4 wheel drive quad ............................................................... $99/day or $13/hr
—Argos/Bobcat, etc. ............................................................. $142/day or $16/hr.
Snowmobile ................................................................................ $107/day or $16/hr.

RESULTS OF THE 2001 AVERAGE UNIT PRICES SURVEY

Number of replies received was 20. There is a trend to do these types of surveys on a tariff schedule of hourly rates rather than unit pricing. The results do not include GST.

<table>
<thead>
<tr>
<th>Average Survey</th>
<th>High/Low</th>
<th>Number Surveyed</th>
<th>High/Low</th>
<th>Replies</th>
<th>Unit Price</th>
<th>Tariff</th>
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<td>$394/unit/day</td>
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<td>EDM</td>
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<td>Total Station with Data Collector</td>
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<td>Cost+9%</td>
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<td>GPS units (includes field laptops)</td>
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<td>Cost+9%</td>
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<td>CAD station to CAD operator</td>
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<td>$41/day or $5/hr.</td>
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<td>Application, Approval &amp; Registration Fees</td>
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<td>$77/man/day or $16/meal or Cost+10%</td>
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<td>Disbursements (LTO, EUB, LISD, EMR, etc.)</td>
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<td>Communication Equipment</td>
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<td>$53/day or $11/hr.</td>
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<td>(Walkie Talkie, Cell Phone)</td>
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<td>Legal Iron Posts</td>
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<td>$13/ea.</td>
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<td>Lath, Flagging, Spikes, Iron Bars</td>
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<td>$2/field hr. or Cost+11%</td>
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<td>Facsimile Charges</td>
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<td>$1/page</td>
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1. Lot Surveys
   —Residential
     Average: 433
     High/Low: 800/275
     Number Surveyed: 2824
     High/Low: 700/2
     Replies: 10
     Tariff: 5

2. Real Property Report
   —Residential
     Average: 463
     High/Low: 700/350
     Number Surveyed: 3789
     High/Low: 850/2
     Replies: 16
     Tariff: 1

3. Construction Stakeout
   —Residential
     Average: 740
     High/Low: 1375/325
     Number Surveyed: 2450
     High/Low: 1000/20
     Replies: 14
     Tariff: 1

4. Condominium Surveys
   Average: 266
   High/Low: 475/125
   Replies: 9
   Tariff: 3

5. Descriptive Plans
   Average: 583
   High/Low: 800/350
   Replies: 15
   Tariff: 5
Protecting Your Client’s Interests in Metis Settlement Lands

Registration and filing of documents and plans at the appropriate Land Registry office will help to avoid conflicts and litigation, between you, your client and landowners.

By Terry Wywai, Geomatics Consultant
For the Alberta Metis Settlements Land Registry

TUN’SIL (Metis expression meaning,”Hello, how are you?”)

On November 1st, 1990, the Government of Alberta enacted unprecedented self-governing authority and ownership of land to the members of Alberta’s Metis settlements. This article provides a historical background into the development of the Metis settlements and a brief overview of the purpose and function of the Alberta Metis Settlements Land Registry.

Historical Background
The glacial era passed through the province of Alberta leaving behind a mass array of prairies, valleys, water channels, hills and mountainous regions. Alberta’s landmass, as we know it today, has gone through incredible changes and will continue to change long after we’re gone. After many ecological changes had occurred, there came a point in time when the First Nations people occupied these lands, living in harmony with nature and its abundance. They lived a nomadic lifestyle of hunting and fishing near the waterways created by the glacial retreat, using its resources for surviving and as a means of transportation from one location to another creating a life of transmigration and relocation.

In the 1600s, the fur trade industry advanced further west and brought with it European settlers from eastern Canada. The fur traders established relationships with First Nations people to assist in the business of the fur trade. With this interaction between the fur traders and First Nations people came the marriages between the two. From this culmination of mixed white and Indian ancestry emerged a new society, which in time came to be known as Metis. The native Indian called the Metis the independent people or “otipeyimisowak.”

Early surveyors, such as Samuel Hearne, David Thompson and Peter Fidler, could not have made such discoveries if not for the help of the early Metis people.

The Hudson’s Bay Company has also, over the decades, established itself and expanded operations into western Canada. With a need to grow, they sent out explorers like Henry Kelsey and Anthony Henday to seek out new trade points, routes and areas for expansion. Soon after, surveyor explorers were employed by the company and federal government to begin mapping these regions of new exploration. Early surveyors, such as Samuel Hearne, David Thompson and Peter Fidler, could not have made such discoveries if not for the help of the early Metis people. It has been well noted through history that many of these early explorers took on native wives not only for companionship, but also for their knowledge of the land and their survival skills. The Metis were also used as middlemen in negotiations with the Indians.

Over time, it has been shown through historical tributes that the Metis and early pioneers, along with the fur trade, played a major role in establishing the Canadian West for European settlement. The early survey explorers and Metis people worked together in mapping the history of Alberta from the early fur trade to present day.

Establishment of the Metis Settlements
The development of the Metis Settlements started in 1931. The Metis people recognized the need to organize themselves so as to be heard by the government and try convince the need for education, health care programs, and to help develop housing and employment opportunities. The organization, L’Association des Metis d’Alberta et des Territories du Nord Quest was formed on December 28, 1932. Later, this same organization was renamed The Metis Nation of Alberta.

After much negotiation and many heated meetings, they convinced the provincial government to look into their needs. The Ewing Commission was set up in 1934 to investigate the Metis peoples concerns. The commission proposed the establishment of farm colonies on lands where traditional values could be maintained with resources for agriculture and access to timber. These colonies to be located free of white interference with the possibility of expansion. In November of 1938, the government enacted the Metis Population Betterment Act. This Act made it possible for the Metis to form settlement associations for each of the land areas set aside for them. Initially, twelve colonies were set aside but only eight remain today known as, Elizabeth, Fishing Lake, Buffalo Lake, Kikino, East Prairie, Peavine, Gift Lake and Paddle Prairie Metis Settlements.

Over the years, many amendments to the acts and regulations governing the settlements have been made to
provide settlements with the opportunity to achieve greater autonomy. Premier Don Getty and the Alberta Federation of Metis Settlements Association agreed to the current governing structure with the signing of the Alberta Metis Settlements Accord on July 1, 1989. Both the settlements and the government worked together to put the principles outlined in the Accord into a legislative package which would enable the settlements to establish a system of Metis local self government and give them fee simple ownership of the lands they occupied. This package included the Metis Settlements Act, Metis Settlements Accord Implementation Act, the Constitution of Alberta Amendment Act 1990, and the Metis Settlements Land Protection Act. Royal Assent was given on July 5th, 1990 and proclamation of these acts occurred on November 1st, 1990.

Alberta Metis Settlements Land Registry
The Metis Settlements Land Registry Regulation, AR 361/91, which came into effect on November 1, 1991, created the land registry. The purposes of the regulation are:
a) to provide for certainty of ownership of interests in land and to simplify proof of ownership;
b) to facilitate the economic and efficient execution of transactions affecting interests in land; and
c) to provide compensation for persons who sustain loss through entries in registers that are not authorized by the regulation.

The fee simple ownership of settlement lands was granted to the Metis Settlements General Council by way of letters patent. The letters patent were ratified and confirmed by the Metis Settlements Land Protection Act. The areas of the settlements are described by eight boundary plans that were surveyed by the late Gordon Haggerty and filed at the Alberta Land Titles Office (LTO). The grant also includes the fee simple interest to settlement roads, road allowances and the beds and shores of water bodies located within the settlement boundaries.

The land registry system has two main elements, one is administrative and the other is legal. The land registry’s computerized registers compile transaction records that disclose all interests in settlement lands. This is the administrative element. The legal element arises from the legal effect of registering and recording interests in accordance with the Land Registry Regulation. The effect of registration and recording is to confer title, confirm ownership of interests, provide for security of that ownership, facilitate transfers and establish priorities for enforcing conflicting interests.1

An interest in land refers to the rights a person has to use and occupy a parcel of land. The recording of an interest gives notice of the interest and establishes its priority for enforcement against other recorded interest. The recording of an interest does not, however, confirm the existence, nature or ownership of the interest. Registration gives an interest holder a greater level of protection. Registration confirms the priority of the interest and confirms the existence and ownership of the interest.

...any plan of survey registered under the Land Titles Act is of no effect unless it is filed with the Metis Settlements Land Registry.

The land registry also maintains a deposit file for information relevant to land parcels that the Registrar considers appropriate for filing. Documents that are accepted for filing do not affect the ownership or priority of interests. Survey plans are also filed with the land registry. Section 104 of the Metis Settlements Act provides that the Land Titles Act does not apply with respect to Metis settlement land, and that any plan of survey registered under the Land Titles Act is of no effect unless it is filed with the Metis Settlements Land Registry. Further, section 83 of the land registry regulation provides that the Registrar of the land registry, before recording or registering an interest, may require a plan of survey to be filed that shows the boundaries of the land affected by the interest.

Registering Documents and Survey Plans at the Land Registry
We have noticed that many interest holders, particularly in the oil and gas industry, have not registered their interests or submitted survey plans showing the lands affected by their activity. Perhaps they do not realize the importance of registering their interests and filing of survey plans. The survey industry should play a bigger role in ensuring that their plans are filed at this land registry office when it affects settlement lands. There has been, in the past, and still today, reluctance in filing a final plan of survey with this land registry office to complete registration of an interest. It would appear that some survey companies believe that filing a plan at the LTO is sufficient enough to secure their clients’ rights. This is not correct. As representatives for your clients, the filing of information, documents and plans at the appropriate departments is essential for protection of their rights. When an activity occurs on a Metis settlement, all documents and plans required for recording and registration should be provided to the land registry to protect your clients against claims from other interest holders or landowners. Our clerks are always willing and available to answer any questions regarding requirements to register or record an interest.

Unfortunately, I have also found over the years unregistered surveys, such as pipeline right-of-ways, which have been done and monuments placed in the ground but a plan of
survey never filed. Survey firms working within the same area come across these monuments and inquire whether a plan is available. Upon checking for this plan, I find that there are no records of it here at our office, and, after further investigation, find that there is no record of the survey at LTO either. Upon inquiring, the survey company whose permit number is found stamped on the monument is usually not aware of the project or assumes it was cancelled and the file closed on it. This raises an issue as to why a monument plan was not filed. These surveys have long passed the allotted time required for filing or registering at either registry offices. In my years of working within the geomatics industry, I have come to believe that the survey community has an obligation to file these surveys within the appropriate time as referenced by the legislated rules set down for your profession. Filing a plan of survey or monument plan, would be the appropriate thing to do. Leaving monuments in the ground without filing a plan puts a blemish on the image of the survey profession.

The Alberta Metis Settlements Land Registry is located on the 3rd floor of the Mayfield Business Centre at 10725-170 Street, Edmonton, Alberta. Our office hours are from 8:15 to 4:30 Mondays through Fridays. The land registry has a staff of four people: the Registrar, Harold Blyan, two land and membership registry clerks, Tammy Anderson & Colleen Telischuk and myself Terry Wywal, Geomatics Consultant. Some of you have already been in contact with our staff to obtain title searches and file plans.

The Registrar oversees the operations of the Registry. The Registrar also oversees the filing of all survey plans and has the final say in determining if interests submitted for registration or recording satisfy the appropriate requirements.

Our land and membership clerks record and file all land interests affecting the eight Metis Settlements. They also provide assistance and information when performing title searches for specified land descriptions for settlement members and off settlement interests such as land acquisition companies, oil companies and survey firms.

The Geomatics Consultant applies all thematic data to a digital mapping base and maintains up to date files showing all surveyed information affecting lands within the Metis Settlements in Alberta. This data has been gathered from surveys done prior to and after the establishment of the land registry.

The Alberta Metis Settlements land registry staff is available to answer any questions you may have regarding the requirements for submission of documents and plans to be recorded at this office. They can be contacted at these direct phone line numbers and E-mail addresses:

**Harold Blyan, Registrar**
(780) 415-0168
hblyan@metis-settlements.org

**Colleen Telischuk**
Land and Membership Clerk
(780) 415-0167
ctelischuk@metis-settlements.org

**Tammy Anderson**
Land and Membership Clerk
(780) 415-0164
tanderson@metis-settlements.org

In closing, I would like to extend a thank you to a few people who provided me the encouragement, information and historical background into putting this article together. Thanks to Ken Allred for allowing me the opportunity of placing this article in ALS News, Doug Barnett for some historical background information from himself and his recently-published, *Early Surveys and Settlements in Central Alberta*, the staff members of The Metis Settlements Transition Commission and Alberta Metis Settlements Land Registry for their input into putting this all together. Hopefully, this will build a better understanding of the Land Registry and the need for working together in securing information and avoiding any future complications that may arise. Thank you.

What is the RETC?

The Real Estate Transaction Committee (RETC) was formed in 1999 with the support of the then Minister of Municipal Affairs, The Honourable Iris Evans. The Committee is comprised of many groups representing various professions involved in real estate transactions, including but not limited to:

- Alberta Land Surveyors’ Association
- Alberta Real Estate Association
- Alberta Real Estate Association Standard Forms Committee
- Alberta Real Estate Insurance Exchange
- Alberta Urban Municipalities Association
- Alberta Association of Municipal Districts & Counties
- Alberta Home Builders’ Association
- Alberta Municipal Affairs
- Calgary real estate Board Co-operative Limited
- Canadian Bar Association
- City of Calgary, Planning & Building Department
- Development Officers Association
- First Canadian Title
- Law Society of Alberta
- Red Deer & District Real Estate Board
- Scotia Bank
- Alberta Real Estate Insurance Exchange
- City of Edmonton, Development Co-ordination Section
- Edmonton Real Estate Board
- Mortgage Loans Association of Alberta
- Registry Services, Land Titles Office
- Toronto Dominion Bank

The mandate of the RETC was to thoroughly investigate the numerous and varied steps of real estate transactions with a view to making recommendations to simplify, quicken and generally improve the transaction.

In 2001, the RETC reviewed the changes that the ALSA had proposed to the RPR standards and provided their input and endorsement to the changes. Those changes were subsequently passed at the 2001 ALSA Annual General Meeting.

Two sub-committees were struck in 2000 to deal with issues identified by the Committee:

- RPR Subcommittee
- Municipality Subcommittee

Below is a summary of each sub-committee and their ensuing recommendations.

**The RPR Subcommittee**

**Mandate:**

- What the Real Property Report document needs to show;
- Education of public to compliance of bylaw issues;
- Disclosure relating to property deficiencies;
- Warranty of real estate contract.

The subcommittee came to the following conclusions which were adopted by the RETC.

1. The subcommittee endorsed the changes made to the Real Property Report by the Alberta Land Surveyors’ Association, with the exception of fence tolerances and recommended a change from 0.20 metres to 0.10 metres. It was noted that the consensus was that this change would be more valuable to land owners. The representatives of the ALSA in attendance were supportive of this recommendation.

   *(Note: The RPR Task Force has not adopted this recommendation because of the problems it will create by indicating more encroachments in municipalities which have a zero-tolerance policy.)*

2. The subcommittee recommends that the Alberta Land Surveyors’ Association prepare a standard glossary of terms.

   *(Note: The RPR Task Force is currently preparing a glossary of terms.)*

3. The subcommittee endorsed the standard practice of requiring a Real Property Report in real estate contracts.

**RPR Process**

1. A Real Property Report reflecting the current state of improvements on the property with evidence of municipal compliance (hereinafter “RPR”) should be provided to the listing agent by the seller at the listing stage (as required by the current Residential Real Estate Listing Contract in paragraph 9.1).

2. The RETC should request the Alberta Real Estate Association to review and revise paragraph 9.2 of the listing contract to emphasize the importance of the RPR obligation and to ensure that both the seller’s and listing agent’s minds are addressed to the issue at the time of the signing of the listing. Some suggestions for changes:
   - (a) making the authorization to the seller’s agent to obtain the RPR if it is not provided by the seller be the default provision;
   - (b) having a place for the seller to initial the foregoing authorization; and
   - (c) making the authorization appear in bold print.

3. The real estate industry adopt a standardized conveyancing procedure whereby the instruction letter to both the seller’s and the buyer’s lawyers disclose whether or not the Realtors has an RPR on the conveyancing file (and, if so, automatically provide it to the buyer’s lawyer with the instruction letter).

4. We request the Law Society of Alberta communicate with its members regarding the importance of the seller’s lawyer addressing his mind to the RPR immediately upon the receipt of instructions to act for a seller (rather than waiting until the client is contacted to come and sign transfer documents).

**RPR Education**

1. The subcommittee concluded that Realtor education is of primary importance (to ensure that the
reasons for the early obtaining of the RPR at the listing stage is understood by Realtors and the listing contract obligations are followed as intended.

2. The protection of the public and the minimization of complications on closing will flow from the foregoing RPR process.

3. The content and delivery of the RPR/Title Insurance continuing education course should be reviewed to ensure that it is consistent with the RPR Process recommended by the subcommittee.

4. Representatives of the Alberta Land Surveyors’ Association and the First Canadian Title Insurance Company have offered funding for the development of any new RPR/Title Insurance Course.

5. The stakeholders undertake a review of, and possible revisions to, any promotional material used by them to ensure its consistency with the RPR process.

6. The stakeholders be approached to disseminate the final conclusions and recommendations of the RETC (in a uniform article) to its members through the stakeholder association newsletters.

**Municipal Subcommittee**

**M mandate:**
- Education of public relative to development issues;
- Disclosure: Standard wording for development permits;
- Liability and consequences for non-adherence to bylaws;
- Potential revisions to the AREA listing contract;
- Provincial standardization of: compliance process, development permits, and encroachment agreements.

The subcommittee produced the following recommendations which were adopted by the RETC.

1. That municipalities consider including a statement of acknowledgement by an applicant/landowner on a Development Permit Application, such as the following: By signing/authorizing this Development Permit Application, the applicant/landowner agrees to abide by the regulations and requirements of the municipality. Further, the applicant/landowner acknowledges that failure to complete the development as submitted and approved by the municipality, may require remedial action with costs incurred by the applicant/landowner.

2. That a general information brochure regarding compliance certificates be available to all the municipalities and used as a means of providing general public awareness.

The subcommittee also put forth several items that have been discussed by the Development Officers Association (DOA).

- Establishing a standard to deal with permanent structures only and deal with other situations (i.e. moveable sheds, fences, etc.) through notification and/or enforcement.
- Standardizing methods of dealing with deficiencies (i.e. non-compliance).
- Determining whether some items are necessary to be included on all Real Property Reports or whether or not some details can be eliminated that may not be essential.
- Standardizing the date of acceptance of an RPR and/or including a statutory declaration stating there are no changes affecting the validity of the existing RPR and/or Provo compliance stamp.
- Setting absolute standards for items that must be corrected prior to closing of a real estate transaction (i.e. permanent structures that encroach onto public lands or right-of-way areas) and, flexible standards for those items that may be dealt with at a later date (i.e. portable/moveable structures that encroach onto public lands or right-of-way areas).

The RETC requested that the DOA continue to work and review these items.

**RETC Motions - October 2001**

The RETC passed two motions dealing with Real Property Reports. They are:

1. That it be mandatory for the seller’s agent to obtain the Real Property Report and apply for a certificate of compliance if the same is not obtained by the seller within 10 business days of signing of the contract.

2. That the RETC request that ALSA request its membership that each Alberta Land Surveyor make himself/herself aware of additional requirements of the municipality in which the Real Property Report is being prepared in order to expedite the compliance process.

(Note: The RPR Task Force has not accepted this recommendation due to some municipalities increasing their requirements to include much information not pertinent to the RPR, resulting in increased work and costs.)

**Land Transfer Document**

Alberta Municipal Affairs made a presentation to the RETC at its April 2001 meeting, introducing the Land Transfer Document.

This document would be used in preparing market value assessments. The RETC was unanimously opposed to this document and sent a letter to the Minister of Municipal Affairs voicing the group’s concerns. The Land Transfer Document has since been withdrawn.

**Conclusions**

The RETC has been a very proactive committee which has produced tangible recommendations. The committee supports the disclosure offered by the Real Property Report and, hopefully, will continue its work to standardize compliance certificates, development permits, encroachment agreements, as well as other aspects of the real estate transaction.

*ROB WALLACE, ALS*
Plans don’t tell the whole story. In my opinion, the field inspections conducted in the Systematic Practice Review program are the most important component of the external audit process. While, over the years, our field inspections have found numerous cases of improper or unnecessary re-establishment, the frequency of this finding is diminishing.

As outlined in the June 2001 issue of ALS News, we annually report the Phase Two practice ratings for different types of surveys, and for each component examined. The Practice Review Board has also recognized the significance of the field inspections, and has directed me to revise the practice ratings by placing a higher weight on products that include a field inspection. To date, about 80% of the products examined include a field inspection. The other 20% due to type, location or some other factor do not receive a field inspection. From this point on, products that include a field inspection will have twice the weight of those that do not.

This change should not have much effect on the overall averages. A practice with high scoring field inspections should have a marginally better weighted practice rating, while a practice with low scoring field inspections will have a lower weighted practice rating than under the previous system. A minor programming change to our database has been made to implement the new weighted practice rating system.

In Systematic Practice Review, we examine the plan, compare the field notes to the plan information, and then perform the field inspection. This is essentially the reverse order to the original survey, as the field survey always comes first, before the plan preparation. The checklists we use for each component of the examination are independent of each other. For example, if our field inspection found a serious error, that has an impact on what is shown on the plan, our plan examination has not accounted for the field error. Plans are examined for compliance with the requirements for that type of plan, not the truth of the content. This process, of course, works fine when there are no problems in the field inspection. When there are field-related deficiencies, the plan may be mathematically and legislatively correct, but could be based on false information. While the field inspection weighting will penalize practices with low field inspection scores, it also rewards practices with high field inspection scores. In the cases where no field inspection is conducted, the weighting does not come into play. The Board’s position is it all starts in the field, so this new weighting process should better recognize this.

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Case Study No. 11:
Dormant Plans

This is the eleventh in a series of articles featuring problems commonly encountered in Systematic Practice Review. The purpose of these articles is purely educational, so no names or identifying legal descriptions are included. Opinions expressed are those of the author.

What is a dormant plan?
A dormant plan, in my view, is any survey, the plan of which was required to be registered in the Land Titles Office, that does not get registered within the required time frames. Original intentions were that the plan of survey upon completion would be registered in the Land Titles Office, but something has changed, and either the project is cancelled, or the land surveyor neglects to track the plan to registration. The information shown on these plans may be very important in future land surveys especially when either Part 2 or Part 3 survey monuments have been re-established by the survey. Whenever statutory monuments are placed, the land surveyor has an obligation to register a plan.

The Problem
In August of 1999, I received a telephone call from an oil company employee asking about the Association’s formal complaint process. He indicated that the problem he faced were several pipelines originally surveyed in 1994 in several townships that have not yet been registered. The AEUB records show licensed and operating lines where these unregistered pipeline right of ways are. His company is now performing right of way surveys in the area, and cannot locate registered plans for these licensed lines. His land surveyor provided him with the identity of the survey corporation performing the 1994 surveys, based on iron post permit numbers that matched the survey corporation preparing the PLA disposition sketch on record at Public Lands. He then contacted this survey corporation and, apparently, was told that the land surveyor responsible for those projects was no longer employed by the firm, so there was nothing the firm could do. He then called the Association office. After I outlined the formal complaint process for him, he said that all he really wanted was to ensure that the plans finally get registered. If the plans become registered in the Land Titles Office, he would not lodge an official complaint. He asked if I would speak to the survey corporation.

Two days later, I was able to contact the land surveyor responsible for the survey corporation that my caller claimed had not registered the plan. The land surveyor said that it would come as a surprise to him if there were plans not registered after five years. The land surveyor said he needed a job number, and with a job number he could look into it. I contacted the original caller and, from the PLA disposition sketch, he found the surveyor’s job number. The land surveyor looked into it, and called me back to say yes, there were unregistered plans, and yes, the surveyor originally responsible for the projects was no longer with the firm. The oil company the survey was done for has disappeared, but that the plans will be registered by either the survey corporation or the departed land surveyor. We agreed that he would contact my caller, whom he knew anyway and relay to him the game plan. I suggested that he also provide my caller with the registered plan numbers once the plans were registered. I have not heard from my original caller or the land surveyor, since this agreement. I will follow up with the land surveyor during an upcoming practice review, to explore how these surveys fell through the cracks, and to see if processes have been changed to avoid a repeat of this situation in the future.

The Legislation
Section 44(3)(b) of the Surveys Act states that where a land surveyor establishes or re-establishes the position of a section or quarter section monument (Part 2 monument), he shall mark the position with a new monument, and within 90 days of the completion of the survey, prepare and submit a plan for registration. Section 46(3) outlines the same time lines for the re-establishment of Part 3 monuments. Part C Section 3.8 of the Manual of Standard Practice says: “If a statutory monument has been established but is not shown on a plan registered in the Land Titles Office, the surveyor must register a plan, called an Establishment of Monuments plan, within two years of the monument establishment. This does not negate Sections 44 and 46 of the Act.” This means that any monument established must have a plan registered showing the monument within two years, and any re-established monument must have a plan prepared and submitted to Land Titles within 90 days. Another option for the land surveyor should the project be cancelled, is to remove the monuments established, rather than register an Establishment of Monuments plan. It would, however, in my opinion, be irresponsible to remove monuments re-established or restored during the course of the survey. The Code of Ethics outlines the responsibility of the land surveyor in the maintenance of the survey fabric, and removing re-established or restored monuments to avoid registering a plan would not, in my opinion, fulfill this public obligation.

How big is the problem of dormant plans?
Dormant Plans have been an ongoing problem in this profession for some time now. The topic, has been discussed at Standards Committee meetings, and most recently at the
With three months to go now in the grandfather period, hard copy plan registrations to date are no where near that estimated number provided 3 years ago. Were the estimates that far off, or are there still thousands of dormant plans out there?

process in June 1999, the Association requested from the membership an estimate of the number of plans that were in hard copy form and not likely to be registered before June 1, 1999. A grandfather provision was established to allow for any plans the survey of which was completed by February 15, 1999 giving a three year period to June 1, 2002 to register these plans in hard copy form. After June 1, 2002, the grandfather period expires, and all plans must be registered in digital form. The response to this request for information was excellent and indicated that thousands of plans met the requirements for the grandfather provisions. With three months to go now in the grandfather period, hard copy plan registrations to date are no where near that estimated number provided three years ago. Were the estimates that far off, or are there still thousands of dormant plans out there?

What causes dormant plans?
As shown in this case study at hand, not all dormant plans are a result of cancelled or abandoned projects. In this case, neither the survey corporation nor the land surveyor followed through with the final plan registration. Why is this? I am sure the case discussed here is not an isolated incident. Every practitioner needs a job tracking system that follows a project through all the way to plan registration.

From personal experience, I know that some clients do not place a priority on signing off on final plans of survey. The individual ownership plans, construction plans, and crossing plans are all required before pipeline construction, and take priority to the final plan of survey in the minds of most clients. Consequently, in busy periods, the creation and examination of the final plan of survey may be postponed to a slower work period. Often “out of sight, out of mind” is a reality, and that slow work period when we can get caught up just never seems to come. This may happen but it is an unacceptable excuse, for not fulfilling your professional obligations.

Section 82(2) of the Land Titles Act requires that the person who requested the plan of survey be made, sign the plan or an attached document. Obtaining the required signature can sometimes be difficult. The longer the delay in obtaining a signature, the greater the chance that the client’s interest in the pipeline will change. I read recently that, in the last two and a half years, there have been 65 mergers and acquisitions in the Canadian oil and gas industry. Of course, when the corporate identity changes names, a different signature is required. Some practitioner’s have established a policy that after a reasonable period of time if a signature is not provided, the plan is simply registered as an establishment of monuments plan as contemplated in Part C, Section 3.7 of the Manual of Standard Practice. If, later on, the required signature is provided, a right of way plan can still be registered. If this excellent policy were adopted by all practitioners, I think the problem of future dormant plans or at least the missing signature excuse would be virtually eliminated. The policy of course should apply to all plans of survey not just right of way plans.

Something to think about.
I also wonder if the Land Titles Act requirement for a signature is truly needed any longer. I suspect that a
Serving on the Practice Review Board for the past couple of years has proven to be both an educational and an enlightening experience.

As most members are aware, part of the mandate of the Board includes evaluation of an individual practitioner’s compliance to the existing legislation by which we are all governed. Consequently, a significant amount of the Board’s time is spent discussing portions of this legislation. More specifically, the majority of discussion focuses on the Surveys Act and the Manual of Standard Practice. Some of the points made during these discussions have made me question certain portions of our existing legislation. “Is the public’s best interest being served by our present Surveys Act and application of same through our Manual of Standard Practice?”

The reasoning is as follows (Please note that sections of the Surveys Act quoted are from RSA 1988). Part 2, Section 26 of the Surveys Act clearly outlines how land surveyors are to establish the position of LSD and quarter section corners, which fall within the interior of previously surveyed sections…

26(1) If an east-west section line does not have a road allowance adjacent to it and if a monument has not been placed at a quarter-section corner on that east-west section line, then the position of that quarter-section corner is the point that is midway on a straight line connecting the section corners lying on either side of the quarter-section.

(2) If no monument has been placed at the centre of a section, the position of that centre is the point of intersection of the straight lines joining opposite quarter-section corners.

(3) If no monuments have been placed to mark the corners of legal subdivisions, the corners are the midpoints of the boundaries of the quarter-sections and the intersections of the straight lines joining those midpoints…

Part 3, Section 40(3) of the Act then requires land surveyors to monument not only the above corners whose positions have been established but, in addition, any Part 2 monument (i.e.: original township) which cannot be found and is required to be re-established…

40(3) A surveyor who establishes a corner of a section, quarter-section or legal subdivision that was not previously marked by a monument, or re-establishes the position of a monument in accordance with subsection (1) or (2), shall mark the position with a new monument, and …

Subsequent land surveyors, however, are required to disregard these non-governing monuments. For further instructions, please go back to Part 2, Section 26 of the Act where this whole odyssey began. And so on and so on… The landowners (that is, the public) are meanwhile under the mistaken impression that the monuments that were placed by professional land surveyors “govern” their title boundaries.

Wait, it gets better! The Surveys Act does not differentiate between Part 3 surveys conducted to effect title (i.e.: subdivision) and surveys conducted to effect an interest in the land (i.e.: right-of-way). According to Part 3, Section 41(4) of the Act…

41(4) All the boundary lines surveyed and established in accordance with subsection (1) shall be defined by the monuments placed for that purpose as shown on the plan of the survey registered at the Land Titles Office or filed at the Metis Settlements Land Registry, whether or not the dimensions or areas expressed on the plan are found by re-measurement to be different.

In other words, the monuments to define subdivision boundaries that are established during the course of a subdivision survey will govern the newly-created parcel. These same monuments, however, can never govern a titled parcel created under Part 2 of the Act. Consequently, if subsequently these monuments were found incorrectly placed in relation to governing Part 2 monuments, a boundary uncertainty is created. Whereas, the auxiliary monumentation left during the course of the same survey (i.e: quarter section or LSD corners) will never govern but may very well mislead the public as to the actual location of their property boundaries. For example, in Figure 1, monuments placed at positions B and C govern the limits of Lot 1, Block 1. They do not, however, govern the position of the N/S quarter-section line. Likewise, although Part 3, Section 40.3 of the Act requires us to monument position A in the diagram, this monument will never govern since it was not placed under Part 2 of the Act (see PRB Interpretation Bulletin 1995-1).

Similarly, monuments placed along a right-of-way boundary during the course of a right-of-way survey only govern the actual boundary of the newly created right-of-way. These would include the monuments placed at intersections with previously surveyed boundaries as required by Part 3, Section 41(1)(ii) of the Act.

The issue is further compounded with the requirements as outlined in Part C, Section 3.4.1 of the Manual of Standard Practice…

by John Wallace, ALS
When surveying boundaries that intersect surveyed section or quarter-section lines, intersection shall be made using the nearest section or quarter corners on each side of the point of intersection. If the monuments at these corners are lost, these lost corners and all section and quarter section corners between the survey evidence utilized to re-establish the lost corners, shall be re-established and monumented, giving due consideration to all available evidence.

In other words, we are required to re-establish any lost original Part 2 monument with monuments that do not govern the property corners which they are meant to depict. For example, in Figure 1, the monument placed at position D does not necessarily govern the position of the N¼ of section 22. A subsequent surveyor may disagree with the re-established position of the quarter-section monument and, for the purpose of his survey, establish the N¼ in a different position.

Who benefits from the requirements for all of this monumentation? It is my opinion that the public does not. The public believes the monuments, which exist in the ground, are on the boundaries of their property. Although, in most cases, another surveyor will in fact confirm the position of the monuments, there are a number of instances where a retracement survey will establish the boundary in a different position.

Movable boundaries can only result in the land surveying profession losing credibility with the public.

It is also my opinion that the survey fabric is not enhanced by the establishment of these non-governing iron posts. The physical act of establishing more monumentation does not necessarily equate to improvement of the survey fabric. The relationship of all intersections presently required to be monumented could still be shown on a plan of survey, without actual monumentation being required. Consequently, the survey fabric could still be maintained.

Basically, there are two possible solutions to this issue. The first and ideal solution would be to allow monuments, which are placed in the ground and shown on a plan of survey, to govern. I realize this is contradictory to everything land surveyors have come to believe with respect to the “doctrine of original monumentation” and fundamental survey law. We have, however, already determined we can create a boundary uncertainty with a plan of subdivision under Part 3 of the Act. What is the difference, should a boundary uncertainty be created with a re-established Part 2 monument as required under Part C, Section 3.4.1 of the Manual of Standard Practice or with monuments placed under Part 3, Section 40(3) of the Act? This solution would certainly require substantive legislative changes. Sanction would be required similar to official plan status or re-survey status under existing legislation. Is this too big a leap for cadastral land surveyors to even consider? Ironically, sanction similar to the above would have to be provided should a coordinate based cadastre ever be implemented within rural areas of the province. Although a retracement survey could determine coordinates on existing governing monuments, coordinates would still be required for all positions of lost original monuments placed under Part 2 of the Act. Isn’t this an interesting thought?

Should the first solution not be viable, then we, as professional land surveyors, should at least consider placing fewer monuments that do not govern property boundaries. We could continue to show the same information on our plans as we presently do, just not monument the positions.

The final option would be to maintain the “status quo” and continue to plant thousands of meaningless monuments every year. This might preclude future implementation of a coordinate based cadastre within the province of Alberta. A coordinate based cadastre would most likely require reliable and repeatable GPS technology. In the future, reliable GPS observations may not be possible. Surely, the weight from all the “non-governing” iron posts would eventually create a wobble in the earth’s axis!

The opinions expressed in the foregoing article are those of the author and not necessarily those of the ALSA or the Practice Review Board.

SPR CORNER continued from page 31
Case Study No. 11: Dormant Plans

The requirements to register plans of survey already exist, so radical legislative changes of this sort would only remove the excuses some land surveyors have come to rely on. It shouldn’t take the threat of a formal complaint from the public to force a land surveyor to fulfill his professional obligations. I hope that some day soon we can solve this dormant plan issue once and for all.
The surveying business requires that field personnel must enter or cross private lands in order to perform their duties. Landowners have always been concerned when they find strangers on or about their property or their neighbours property. In most cases, following some simple protocols that reassure the owners that you are on their property for a valid reason can alleviate these concerns. It is imperative that landowner contact be made in order to establish a safe and open work site. Surveyors often assume the initial contact made by the client or by their land agent to be sufficient for subsequent entry. Unfortunately, several weeks may have passed in between and, often, the adjacent landowners may not have been contacted at all.

In establishing a landowner contact program one should adhere to the following five basic rules:

1) Respect Landowners
Most landowners value their property and rightfully express concerns when anyone is seen entering or working on or near it. Field staff must respect the rights of landowners and be courteous in their dealings with the public.

2) Be Patient and Listen
Often the property owner is more familiar with the land and can actually help the field crew with historical events and the location of monuments. By listening to the owner’s concerns, unexpected and upsetting situations can be avoided.

3) Provide Information
Inform the landowner of what exactly you intend to do. The Alberta Land Surveyors’ Association has a variety of brochures for different types of surveys that can inform and reassure the landowner about why you are required to enter their property.

4) Maintain Trust
By contacting the landowners and keeping them informed of your activities, a trust can be established. Following the requests of the owner (closing gates, filling holes, etc.) will help to improve the landowner’s opinion of surveyors while making it easier for future contact and entry onto the property. “Thank you” cards and brochures are available to all members and can be obtained by contacting the Association office.

5) Build Community Support
The Association has been striving to inform the public of the surveying profession and promoting the image of surveyors. Press releases, brochures and paid advertising are methods that the Public Relations Committee has utilized over the years to foster better relationships with the community.

Training of all staff in proper public relations is an important approach for establishing a strong and trusting relationship with the community. Field staff should be properly informed and look presentable to the public. The appearance and actions of the field staff determines the public’s opinion of the surveying profession. Staff should carry proper identification and should make every effort to contact the landowners before entering any property. Cell phones should be a primary part of the staff’s field equipment and should be used to contact the landowner if any problems arise throughout the project. This also gives the landowner another means of contact if he/she has any questions they would like directed to the field staff.

An important obligation that must be upheld by the staff is the maintaining of a litter-free work site. The site should be cleaned up and left the same way it was found at the end of the day. They should also respect the land by keeping to defined trails (with permission) rather than shortcutting across a field. These points are a product of common courtesy and should be exercised by the staff at all times.

All vehicles must carry appropriate signage in accordance with the Manual of Standard Practice. Proper signage informs the landowner that the workers are a survey crew. It must display the company’s name so that the landowner knows whom to contact if any concerns arise.

Surveyors as professionals must continue to establish good relations with the public. Due to the nature of our business and out of the respect for landowner privacy, attempts should continue to be made to both inform and reassure the public of our activities on private land.

Net Notes

Canada Computes
www.canadacomputes.com/

CNET.com
www.cnet.com/

ComputerWorld
www.computerworld.com/

Fast Company Magazine
www.fastcompany.com/

PC Magazine
www.zdnet.com/pcmag/

PC World
www.pcworld.com/

Smart Computing
www.smartcomputing.com/

Microsoft Knowledge Base
support.microsoft.com/

March 2002
ow that we have enjoyed the Winter Olympic Games from Utah, it is time turn our attention to our careers and practices. The Professional Development Committee has once again been able to work with the Convention and Social Committee to provide, at this year’s Annual General Meeting, what I feel may be, an interesting and informative discussion pertaining to unique survey related problems.

As professionals, we have seen tremendous changes in our daily work due to the development and subsequent improvement of electronics. It seems like only yesterday that we held the “Digital Data Seminar.” During that time, the upcoming digital registration of survey plans at the Land Titles Office was looming in front of us. I remember hearing a comment that in two years we would wonder how we lived without electronic access to digital survey plans. It gives members in communities other than where plans were housed equal access to this information. There was some concern that dial-up modems would limit the speed at which plans could be downloaded, but since the widespread use of high-speed internet connections, this has proved not to be a problem.

The Professional Development Committee held a videoconference meeting approximately three years ago. The videoconference call indicated that this format was developed to an adequate degree for course presentation. This allows members in communities other than where the course originates to attend at their local facility. Two seminars presented to our membership in the aforementioned format were on BOMA Standards and the new Condominium Act. I did not attend the ‘BOMA’ seminar but understand that there were few technical problems. However, we found in presenting the seminar on the new ‘Condominium Act’ that there was a lively discussion in Calgary. It should be noted that the presenters were in Calgary. Comments from Edmonton were more diverse with some participants commenting that their felt left out. This could be a result of new technology, a few technical problems, and only few participants addressing the presenters with questions.

The Professional Develoment Committee is committed to providing more courses using this format. I personally feel that video seminars are well-suited to courses dealing with standard lectures on technical information. The Committee has discussed in great detail such interactive courses, such as “Getting it Right” and the general consensus has been that this type of seminar is not suitable for video seminars.

Due to the ease of recording video seminars, records of these seminars can be kept on file in the Association library. However, there are several issues that have to be confronted when taping video conferences. The first is gaining the permission of the presenters. In the case of the ‘BOMA’ seminar, permission for taping was not granted. Presenters of the ‘Condominium Act’ revisions gave their permission, but technicians neglected to place a tape in the recorder.

Video seminars may be offered in your community if there sufficient interest expressed. We ask that someone from your community coordinate with participants and your local facility. We request that members, with an interest in topics that they wish to be addressed, contact the Professional Development Committee.
SJM Properties v. Kasper et al  
(including Bemoco Land Surveying Ltd.) 1999 ABQB 436

This is a rather interesting case arising out of a restrictive covenant placed on a recreational subdivision on Buffalo Lake. Among other conditions the restrictive covenant stated that “no more than 50% of the existing tree coverage shall be removed from each lot,” and “any party hereto shall not alter or remove any trees, shrubs or natural features located on the municipal and environmental reserves except for cleaning up dead fall.”

In clearing the lot for house construction, the defendant Kasper instructed his contractor not to remove any trees. In trial, the contractor stated under oath that he had not removed any trees. The lot based on photographic evidence looked like a parking lot and had only 7 trees remaining.

The first challenge for the court was to define the word “tree.” The plaintiff’s expert attempted to establish that, in his opinion, the word tree included saplings and even seedlings. After considering the Oxford dictionary definition of a tree as “a perennial plant having a self-supporting woody, main stem or trunk (which usually develops woody branches some distance from the ground) and growing to a considerable height and size,” and the defendant’s expert’s definition as “a perennial plant, with a single, thick (usually 5 cm or more in diameter) woody stem as contrasted to a shrub, which has two or more main woody stems arising from the ground,” Justice Hembroff adopted a definition of a tree as “a perennial plant with a thick woody stem” based on the context of its use in the restrictive covenant.

After production of evidence from the two experts, including introduction of pre-construction aerial photography, Justice Hembroff accepted the defendant’s evidence that no trees had been removed. The defendant’s expert did a physical identification and count of the trees on the aerial photograph as opposed to the extrapolative evidence of the plaintiff.

The second aspect of the case concerned a small amount of clearing and spill over onto the environmental reserve. The judge dismissed this matter as incidental. Associated with this issue, however, was a counter-claim for trespass against the surveyors hired by the plaintiff to determine the common boundary between the plaintiff’s lot and the environmental reserve. In establishing the boundary Floyd Strochinski, ALS, then of Bemoco Land Surveying Ltd. had cut a fine line through the shrubbery and had damaged one branch of a poplar tree in establishing inter-visibility between the two lot corners involved. The court established that there had been a trespass based on the case law definition of trespass as: “Trespass to land consists of entering upon the land of another without lawful justification . . . such interference must be direct rather than consequential. To constitute trespass the defendant must in some direct way interfere with land possessed by the plaintiffs.” Justice Hembroff found that “there was a trespass but one authorized to a limited extent by statute.” He then went on to quote sections of the Land Surveyors Act (SA1981, cL-4.1) in particular section 69(1)(b) which states: “No action lies against . . . any member, officer or employee of the Association for anything done by him in good faith and in purporting to act under this Act, the regulations or bylaws.” The charges against Bemoco Land Surveying Ltd. were thus dismissed.

The puzzling part of the counter-claim against Bemoco is why section 16 of the Surveys Act was not used as a defense. Section 16 is much more explicit as to the rights of a surveyor to enter private property stating: “A surveyor and his authorized assistants may, using reasonable care, pass over, measure along and ascertain the bearings of any line or boundary, and for those purposes may pass over or through the land of any person, but the surveyor is liable for any damage the surveyor or his assistants cause.” It could even be argued that the Land Surveyors Act, being the professional statute governing the practice of land surveying is not even applicable to a survey conducted under the Surveys Act. In any event, the case against Bemoco and Floyd Strochinski came out in their favour in the end.

G.K. ALLRED, ALS

What is the Practice of Engineering?

Official Transcript No. 0003-21983 in the Court of Queen's Bench of Alberta, Judicial District of Edmonton between The Council of the Association of Professional Engineers, Geologists and Geophysicists of Alberta (applicant) and Wilfred McCaffrey and William McCaffrey carrying on business as McCaffrey Consulting Services, and McCaffrey Consulting Services (respondents).

Reasons for Judgement of the Honourable Mr. Justice Marshall

The applicant Council is the governing body of the Association of Professional Engineers, Geologists, and Geophysicists of Alberta. The applicant seeks an order that the activities of the respondent constitute the practice of engineering, and that the respondent refrain from carrying on those activities while unregistered and authorized by the applicant. The application is pursuant to Section 3(1) of the Engineering, Geological, Geophysical Professions Act.
The respondent carries out work in pressure transient analysis in determination of petroleum reservoir characteristics. He has carried on his practice for nearly 20 years, and is a Certified Engineering Technologist.

At the heart of this matter is a determination of whether the work carried out by the respondent is engineering. These parties take opposing views on this issue, and have filed affidavits of Professional Engineers who take opposing views.

The Engineering, Geologists, Geophysicists -- and Geophysicists’ Acts define the practice -- defines the practice of engineering in Section 1(m).

“Practice of engineering means: (i) reporting on, advising on, evaluating, designing, preparing plans and specifications for or directing the construction, technical, inspecting, maintenance, or operation of any structure, work or process, (a) that is aimed at the discovery, development or utilization of matter, materials or energy, or in any other way designed for the use and convenience of man, and (b) that requires reporting, advising, evaluating, designing, preparation or direction, the professional application of the principles of mathematics, chemistry, physics or any related applied subject.”

The applicant urges upon me a broad, generous, liberal interpretation of the statute. I agree that that is appropriate. The statute is intended, as are other regulatory statutes, to protect the public and ensure their safety in ensuring only qualified and trained professionals provide services to the public.

In the present case, however, there is evidence of Brown, an experienced petroleum engineer, that there is no harm or risk of harm to the public where experienced technologists, such as the respondent, carry out this process. In fact, four different engineers have scrutinized the activities of the pressure transient analysis, and have opposing views.

The evidence before me does not satisfy me on a balance of probabilities that the respondent carries out the practice of engineering. Even if it did satisfy me, I would not grant the relief sought. The provisions of the Act must be interpreted strictly in accordance with the primary purpose, public protection and safety. Laport v. College of Pharmacists and subsequent cases including George L. Brough Marine Construction v. Aqua Terra Flotations Limited, a decision of McLachlin J. in the British Columbia Supreme Court.

I find no evidence of risk to the public in the respondent’s performance of these activities. I dismiss the application.

System Engineers

Association of Professional Engineers v. Merhej, 2001 ABQB 1062; Action No. 0103 07448 in the Court of Queen’s Bench of Alberta, Judicial District of Edmonton between: the Council of the Association of Professional Engineers, Geologists and Geophysicists of Alberta (applicant) and Raymond Merhej (respondent).

Reasons for Judgment

Mr. Justice E.A. Marshall

Introduction

The Association of Professional Engineers, Geologists and Geophysicists of Alberta has been delegated authority under the Engineering, Geological and Geophysical Professions Act to regulate the practice of engineering in Alberta. The applicant alleges that the respondent has violated s. 3 of the Act by expressly or by implication representing that he is a professional engineer or engaging in the practice of engineering. The respondent works in the field of information technology (“IT”) and has received a certification from Apple Canada as a “System Engineer.” The respondent claims he may properly use the designation “System Engineer Representative.” He resists the application, stating that the applicant does not have a monopoly on the use of the word “engineer”; he points to the widespread
use of the term. He submits that the term “engineer” is a global standard in the IT industry. He also claims that the use of the term “System Engineer” or “System Engineer Representative” does not imply that he is a professional engineer or carrying on engineering.

**The Statute**
Section 3(1) of the Act states: No individual, corporation, partnership or other entity, except a professional engineer, licensee or permit holder entitled to engage in the practice of engineering, shall (a) use (i) the title “professional engineer,” the abbreviation “P.Eng.” or any other abbreviation of that title, or (ii) the word “engineer” in combination with any other name, title, description, letter, symbol or abbreviation that represents expressly or by implication that he is a professional engineer, licensee or permit holder, or (b) represent or hold out, expressly or by implication, that (i) he is entitled to engage in the practice of engineering, or (ii) he is a professional engineer, licensee or permit holder.

The regulation of professions and occupations such as engineers is intended to protect the residents of Alberta. The “practice of engineering” is defined in the statute but need not be considered here. In the same manner as use of the terms “dentist” and “land surveyor” are restricted, one cannot mislead the unsuspecting public that he or she is an engineer.

The respondent does not purport to be carrying on engineering nor does the applicant state that he is. The word “engineer” does convey to the public, however, a specialized knowledge or expertise of a trade or profession: Canadian Council of Engineers v. Lubrication Engineers Inc. (1985), 1 F.C. 530 (F.C.T.D).

**The Respondent’s Argument**
(a) The use of the word “engineer” is widespread in other disciplines and organizations.

The respondent points to many titles in use that are not licensed by the applicant, e.g. Chief Engineer, Marine Engineer, Network Engineer, Quality Control Engineer, Locomotive Engineer, etc. There is evidently much use of the term by other occupations. Although there is no evidence on the precise point, it appears that the adjective which precedes the word “engineer” within the context of the particular industry communicates whether or not the “engineer” is a professional engineer.

(b) The use of the term “engineer” has become an accepted and recognized standard through the years in the IT industry.

There is substantial evidence that this is the case. However, it is also evident that leaders in the IT industry, such as Microsoft, have requested that the term “Microsoft Certified System Engineer” not be used by individuals who have been granted such a designation. Microsoft agreed to cease using the word in the designation offered to the public. The evidence shows that Microsoft appreciated the apparent conflict with the legislation in Canada and desired to avoid it. As the respondent points out, various Alberta and Canadian educational institutions continue to offer and advertise courses leading to certification as a “System Engineer.”

On this issue, I conclude the term “System Engineer” has been used substantially in the IT industry for some time. However, its use in Alberta, though more, is not excused if it contravenes the Act. Nor does the fact that other parties are using the term, legitimize it.

(c) The use of the term does not expressly or impliedly show that the respondent is engaged in the practice of engineering or that he is a professional engineer.

The respondent states that his use of the designation “System Engineer Representative” is not an express representation that he is practicing engineering or that he is a professional engineer. Certainly, it does not appear to be the latter. Does use of the word “engineer” in the designation imply that he practices engineering? It cannot conclusively be said that this is the case. As stated earlier, not all engineers practice engineering.

Insofar as the additional word “representative,” it appears to be an equivocal word in the designation used. It cannot be said to strengthen an implication that engineering is being practiced.

**Conclusion**
When the use of the term “System Engineer Representative” by the respondent is examined, in his particular situation, I conclude as follows.

The term “System Engineer” has been widely used in the IT industry and, while connoting a degree of expertise, does not indicate one is a professional engineer or the practice of engineering is being carried on. It has acquired a secondary meaning similar to “Marine Engineer” or “Flight Engineer.” This understanding is particularly clear to those familiar with the IT industry. Because of the modifier “system,” there is little likelihood that confusion will arise because such engineers are representing themselves improperly.

In addition, the respondent is not holding himself out to the public in order to solicit work in the field of engineering. The applicant does not contend that he should be prevented from carrying on his vocation, as he is at present.

Ultimately, the public’s safety must be the primary concern. The respondent’s situation is such that it cannot be contended that the public is likely to be deceived, confused or jeopardized by his use of the term.

**Order**
I am not persuaded that an injunction should issue to prohibit the respondent designating himself as a “System Engineer Representative.” The application is dismissed.
Planning and Land Use

SUBDIVISION OF LAND—
Exemptions—Consents of committee of adjustment—Sale of remaining parcel of land occurring after consent received for severance of other part and after transfer of other part to self, but before lapse of consent, violated s. 50 of the Planning Act (Ontario).

The parties entered into an agreement of purchase and sale in May 2000 for a certain parcel of land (the lands). Respondent vendor had obtained title to the lands by way of transfer from O, who had owned not only the lands, but also certain abutting lands (the abutting lands). On March 7, 1995, O received the consent of the committee of adjustment of the Town of Richmond Hill to a conveyance of the abutting lands. The consent would lapse in two years if the abutting lands were not conveyed. On January 23, 1996, O executed a transfer of the abutting lands to herself, purportedly to effect a severance. On February 17, 1996, O, while still the owner of the abutting lands, executed a transfer of the lands to respondent. Appellant’s solicitor took the position that the previous transfer of the land from O to respondent violated the Planning Act (Ontario) as O was, at that time, the owner of the abutting lands. Appellant’s solicitor requisitioned that respondent obtain the consent of the committee of adjustment. Respondent, relying on s. 50(6) of the Act, took the position that the consent was unnecessary. Appellant held respondent in anticipatory breach of the agreement, and sought return of the deposit with interest. Respondent refused, and appellant commenced its action for a declaration that respondent was in breach of the agreement for failing to comply with the Act. The trial judge dismissed the application and appellant appealed.

HELD: appeal allowed. Section 50 of the Act prohibits any person from conveying land where they owned abutting lands except in certain circumstances. The exceptions include where the person has a consent from the relevant committee of adjustments. Section 50(6) provides that “where land is the remaining part of a parcel of land, the other part or parts of which parcel have been the subject of a consent...the whole of the remaining part may be conveyed or otherwise dealt with before the other part or parts are conveyed or otherwise dealt with, provided that the remaining part is conveyed or otherwise dealt with before the consent mentioned above lapses.” The key to the exemption is that the remaining parcel must be dealt with before the other part is dealt with. In this case, the lands, being the remaining part to be sold, though conveyed before the consent lapsed, were conveyed after the conveyance by O to herself of the abutting lands. Therefore, the conveyance from O to respondent violated s. 50 of the Act, and appellant was entitled to a declaration to that effect.


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Real Property

ADVERSE POSSESSION—
Defendant with intent to appropriate lands would not obtain titled by adverse possession.

Defendant became part owner with husband of one-acre property in January 1990 by way of transfer from Bs. Bs had owned property since 1984. In February 1995, defendant became sole owner. The property abutted lands owned by plaintiffs. Both properties were initially owned by the Rs. Defendant’s lot was severed in 1981 and transferred to Mrs. R. In early 1980s, Rs erected a fence three feet off property line on plaintiffs’ property. Defendant claimed that she had acquired title to lands lying between lot line and fence by way of adverse possession. When plaintiffs purchased their property in 1998, they attempted to regain possession of disputed lands, but were refused access by defendant’s husband. Defendant then retained a land surveyor, who prepared a draft registered plan including disputed lands. Surveyor entered on plaintiffs’ property without permission and erected a series of metal stakes to delineate a new boundary. Plaintiffs sued defendant for damaged for trespass. Defendant counterclaimed for declaration that she owned disputed lands by way of adverse possession.

HELD: action allowed. A claimant for possessory title must have, for the 10 year period as required by the Limitations Act (Ontario), actual possession, the intention of excluding the true owner from possession, and effectively excluded true owner. In order to establish the requirements established in case law, the possession must be exclusive, notorious, visible and open. Given that defendant acquired interest in 1990, she had not been in possession of disputed lands for the full 10 years. However, even if the requisite time period had been met there would not have been adverse possession. Defendant and husband were aware of legal boundaries of property when they purchased it, and defendant was aware of plaintiffs’ claim to the disputed lands since 1998. Defendant and husband used disputed lands even when they knew it did not belong to them. Defendant’s actions suggest that once she understood the concept of adverse possession she intended to maximize claim. Adverse possession is not a mechanism whereby someone can convert to his own use property belonging to a neighbour. Here there is a course of conduct apparently designed to appropriate property belonging to someone else. This is not a case of
mutual mistake or inadvertence. Because there was no adverse possession, the claim for trespass succeeded. Defendant was required to remove stakes on plaintiffs’ property at her own expense. While there were no other damages to plaintiffs, the conduct of defendant and her husband justified an award of punitive damages of $10,000.


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CROWN PATENTS—Section 1 of the Beds of Navigable Waters Act (Ontario) reserving for the Crown beds of navigable waters has no application where the original crown grant of the land included “all Woods and Waters thereon lying.”

Applicant owned a three acre parcel of land (the lands) lying within the Township of Middlesex Centre. Prior to applicant purchasing the lands, the lands and certain abutting lands (the abutting lands) had been owned by H. The lands and abutting lands (the whole lot) are divided by a watercourse. H. had previously attempted to sever the lands from the whole lot, but was denied consent. The original grant of the whole lot pursuant to the Crown patent granted to the recipient the whole lot “together with all Woods and Waters thereon lying.” The only reservations were for certain mining rights. The lands were zoned agricultural, and required, for a building permit to be issued, a minimum lot area and frontage exceeding that of the lands. An “existing lot” exception was available if the lands and abutting lands had existed, and were held in separate ownership, prior to the date of the passing of the bylaw. Applicant applied for a building permit, maintaining that the whole lot had been divided into two separate lots by the watercourse, and that the lands fit within the exemption to the zoning bylaw. The application was denied by defendant. Applicant then applied for a declaration under the Beds of Navigable Waters Act (Ontario) that the watercourse was a navigable waterway, and therefore remained the property of the Crown. As a result, the lands and abutting lands were separate lots.

HELD: Application dismissed. Section 1 of the Act provides that where lands through which a “navigable body of water or stream flows: has been granted by the Crown, it shall be deemed, in the absence of express grant, that the bed of such body of water was not intended to pass and did not pass to the grantee. The legal effect of the Act, from a simple reading of its language and case law, is that there is required an “absence of an express grant” for Section 1 to have effect. Here there is an express grant of the “Woods and Waters thereon lying.” Therefore, the Act did not apply. It matters not whether the waterway is navigable. The watercourse did not, therefore, have the effect of dividing the property into two separate lots. It remained one whole lot. Applicant did not qualify for the exemption to the bylaw.


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93rd ALSA Annual General Meeting
May 2nd to 3rd, 2002
Crowne Plaza—Chateau Lacombe

Schedule of Events

Thursday, May 2nd
- Opening Ceremonies with Lieutenant Governor Lois E. Hole (partners and families welcome); presentations to new members
- Lunch - Surveyors Royale: Traversing the Silver Screen
- Seminar - Evidence Use and Assessment
- Icebreaker Reception and Survey Art Display

Friday, May 3rd
- Seminar continues
- Exhibitor’s Lunch
- An Evening at Fort Edmonton Park

Saturday, May 4th
- Past Presidents’ Breakfast
- Awards Lunch
- President’s Ball

Exhibits are open on Thursday and Friday. The seminar begins on Thursday afternoon and concludes on Friday Morning.

Partners’ Program
Thursday 2:00 - 5:00 p.m.
Springtime in Bloom at Hole’s Greenhouses in St. Albert.

Friday 9:15 a.m. - 5:00 p.m.
Ask An Interior Designer at DiGiuseppe Interior Design Ltd. in St. Albert.

Saturday 9:00 - 11:00 a.m.
So, Who Wants to be a Surveyor?
The CCLS Professional Liability Insurance Committee would like to update you on our latest initiatives related to loss prevention practices.

Traditionally, the Professional Liability Insurance Committee (PLIC), supported by the program managers and broker, has offered loss prevention seminars in conjunction with association-sponsored events such as annual meetings or other seminar offerings. These seminars were originally offered annually, and later on a bi-annual basis, to any association who requested them. They generally included a committee member, a representative of the program manager, the broker, and often a lawyer or adjuster. While these seminars were very successful and reached a large number of insureds, participation was found to be dropping in recent years. In conjunction with the decline in attendance and reduction in the number of associations wanting to host seminars, the related expenses for travel increased significantly.

In order to continue to provide valuable loss prevention tools and information to the land surveying community in Canada, the PLIC is in the final stages of developing a Loss Prevention and Practice Management Guide for the CCLS membership. The Guide will be available online through the CCLS web site and in hard copy on request from the CCLS office. It will contain sections related to communications, contracts, areas of practice exposure, claims processes, risk management and insurance topics. It will combine articles and background information from the committee, the program managers, and the program broker with worksheets and sections to incorporate firm specific documents and records. CCLS will also continue to collaborate with the program managers on loss control bulletins dealing with current issues facing land surveyors and this information will be incorporated into the Guide.

While the Guide will form the main focus for the distribution of loss prevention information to our insureds, the PLIC will continue to offer a presence at annual meetings at the request of the association. A committee member will be available to present a committee and program report and if possible, will be accompanied by a representative of either the program manager or the broker. The base presentation is designed to take fifteen to thirty minutes, depending on the format requested by the association. General questions about the committee work or the program will be answered as time permits. Detailed questions related to legal or insurance issues will be noted and directed to the appropriate person for a complete and satisfactory response.

If you have any questions or comments about the PLIC’s loss prevention initiatives, or any other aspect of committee work, please contact us through the CCLS office. If you would like to arrange a PLIC report at your association meeting or event we would be pleased to offer our services. We will also be in touch preceding your annual meeting each year to renew our offer of a presentation.

SARAH J. CORNETT
CCLS EXECUTIVE DIRECTOR/PLIC SECRETARY

Mark Your Calendar

Regional Meetings:
Calgary Winter Club - April 9, 2002
Edmonton Petroleum Club - April 10, 2002

ALSA 93rd AGM - Crowne Plaza—Chateau Lacombe, Edmonton
May 2 - 4, 2002

ALSA 38th Annual Golf Tournament - Lacombe Golf and Country Club
August 16, 2002
Earl Edward Little
1920 – 2001
BCLS, ALS, SLS, CLS, P.Eng (AB), P.Eng (BC)

Earl E. Little will be remembered as the pre-eminent land surveyor of British Columbia’s oilpatch during the 20th century. Earl died peacefully of heart failure on November 23, 2001 at his winter home in Chapala, Mexico, at the age of 81.

Earl was born in Vancouver on August 15th, 1920. He and his older brother Don were schooled at General Gordon Elementary and Kitsilano Secondary, but only until Grade 9. That year was 1935, near the nadir of the Great Depression and, as there was no work for carpenters like Earl’s father, the family packed up and went placer mining for Cariboo gold.

Times were tough, so when World War II broke out, Earl and Don eagerly volunteered. After basic training, Earl entered RCAF No. 3 Training Command’s wireless school in Montreal. During this period, he met Denise Lauren from Ottawa, and they were married in 1942. In 1943, Earl advanced to RCAF No. 1 Training Command’s flight training program in Oshawa, and earned the rank of Pilot Officer.

Don Little was killed in the war and remains buried in Italy. However, Earl never saw action. Earl’s closest brush with a hostile situation was safely landing a Harvard fighter with the gear jammed in the “up” position. As the war neared its end, there was a glut of allied pilots, and nearly the entire group Earl trained with was released from duty. In 1944, Earl and Denise moved west to raise their family, and over the next nine years their firstborn Mike welcomed siblings Susan, Pat, Diane, Ross and Clifford into the world.

In 1945, after upgrading to Grade 12, Earl entered the Mining Engineering program at the University of Alberta. During this time he got a summer job in Edmonton with A.G. (Alex) Stewart, ALS, and was thus indoctrinated into the land survey profession for good. Earl earned his BSc. in 1949, and directly entered articles under Stewart.


In 1951, Earl entered into partnership with A.G. Stewart and his son John Stewart, a geologist, and later Charlie Weir, ALS, eventually forming Stewart Little Stewart Weir. His early years included some cadastral work and a lot of government road contracts, which required tent camp operations for extensive periods.

After that experience, Earl was well prepared for the difficulties of remote oil and gas surveys throughout Northern Alberta. The last stretch of Earl’s affiliation with Stewart et al was from 1955 to 1957, when Earl and Charlie worked on the Mid Canada Early Warning Line contract as surveyors and site engineers.

By 1957, the Alberta oilpatch had begun to spillover into Northeast BC. With the frontier spirit still intact from his gold mining days, Earl and family set out for Fort St. John to establish an office for Midwest Surveys Limited. The work was difficult and remote, and the oilpatch life took its toll. By 1960, Earl and Denise had separated and, as the rest of the family moved back to Edmonton, Earl elected to stay in Fort St. John.

Earl continued to run Midwest’s BC operations until 1965, when he and Ken Longstaff, BCLS, left the fold to establish their own partnership. For the next 18 years, Little Longstaff & Associates grew steadily with the oilpatch in Northeast BC, Northwest Alberta and the Territories. During that time, they were leaders in the survey industry in BC, using tellurometers from the early 60s, the first EDMs in the 70s, and had full digital plan production as early as 1979.

Earl remarried in 1967, to Edna (Mitchell), and adopted Edna’s two children, Trudy and Terry. Two years later they welcomed the arrival of Troy, bringing Earl’s total to nine children over 24 years. Earl was always very involved in the community, serving on the school board from 1971 to 1977 and chairman in 1974. It was also around this time that Earl and Edna began to travel, and once bitten by that bug they never stopped. Over the years, you might have caught them just about anywhere in Europe, Asia, Africa, the Middle East, the South Pacific and, of course, Mexico, their favorite retreat.

By the late 1990s, Earl was still working full time as a BCLS, but the cold winter months usually found him and Edna in Mexico or some other warm and exotic location. Earl still really enjoyed his work and, even in the twilight of his career, was eager to learn new technologies and techniques.

Earl E. Little was a fine surveyor and a gentleman. He was quick to praise others, but always understated his own accomplishments. Earl was always first to answer a question or lend a hand, and he loved to tell a tale, especially if a glass of wine or a wee nip of scotch was about. In summary, Earl was simply a pleasure to be around.
Our 30th Annual General Meeting will take place at the Lethbridge Lodge on May 10 and 11, 2002.

Mike Spencer of Lethbridge and Kevin Laiss of Drayton Valley, are working hard to provide an outstanding program. We are having our meeting in southern Alberta to cater to our many members there who have never had an AGM in their own backyard.

On Friday, May 10 at 9:00 a.m., there will be speakers from the University of Lethbridge and the Lethbridge Community College on geomatics, (Bob Baker, ALS on the early days of the ASSMT) show and tell sessions/displays from survey instrument dealers, a financial expert and a delegation from Princher creek on “Wind Power/Irrigation.” In the afternoon there will be a nine hole Scramble Golf Tournament at Evergreen Par 3 and an evening social and golf wind-up banquet at Dooly’s. Time to celebrate.

On Saturday, we will elect our slate of officers for 2002-2003 and set policy for the upcoming year. It will all come to a head on Saturday evening for our closing banquet and special presentations.

We will be canvassing the surveying industry for major co-sponsors and donors. The full program will be posted on our website at www.assmt.ab.ca as well as being mailed out to members.

At our Council meeting on February 7th, we set up a Committee of some members of Council, the President, some members of the Certification Board and NAIT/SAIT representatives to study the issue of field examinations for applicants for certification. Advertising rates for our website to offset the cost of the operation will be set in March.

New certifications: Paul Wheeler of Rachynski Land Surveys (1998) Ltd., St. Paul, Technologists, Drafting/GIS; Donald MacDonald of Epcor Ltd., Edmonton, Technician, Civil. We are also pleased to announce that Kris Jones is the recipient of our SAIT bursary for 2001 and Dachs Blackburn and Daniel Rude are new student members from NAIT.

At our Council Meeting of March 7th, we approved the slate of officers for election and made final preparations for the Annual General Meeting. We wish the ALSA a very successful Annual General Meeting and Convention in Edmonton. I trust many of our members will attend.
### J.H. Holloway Scholarship Foundation

**March 1, 1997 — February 28, 2002**

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