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ON THE COVER
Brander Photography has been doing all the photography for our annual general meetings for the last few years. Please contact the ALSA office for their contact information should you require the services of an excellent photographer.

JUNE 2002 VOL. 31-2

ALS News • 1

www.alsa.ab.ca
I would like to thank the members for their vote of confidence in electing me as their president for the 2002 – 2003 term. I promise to do my best for the Association and the profession as a whole.

I would also like to say that it has been a pleasure working with the Council over the last twelve months and a special thank you to the retiring Council members for a job well done! Furthermore, I would like to congratulate the new Council members on their obvious dedication and for volunteering their time to serve this Association. Welcome to Council.

I encourage all members to feel free to contact me regarding any matter that is important to you. I promise that I will discuss that matter with you and deal with it accordingly. No issue is too small.

What a whirlwind affair it is becoming president of the organization! I had no idea of the work involved in organizing the AGM and the business meeting and I don’t believe any member would know until you become involved yourself. Congratulations to our staff, the Convention Committee and Past President Ken and Marge Allred for a job well done. Our AGM was given a new flavour this year by Past President Ken and Marge Allred. Without a doubt, the Opening Ceremonies were second to none. Her Honour Lois Hole gave it sincere warmth with a message from the heart. I also believe that the whole room would have received a hug if time would have permitted. We were very fortunate to have Her Honour attend.

The month of May has certainly been a hectic for Linda and I. After our AGM in Edmonton, I attended the Alberta Association of Architects AGM, the U of C Industry Day, the Association of Newfoundland Land Surveyors AGM, the Executive Committee meeting and the first Council meeting. The Saskatchewan Land Surveyors’ Association AGM was at the end of May. When we got back from Saskatchewan, there was a Steering Committee meeting.

Without a doubt, this is the busiest that Linda and I have ever been, especially when we add our ALSA duties to that of arranging our son’s wedding in July 2002. I must say that it is new and very challenging, but extremely enjoyable and rewarding at the same time – who needs sleep!

Over the course of the last year as vice president, due to some conflicts, I was given the opportunity to represent the ALSA at a number of places including the AGMs of the Association of New Brunswick Land Surveyors and the Land Surveyors Association of Washington. In past years, I have heard ALSA presidents say that the issues across the country are very much the same. Well, in both New Brunswick and Washington, they are fighting what would amount to unauthorized practice and the constant erosion of standards. Curt Sumner of the American Congress of Surveying and Mapping (ACSM) spoke about their ongoing problems associated with underground utilities—both chapters out of our own current affairs.

I participated in our “2001-2002 President’s Tour” which, in addition to the usual Calgary/Edmonton meetings, visited Lloydminster, Medicine Hat and Lethbridge, all in one day. A long day, but one well spent. We met the members in Red Deer at a later date. We will do it again this year, but with different destinations – likely Grand Prairie and Fort McMurray.

I also assisted in giving a presentation to the Alberta Association of the Canadian Institute of Planners, and a number of us assisted President Ken Allred in giving a presentation on buried facilities to the provincial government. Besides representing the ALSA at our sister organizations, and in helping to fulfill our increased desire for public exposure, I attended the ASTech Awards, the Consulting Engineers Awards, MLA Night, and the U of C student “Beef on a Bun” night.

Additionally, I also served on the Statutory Boundary Tribunal Ad Hoc Committee, as Council liaison. With this issue, we must ask ourselves if we are serving the best interests of the public when we know of conflicts and allow them to exist, unresolved.

Our Systematic Practice Review Program is well into Phase Two with what appears to be some significant improvement when compared to Phase One. This speaks well for the program and the membership, as their efforts and professionalism are paying off. A job well done by all involved.

As I mentioned above, a contingent from the ALSA accompanied then President Ken Allred to make a presentation to the Provincial Government’s Standing Policy Committee on Agriculture and Municipal Affairs, on the need to formalize requirements to.....continued on page 19
I take the opportunity to present some comments in this column as a member of the Executive and Council.

Like many other tasks we volunteer for, the work of the Secretary Treasurer takes more time than I anticipated. However, semi-retirement makes it possible. The real benefit is seeing inside the full operation of the Association and to attest to very dedicated staff and committee members. This Association has a very high member participation, where the newer members are in direct contact with other members to share experience. I now enter the second of a three year term of office, with four main duties:

• to act as an officer of the Association;
• to assist the preparation of the annual budget with the Executive Director;
• prepare, circulate and process the annual salary and benefits survey; and
• act as the ALSA Director on the Canadian Council of Land Surveyors.

This past year has been very busy and productive with all our committees. Their diligence and background work was reflected in the thorough manner of presentation of recommendations at the AGM. It may be a record for the number of recommendations presented.

The May 2002 AGM attendance was a record with a total attendance of 534 members, guests and staff of which there were 199 active members, 9 retired members and 43 article students, affiliate and associate members.

The seminars provided significant milestones in the review and discussion of legal survey field evidence. The display of the nineteen variations in types of statutory iron posts, manufactured during the past century, was very well done and related to the seminar content.

The seminars provided significant milestones in the review and discussion of legal survey field evidence. The display of the nineteen variations in types of statutory iron posts, manufactured during the past century, was very well done and related to the seminar content.

The coming Association fiscal year—May 1, 2002 to April 30, 2003—will be busy for all the committees, as each of the chairmen have their terms of reference and will now have developed their action plans with their committees in June.

The ALSA salary survey was published in the March 2002 issue of ALS News. Council has discussed the merit of continuing and publishing this member information. Council felt that the survey was of value and instructed it to be continued with the request that more responses be requested from members to enhance the reliability of the results. I will be reviewing the questionnaires and solicitation methods in January for these end results.

The work of the Association Finances Ad Hoc Committee last year recommended the concept of the financial stabilization fund, which was...continued on page 42
The Association will be 100 years old on March 19, 2010 and on January 1st, 2011, it will be 100 years since the first Alberta Land Surveyor was registered in this province.

The Association has retained historian Judy Larmour to research and write a book on the history of surveying in Alberta. In the course of her initial research, she has provided to me copies of the Land Surveyors Act dating back to 1910. The first Act respecting land surveyors received royal assent on March 19, 1910 and it did in fact create the Alberta Land Surveyors’ Association. Section 4 of the 1910 Act stated, “all persons who become duly authorized to practice as land surveyors under the provisions of this Act shall constitute the Alberta Land Surveyors’ Association and shall be a body politic incorporated with perpetual succession and a common seal.” The 1910 Land Surveyors Act was amended a few months later on December 16, 1910. The amendment seems to have tried to resolve concerns from Dominion Land Surveyors who would have been required to pass additional examinations in order to be registered as Alberta Land Surveyors. The amendment goes on to list John Stewart, DLS, John Empey, DLS, Benjamin Mitchell, DLS, R.W. Cautley, DLS and L.C. Charlesworth, DLS as the provisional council of management. The amendment goes on to list the powers and duties of the provisional council until the first election of council of management.

So was the meeting to establish the provisional ALSA council the first meeting of the Alberta Land Surveyors’ Association? There was a Land Surveyors Act in 1910 and, by the end of 1910, there was a Council with specific powers and duties in place. It appears, however, that there was an Association in 1910 without any members. This seems to be due to the political issues in moving from the DLS to the ALS. The 1910 amendment allowed Dominion Land Surveyors to continue practicing as surveyors of lands within the province until January 1, 1911. After that time, one had to be registered as an Alberta Land Surveyor. But every Dominion Land Surveyor who was resident within Alberta on or before January 1, 1912, was automatically entitled to be registered as an Alberta Land Surveyor.

It is impossible to know what exactly went on at that first meeting as no records of it survived.

In Jack Holloway’s history of the Association, he considered that spring 1910 meeting an unofficial meeting in that the first (recorded) meeting of the Alberta Land Surveyors’ Association was held on the morning of January 17, 1911 in the Committee room of the Edmonton Builders Exchange – wherever that may have been.

While Jack Holloway may have considered that 1910 meeting to be an unofficial one, the minutes of the January 17, 1911 meeting include a motion that the minutes of the previous general meeting be adopted. It would seem that the surveyors of the day considered the 1910 meeting to be the first official meeting of the Association.

If you think that is the end of our mystery, read on, as things get murkier.

In 1912, ALS President L.C. Charlesworth welcomed members to the 3rd Annual General Meeting of the Association. In 1915, as World War I was just a few months old, President A.C. Talbot welcomed members to the 6th Annual General Meeting. It
appears that both of these presidents recognized the 1910 meeting as the first meeting of the Association.

By 1922, the Association seems to have lost a year. That year, President R.H. Knight welcomed members to the 12th Annual General Meeting. I guess he did not consider the 1910 meeting as the first meeting of the ALSA. I suppose it is possible that an Annual General Meeting was not held during one of the war years, but I doubt that is the case as the Association seems to lose and gain a year at random. Read on.

In 1923, President A.P.C. Belyea welcomed members to the 13th Annual General Meeting and, the following year President C.M. Hoar, welcomed members to the 14th Annual General Meeting. In 1925, President J.L. Doupe made no mention of what Annual General Meeting it was, although he did welcome members to the meeting.

In 1929, the Association seems to have lost another year. President D.T. Townsend referred to the meeting as the 18th Annual General Meeting of the Alberta Land Surveyors’ Association. However, this may have been a typographical error from Miss Emma W. Jones, the reporter at the 1929 Annual General Meeting.

The Association seems to have made up its lost year from the year before when, in 1930, President Charlie Snell again welcomed members to the 20th Annual General Meeting.

In 1934, D.T. Townsend was President of the Alberta Land Surveyors’ Association again and welcomed members to the 24th Annual General Meeting. This was the height of the depression—a long period of economic upheaval and turbulence. It must have seemed that much longer to the members of the ALSA as, in 1935, President Charlie Snell welcomed members again to the 24th Annual General Meeting of the Association. By 1936, things seemed to have been righted and President P.N. Johnson welcomed members to the 26th Annual General Meeting. The following year, President T.W. Brown noted that, “this Association was organized in 1911 and, therefore, we have been in existence for a period of 26 years.” If you consider 1911 to be the first year of the Association, then the ALSA would have, in fact, been in existence for a period of 26 years and 1937 would have been the Association’s 27th Annual General Meeting.

The following year, in 1938, D.T. Townsend was president of the Alberta Land Surveyors’ Association for the third time. He noted that the ALSA had been in existence for 27 years in 1938, which would have made it the 28th Annual General Meeting. From 1939 to 1941, there is nothing in the minutes of the president’s address or other materials indicating how old they thought the Association was. However, the minutes of those meeting do consistently state that the president read his address, which was received with applause.

In 1942, the Alberta Land Surveyors’ Association produced its first professionally published annual report. It is described as the report of the 33rd Annual General Meeting of the Alberta Land Surveyors’ Association. It appears that sometime between 1938 and 1942, there was a decision to consider the 1910 meeting as the first meeting of the ALSA. Since that time, we have added one to the annual report which would make our recently passed 2002 AGM the 93rd AGM of the Association.

There is nothing in the minutes from 1939 to 1942 to indicate that there was a conscious decision to add up the number of meetings held by the Association. So where does that leave us? I must return again to Sherlock Holmes for his wisdom and advice. “How often have I said to you that when you have eliminated the impossible whatever remains, however improbable, must be the truth?”

Although it sounds improbable to have an Association with no members and despite having no records of a spring 1910 meeting, the truth is that the Land Surveyors Act of 1910 did create an Alberta Land Surveyors’ Association and there is ample evidence that there was some kind of meeting. Besides, after 60 years, I can’t imagine us now renumbering our annual meetings.

I would suggest, therefore, that our 100th Annual General Meeting will be held in 2009. The Association will be 100 years old on March 19, 2010 and on January 1st, 2011, it will be 100 years since the first Alberta Land Surveyor was registered in this province.

“Excellent!” I cried. Elementary, said he.
Infinite Wisdom

As a soon-to-be retired member, I thought I’d like to pass on a couple of comments based on the “infinite wisdom” I’ve managed to obtain over my thirty-two plus years as an Alberta Land Surveyor.

I guess my number one issue is the failure of we, as professional land surveyors, to charge our clients what we are worth and, I am as guilty as the rest in maintaining the “competitive market syndrome.” In my humble opinion, professional fees should be in the area of $200/hour and when you look at our crew rates at under $100/hour for a 2 man crew, this is ridiculous. For instance, compare your professional rate to that of your corporate solicitor, and that of your crew to the electronic technician on a service call.

Number two on my list is the examination process, and, specifically, the failure rate on our practical exam. What was it this year? I heard four of thirty-two passed. (Editor’s note: actually, 8 out of 34 passed.) Isn’t that just a tad ridiculous? The individuals writing these exams are, for the most part, university graduates, and not dense by any means. Maybe a limited number of those writing do so before they are adequately prepared through a combination of field and office experience, but the majority should be prepared. So what’s the problem? In my opinion, the exam is too long, demanding quick decisions, reading several plans and documents, and leaves no time for second thoughts let alone doing a check on your work. (I set this exam at one time and mine was too long as well.) When was the last time you sent a plan out of your office, before adequately checking it? We should be setting an example of professionalism, not hurrying students through a high pressure exam.

I recently heard that the committee felt this exam was unique to Alberta, (I hope so), and should be retained in the cross-over of reciprocity to other provincial land surveyors. Let’s be honest, this is a computations exam, and should be removed from the requirements of examination of existing land surveyors from other provinces, similar to what the other associations are doing.

Thanks for your time.

PAUL ELLEGOOD, ALS

The Right to Enter Private Property

To: Hon. Dave Coutts, Minister of Government Services

I am writing this letter in my personal capacity regarding a problem I encountered over the last several years. I have resided for almost 29 years at (address). Over the last three or four years, I have encountered several instances where damage has occurred to my lawn in that someone was digging into the lawn and leaving large holes or, at other times, removing the sod and then putting it back. I finally tracked down the cause, which is apparently a survey pin located ten feet or so into my lawn from the boundary. The survey pin is one or two feet below the lawn surface.

I spoke to the most recent surveyor who entered the property and dug a hole, but really didn’t do too bad a job in putting the lawn back (much cleaner than the other entrants). I reminded the surveyor that Section 16 of the Surveys Act, while allowing a surveyor to enter private property, requires the survey to use reasonable care and only to pass over, measure along, and ascertain the bearing, but the section does not authorize the digging into the property and specifically indicates that the surveyor is liable for any damage that may be caused.

The latest surveyor has agreed to go back to the property (at his cost) and raise the pin to just below the surface of the ground so that future surveyors will not have to dig into the lawn in order to locate the survey pin.

W. DONALD GOODFELLOW, QC, C.ARB.

I don’t know if there is any government publication or provincial association that this matter could be drawn to, but I would appreciate the message getting out to surveyors that their right to enter private property under the Surveys Act is limited to passing over, measuring along, and ascertaining without physically disturbing the property.

I am rather surprised that this issue has now come up because it is only in the last three or four years that people have entered the property and dug holes in an attempt to locate the survey stake. The surveyor I last spoke to indicated that houses in the area are now starting to sell more rapidly, whereas formerly, people were long-term residents.

I draw this matter to your attention in an effort to determine if there is anything you can do to assist other members of the public in protecting their private property while still maintaining the integrity of the surveying requirements.

The Honourable David C. Coutts, Minister of Government Services, has forwarded a copy of your recent letter regarding land surveyors damaging your lawn for a further response. I appreciate the opportunity to respond to your concerns.

Under Section 16 of the Surveys Act, surveyors and their assistants are given authority to pass over or through owned land in the process of
performing a property boundary survey. Section 16 requires surveyors to use reasonable care and makes them liable for any damages they may cause.

In the process of performing subdivision surveys or real property report surveys, surveyors are often required to excavate the ground in order to find buried survey monuments. These survey monuments govern the property boundary between adjacent landowners and/or the municipality. In the case of a street owned by the municipality, the common boundary with a private landowner is typically several metres back from the street curb, into the lawn. Landowners are often very surprised when they learn that large portions of their front lands are on municipal property and maintenance/care of that portion of the lawn is governed by a municipal bylaw.

In Alberta, the Alberta Land Surveyors’ Association is the body that regulates the practice of land surveying for the protection of the public and administration of the land survey profession. Several years ago, the Association recognized landowners’ concerns with respect to lawns and implemented new standards of practice. First, surveyors were made aware of the problem and reminded that they were responsible for damages to lawns. Second, in order to minimize future damage, the survey monuments were to be raised to just below the surface of the ground.

I encourage you to contact the Alberta Land Surveyors’ Association in Edmonton to register your concerns. Mr. Brian Munday is the Executive Director and he can be reached at (780) 429-8805. Should you have any additional questions with respect to Section 16 of the Surveys Act, please contact Mr. Mike Michaud, Director of Surveys, Dispositions and Technical Service Branch of SRD, by dialing toll free 310-000 and asking for (780) 422-0020.

I am in receipt of a letter that you wrote to the Government of Alberta concerning surveyors coming on to your property and the response by the Honourable Mike Cardinal.

The Alberta Land Surveyors’ Association takes any concerns like this from the public very seriously. While Alberta Land Surveyors must, on occasion, excavate for survey monuments in order to properly determine boundaries, the Association has taken a number of steps over the years to deal with land owner concerns. These initiatives have included Real Property Report brochures and thank you cards—both of which I have attached. In addition, I regularly write articles in our Association magazine on these types of issues and we are currently planning a continuing professional development seminar to address these concerns.

Should you ever again have any concerns about land surveyor or land surveying, please do not hesitate to contact me.

BRIAN E. MUNDAY
EXECUTIVE DIRECTOR

Thank You

Thank you so much for your card and the donation to the J.H. Holloway Scholarship Foundation. Your thoughtfulness is greatly appreciated.

THE HOLMBERG FAMILY

On behalf of the Board of Governors and Members of the Edmonton Realtors’ Charitable Foundation, thank you for being part of a truly fun and entertaining evening.

The Foundation is most grateful to have had the opportunity to “Roast Premier Ralph.” Mr. Klein’s graciousness and good humour, as well as the eloquence of the roasters themselves, was enjoyed by everyone in attendance and we sincerely thank them for a great party.

It takes a community—working in harmony—to ensure that those who struggle with each day, have a better tomorrow. As an industry who makes its living in the greater Edmonton region, Realtors are truly thankful for the opportunity to make a difference and on their behalf, thank you for supporting this fund-raising event.

All members of the Edmonton Real Estate Board are members of the Edmonton Realtors’ Charitable Foundation. Since 1986, the Foundation has donated $667,500 to local charities. Present guidelines provide that 75% of the funds dispersed are contributed to shelter related projects, 16% to special projects and 10% to crime prevention. A capital fund has been established and we are currently 3/4 of the way to the $1,000,000 goal. The Edmonton realtors’ Charitable Foundation was honoured to receive the “heart & soul” award as the outstanding foundation at Philanthropy Day 2001.

SHARON E. DAMERY
EXECUTIVE DIRECTOR

Thank you for your recent presentation to the Standing Policy Committee on Agriculture and Municipal Affairs regarding the need for accurate and comprehensive information concerning buried facilities and a request for legislation that sets standards for the accurate as-built location of all buried facilities.

The standing policy committees were set up by Premier Klein to give groups, individuals and organizations an opportunity to make presentations directly to government members before decisions are made by Cabinet.

Thank you once again for taking the time to meet with our Committee. The Committee found the discussion very informative and has accepted your presentation as information.

If you have any further questions or require any additional information, please do not hesitate to contact me.

BARRY MCFARLAND, MLA
CHAIR, STANDING POLICY COMMITTEE
ON AGRICULTURE AND MUNICIPAL AFFAIRS
I would like to thank the Council of the Alberta Land Surveyors’ Association for presenting me with the Professional Recognition Award. It is an honour to be recognized by my peers and I shall cherish this for the rest of my life. I enjoy the time I spend on professional affairs including my work at Focus, my involvement with ALSA, CIG, FIG, CCLS, the universities and the community.

Professional involvement is an important part of my life and get much more out of it than I ever give. Land surveyors have many challenges to deal with in the future and I hope, in some small way, I can make a difference. I plan to continue working in the broader geomatics community to better understand the evolving role of land surveyors in our society. We must work in harmony with others if we are to continue to enjoy the privilege of self-governance.

J.H. HOLMLUND, ALS

I just wanted to say a big “thank you” for inviting me to your AGM. It was a pleasure to be there, not only to attend the meeting and make/renew acquaintances and to get some idea of the issues, needs and interest to surveyors in Alberta, but also to just bear witness to the incredibly well-organized events. I certainly look forward to working with the ALSA on surveying related issues in the future.

Thank you for a wonderful and informative time in Edmonton.

MELE RAKAI
DEPARTMENT OF GEOMATICS ENGINEERING
UNIVERSITY OF CALGARY

Salaries

I recently had the opportunity to read your March 2002 ALS News, “Editor’s Notes” section. Specifically of interest was the latter part of the article regarding conflict of interest over regulating the profession and being an industry advocate at the same time. It was with some pride that you noted that your members often ask themselves whether what they are proposing is, in fact, in the “public’s interest.”

There continues to be a certain irony within the ALSA with your editorial content and your organization’s continued practice of surveying and publishing such data before our next Council meeting so that the entire matter can be reviewed. I am confident that our public members on Council, who is appointed by the Government of Alberta, will ensure that the matter is fairly dealt with and that your concerns are addressed.

Once again, thank you for bringing this issue to my attention. We look forward to continuing to work with the Alberta Forest Products Association.

BRIAN E. MUNDAY
EXECUTIVE DIRECTOR
ALBERTA LAND SURVEYORS’ ASSOCIATION

Scholarships

Thank you for your recent e-mail to my director, Susan Montague, regarding the first recipient of the Alberta Land Surveyors’ Association scholarship at UNB, Mr. Kevin Gray.

We very much regret that you were given to understand that Mr. Gray was not enrolled in the Geodesy and Geomatics Engineering program at UNB. The author of the letter notifying you of the recipient had mistaken the program’s abbreviated name in the student’s record and is very sorry for this error. Mr. Gray is indeed majoring in Geodesy and Geomatics and is currently in his fourth year of studies.

Please accept our apology for any misunderstanding this may have caused. Your scholarship is of great importance to outstanding students in this field and I know that Mr. Gray is proud and deserving of this special recognition.

Thank you again for your generosity to UNB and our students. If you have any further questions about the ALSA’s award, please contact our office at any time.

LISA CHRISTENSEN
ASSISTANT TO THE DIRECTOR
OFFICE OF DEVELOPMENT & DONOR RELATIONS
UNIVERSITY OF NEW BRUNSWICK

Thank you again for your generosity to UNB and our students. If you have any further questions about the ALSA’s award, please contact our office at any time.

BOB DEMULDER
DIRECTOR OF FORESTRY
ALBERTA FOREST PRODUCTS ASSOCIATION

Thank you for your fax of March 27, 2002. It is always gratifying to know that people read my articles.

The Alberta Land Surveyors’ Association takes its role of protecting the public interest very seriously and is committed to it.

I have discussed your letter with our Secretary Treasurer, who is charged with the responsibility of overseeing the salary/cost surveys. He has agreed to put the issue of surveying and publishing such data forward to continuing to work with the Alberta Forest Products Association.

Once again, thank you for bringing this issue to my attention. We look forward to continuing to work with the Alberta Forest Products Association.
Past President Ken Allred is one of twelve voting members appointed to the Health Professions Advisory Board.

The HPAB, established under the Health Professions Act, was created to advise the Minister of Health on groups applying to be regulated professions or to practice in restricted activities under the Act.

The Health Professions Act, heralded as the new model for professional governance in Alberta, currently sets out 30 different “health professions,” which may well be governed by twenty-eight different “colleges” established pursuant to the Act. The majority of these disciplines are currently regulated under separate legislation such as the Medical Professions Act or the Nursing Professions Act, or alternately several disciplines are regulated under the Health Disciplines Act, another form of umbrella legislation. The intention is to bring all health professionals under the Health Professions Act within the next few years.

Analysis of 2002 Professional Exams

Statute Law

The areas of examination for Statute Law followed the same format as the last few years—questions were drawn from the acts. This year, the examination was different from previous years in two ways:

1. Questions were generally shorter and more numerous.
2. Some questions required application of the statutes to a hypothetical case.

Twenty-nine pupils wrote the exam—nine passed.

Condominium Property Act
- 14 questions for a total of 21 marks
- Average mark—11.25
- Highest mark—17.5
- Lowest mark—5.5

Surveys Act
- 13 questions for a total of 24 marks
- Average mark—17.1
- Highest mark—21.5
- Lowest mark—8.5

Municipal Government Act
- 9 questions for a total of 20 marks
- Average mark—13.0
- Highest mark—19.0
- Lowest mark—4.5

Land Titles Act
- 12 questions for a total of 20 marks
- Average mark—12.6
- Highest mark—16.5
- Lowest mark—6.0

Land Surveyors Act
- 6 questions for a total of 15 marks
- Average mark—10.3
- Highest mark—14.0
- Lowest mark—6.0

The Surveying Profession

Twenty-four candidates attempted the surveying profession examination in April 2002 and seventeen candidates passed. A 71% pass rate is rather satisfactory for an exam of this calibre. In general, there were four questions that the candidates are having difficulty with, they were worth a relatively low percentage for the entire exam paper:

Which government department and their respective Ministers are responsible for the Land Surveyors Act and the Surveys Act. The answers could be found in issues of ALS News in September 2001 (page 13), as well as the June 2001 issue (page 32) respectively.

A question regarding the history of land surveying in Alberta may be referenced from James G. MacGregor’s book Vision of an Ordered Land.

Finally, the information on the Statutory Boundary Tribunal may be referenced from an article published on the June 2001 issue of the ALS News (page 23-24).

In conclusion, the candidates have done an excellent job in answering all the questions for a seemingly long paper. The results of the marks have proven that the candidates have done their homework in reading the necessary reference materials and keeping themselves abreast of the happenings within the Alberta Land Surveyors’ Association.

Practical Surveying

Eight out of thirty-four candidates passed the Practical Surveying examination. Each of the five questions on the exam was set by a different examiner.

Question #1: Field Notes and Township Plans
Average Mark—78%

The average mark on the question covering Field Notes and Township Surveys was 78%. Knowledge of Bulletin 38, the location of the township, and the year of the Township Plan were key to answering the first portion of this question. The second portion dealt with a change in a natural boundary and the pertinent section of the Land Titles Act that covers this situation. There were some candidates that incorrectly identified the extent of the title once the boundary had changed. Attention to the legal description on the title was key to answering this portion of the question. The third portion of this
section dealt with original field notes and appeared to be the most difficult for the candidates. There were about half that did not compute the distances correctly.

**Question #2: Urban Subdivision**

*Average Mark—50%*

This question involved the adjustment of a subdivision in an urban situation. One needed to understand the procedural aspects of a subdivision as well as the field mechanics. The questions focused on submission requirements, changes to tentative plans and easement implementation. In answering this question, it was important to understand what constitutes a road closure, when a restrictive covenant would be used over an easement, when control ties are required and the components that make up an ASCM data sheet.

**Question #3: Rural Subdivision**

*Average Mark—65%*

This question involved the subdivision of a fractional section out of a quarter that abutted the fifth meridian. Five marks were given for determining the four re-establishment of monuments and one re-establishment of a position. Most of the candidates handled this question very well.

Determining the location of the posting for the subdivision was worth five marks and this question was answered well by most of the candidates.

The question that caused the most difficulty was the actual fractional LS. A number of candidates did not realize that LS 14 gets its full half of a quarter section and LS 13 gets what is left. Different approaches to the question gave slightly different numerical answers but no one was penalized for this provided they understood the concept of a fractional LS.

**Question #4: Alberta Land Surveyor’s Real Property Report (optional question)**

*Average Mark—61%*

Of the thirty-four people writing the practical exam, ten attempted this question. This was a standard RPR question which required proportioning around a curve. Marks were given for knowing which corners had to be re-established and how to re-establish those corners.

An understanding of the requirements for RPRs as detailed in the Manual of Standard Practice was very important in successfully completing this question.

**Question #5: Wellsite—Unsurveyed Territory (optional question)**

*Average Mark—48%*

Twenty-four candidates attempted question 5. As in most years, the Practical Surveying exam contained a question based on a wellsite in unsurveyed territory. This year, the well was to be directionally drilled across a range line. Candidates either scored very well (five above 80%) or not so well (nine below 30%). The basic concept was the conversion between ranges to relate the surface and downhole location to the local section boundaries. The calculations involved a W/S traverse plan and “Blue Book” tables. A good understanding of unsurveyed territory and generating coordinates was demonstrated, but the effect the range conversion has on them was generally missed. To score well on this type of question, candidates should have a thorough understanding of how azimuths and coordinates change between adjacent townships.
accurately map buried facilities. The Association argued that it is a privilege to bury something underground. Therefore, it should also be incumbent on the owner of such a facility to accurately map that installation and provide general access to such mapping in the interests of safety, future planning, and further installations. The presentation was very well received and the gears are set in motion that will hopefully address our concerns.

The Steering Committee met on June 6, 2002, at which time all committee chairs reviewed their terms of reference for the upcoming year. The committees will meet shortly after that and begin their tasks. As usual, the workload on the committees is large. The amount of dedication that committee chairs and members have, never ceases to amaze me.

One of the tasks for the Standards Committee is to investigate and create a one-time collection of historical documents that are pertinent to today’s surveyors doing today’s re-establishments. Council’s vision of this text is that it would include all available reference material that would assist new surveyors and students to understand the criteria that governed the preparation of an historical survey, so as to ensure a valid re-establishment of that survey today. This text might include such things as all previous surveys acts, Manuals of Instruction for the Survey of Canada Lands, Bulletin 38, Good Practice Resolutions, the MGP and the MSP.

On the humorous side of my job as your President, we had the opportunity to visit Newfoundland for their AGM. After attending the evening’s social events and being “screeched in” we are now considered to be Newfoundlanders! As such, we now know what flipper pie and figgy duffs are. We also know many parts of a cod fish and how each taste - like cod tongues, cod cheeks and cod lips. A shot of screech effectively removes the taste of cod lips!

Have a good summer!
New Member

#688 MacDORMAND, Robert B.

Bob MacDormand graduated from Harry Ainlay composite High School in Edmonton in 1972 and went on to complete a B.Sc. at the University of Alberta in 1989.

Alberta Land Surveyors, Mike Michaud, Grant Cross, Brian Huber and Fred Rogers served as principals from 1994 to 2002.

The topic of the technical report submitted as part of the qualifying examination was Residential Building Layout and the Real Property Report. Commission as an Alberta Land Surveyor was received on May 27, 2002.

#689 BROOKS, J. Scott

Scott Brooks was born in Brandon, Manitoba on March 14, 1970. He attended Vincent Massey High School in Brandon and went on to receive a B.Sc. in Engineering from the University of Calgary in 1993.

Bernie McKenna, ALS served as his principal from December 1995 to May 2002.

“Surveying Well Sites Using RTK GPS” was the topic of the technical report submitted as part of the qualifying examination. Commission as an Alberta Land Surveyor was received on May 29, 2002.

Changes to the Register

AGP Geomatics Ltd. (P214) registered as a surveyor’s corporation on April 5, 2002 under the direct supervision of Terry MacNeill, ALS. The contact information is: 10328 - 81 Avenue, Suite 304, Edmonton T6E 1X2; Tel: 780-453-2292; Fax: 780-447-4762; e-mail: tmacneill@agpgeomatics.com; website: www.agpgeomatics.com.

Jay Abbey, ALS—new e-mail address: jaya@cridland.ab.ca.

Warren Barlow, ALS has commenced employment with Usher Canada Limited in Fort McMurray effective June 3, 2002. New e-mail address: wbarlow@ushercan.com.

Justin Brennan—new e-mail address: jabrennan@canada.com.

Cam Cousins, ALS—new e-mail address: cam.cousins@canam.com.

Capital City Geomatics Ltd. has moved to 10333 - 61 Avenue, Edmonton T6H 1K9. All other contact information remains the same.

Douglas Surveys Inc.—new e-mail address: iaind@douglassurveys.com.

Ken Drake, ALS is no longer with Pals Surveys in Calgary and is operating as a sole practitioner.

Ron Eichel, ALS—new e-mail address: ron.eichel@canam.com.

Wayne Hucik, ALS—direct e-mail address: wayneh@northcan.com.

IBIWN Surveys Inc. (P215) registered as a surveyor’s corporation on May 1, 2002 under the direct supervision of Brian Wetter, ALS. They are located at 1167 Kensington Crescent, Suite 500, Calgary T2N 1X7.

J.K. Smith—Alberta Land Surveyor is now Baseline Geomatics Ltd. The address and permit information has not changed.
Maltais Associates Surveyors Ltd. has changed its name to Maltais Geomatics Inc. effective May 20, 2002.

Midwest Surveys Inc. in Calgary has moved to: 3950 - 12 Street NE T2E 8H9.

Morrison Land Surveys Ltd.—new address: Suite 1, 6115 - 4 Street SE, Calgary T2H 2H9; Tel: 403-201-6356; Fax: 403-201-2415; e-mail: morrison@smls.ca.

Precision Geomatics Inc.—new phone #: 780-470-4000.

Terry Skinberg, ALS—new e-mail address: skinberg@shaw.ca.

Gerald Whaley, ALS commenced employment with Stantec Geomatics Ltd. in Edmonton on May 14, 2002.

Brent Wilson, ALS commenced employment with Maidment Land Surveys Ltd. on April 29, 2002.

Paul Westersund, ALS has joined Cridland & Associates Ltd.

Positive Feedback

Reported for ADR Program in 2001

The EUB and its stakeholder committee considers the new Appropriate Dispute Resolution (ADR) Program to be a success, based on feedback showing that most of the people who have tried it and provided their comments on the experience said they would try it again and recommend it to others.

“We consider this ADR Program successful,” stated Bill Remmer, chairman of the stakeholder committee, in the first annual report on the program. “Feedback was received on 83% of the completed cases and 97% of the respondents indicated they would be willing to participate in ADR again and 94% of them would recommend the Program to others.”

Data and feedback collected through the evaluation process in 2001 also indicates that participation of EUB staff is a key component in the success of the ADR Program.

In 2001, field staff were called on to help (i.e. facilitate a resolution) in 161 cases where landowners and companies were in dispute. Of the 115 staff “facilitations” that were completed by the end of the year, 85% were fully resolved.

As well, Mr. Remmer said that people, who used mediation to resolve their disputes indicated the EUB staff involvement was highly satisfactory, greatly assisted in the legitimacy of the process, and enabled the development of reasonable options and led to successful resolutions.

Another finding highlighted in the report was that third-party dispute resolution experts such as service providers and mediators dealt successfully with many of the more difficult conflicts and did so faster and at less cost than may have been possible by means of an EUB hearing.

In 2001, 30 disputes were referred to dispute resolution experts and 23 were completed with 19, or 82%, resolved. The average time taken to reach resolution from the point of referral was 28 days. The average cost for these services has been estimated at $4,300.

Another finding from data and feedback provided in the first year of the ADR Program was that the escalation of conflicts might be avoidable. On analyzing the data, it often appeared to the stakeholder committee that concerns escalated into disputes when the parties did not first recognize and address matters of communication, trust and their need to develop and maintain ongoing relationships.

To obtain a copy of the EUB ADR Program 2001 Annual Report or a summary of the report call the special telephone line (403-297-3700) and e-mail the request to eub.adr@gov.ab.ca.

Highlights for 2001

Conflicts resolved by ADR:
• 98 out of 115 EUB staff facilitations or 85%
• 19 out of 23 third party mediations or 82%

Participant support for mediation:
• 97% said they would try it again
• 94% would recommend ADR to others

Cost and timing of mediation:
• Average cost was $4,300
• Average time to complete was 28 days

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attended the XXII Congress of the Federation Internationale des Geometres in Washington, D.C. from April 20 to April 26, 2002. My attendance at FIG was in performance of the following functions on behalf of the Canadian Institute of Geomatics and as a participant in the following FIG activities:

• Head of the Canadian delegation to FIG representing the Canadian Institute of Geomatics;
• Canadian delegate to Commission 1;
• Member of the FIG Task Force on Cultures and Languages;
• Chair of Technical Session TS1.2 - The Practice of Surveying - Reform and Legislation;
• Author and presenter of a paper in Technical Session TS 1.4 - Professional Associations - A Time of Change.

In addition to these official functions, I was able to meet Professor Michael Barry from the University of Capetown who will be joining the Faculty of the Department of Geomatics at the University of Calgary in August 2002. I welcomed Professor Barry to the University of Calgary on behalf of the Alberta Land Surveyors’ Association and advised him that we would be pleased to assist him in getting established. Hopefully, he will be able to attend the Kananaskis survey camp. Professor Barry specializes in Cadastral Studies and Land Information Systems.

I was also pleased to meet Mr. Wilhelm Schmidt, PLS, from Pennsylvania, and, in fact, I attended part of an ACSM workshop he presented on the Rules of Land Surveying. Mr. Schmidt is a regular contributor to The Professional Surveyor magazine. He and I have been corresponding by e-mail for several years.

Of course, I met with many members of the Canadian delegation (approximately 60) including a group of UNB students which included Sam Ng’ang’a, the recipient of the ALSA graduate studies scholarship. The Atlantic Canada Geomatics Group hosted a reception one evening.

Head of the Canadian Delegation
As head of the Canadian delegation, I was responsible for reviewing the agenda and previous minutes and formulating Canada’s position on all issues. I was also responsible for recommending the names of other members of the Canadian delegation. Controversial issues were discussed with other members of the Canadian delegation.

Canadian Delegate to Commission 1
As the Canadian delegate to Commission 1 (a position I have held since 1982), I attended the Commission 1 meeting and offered a number of observations on issues of interest. Commission 1 has developed an excellent publication on “Business Matters for Professionals” of which I have requested 20 copies. It is also available on the FIG website, www.fig.net. I want to look into the possibility of developing a seminar based on the work that FIG has done in this area.

Member of the FIG Task Force on Cultures and Languages
A number of years ago, FIG went to a single language for all of its proceedings, that language being English. The Task Force on Cultures and Languages was set up two years ago to address the problems that delegates whose mother tongue is not English have in attending FIG. They have a number of legitimate concerns, being that FIG is intended to be a forum for practicing surveyors, not just academicians and government officials, who usually speak English. One problem that is easily overcome, now that it has been addressed, is for all speakers, and in particular English mother tongue speakers, to speak more slowly and clearly. This is a problem even for Canadians trying to understand the Aussies and the Brits. The Task Force is working towards setting up a number of small voluntary discussion groups in French, Spanish, Arabic, German and possibly Russian to assist these delegates in getting more benefit from FIG sessions.

Chair of Technical Session TS1.2
Technical Session 1.2 on The Practice of Surveying - Reform and Legislation, had a total of five papers as follows:

• Legislation for the New Land Information System in Finland - Raimo Vajavaara, Finland;
• Surveyor Licenses in Poland - Professional Aspects, Association Contribution - Prof. Kazimierz Czarnecki, Poland;
• FIG Model Code of Professional Conduct: Moral and Ethical Components - Wilhelm A. Schmidt, USA;
• Privatizing Cadastral Surveying in Norway - Helge Onsrud, Norway;
• Reforms in the Regulation of Surveying in New Zealand - Tony Bevin, New Zealand.

All of the papers were well prepared and well presented. I was somewhat flattered when Tony Bevin, Surveyor General of New Zealand, commented in his paper that one of the arguments raised and accepted by the government in their recent legislative reform of professional organizations was the philosophy raised in a 1994 paper of mine on The Role of the Land Surveyor as a Public Officer.
Author and Presenter
My paper, The Professional Association - Guardian of the Public Interest, was presented with three other papers in Technical Session TS 1.4—Professional Associations—A Time of Change. The other papers were:
• Surveying the Surveying Profession—Prof. Stig Enemark, Denmark;
• The Professional Profile of the “Geometre” in the Third Millennium—Fiorenzo Guaralda, Italy;
• Public Appointment and Swearing-in of Expert Witnesses—Jörg Gebauer, Germany.

General Comments
The FIG Congress is a great opportunity to meet surveyors from all around the world, in all fields of surveying, and representing all types of interests. Many FIG delegates are academic and government officials but there are an equal number that are small practitioners, like most of our membership. One person in particular that I have developed a relationship with is a fellow from northern Italy whom I have gotten to know over the last six years. He has a small practice and is the president of a regional group of about 60 surveyors in Northern Italy. My interest in the early Roman surveyors has been our common focus. There are also surveyors from Sweden, Norway, Tanzania, South Africa, Australia, New Zealand, Malaysia, Czech Republic, UK, and so on, that have become good friends over the years. Most are regular attendees who feel it is important to network with their colleagues around the world. There are always common interests and ideas that are shared in sessions and on a social basis.

The two keynote addresses were by Dr. Anna K. Tibaijuka, Executive Director of UN-HABITAT, and Jack Dangermond, President and founder of ESRI. Both gave very inspiring talks—Tibaijuka on the role of FIG in working with UN and other international agencies and Dangermond on the role of surveyors in the application of new technology.

All abstracts and most of the papers from FIG are available on the FIG website, www.fig.net, in PDF format.
Other delegates from Alberta were John Holmlund, Erik Holmlund and Mele Rakai.

And the winner is............
May 2002

The CCLS Bulletin is published four to six times per year and distributed to individual land surveyors through the member associations of the CCLS. The Bulletin contains a summary of the ongoing work of the Council. Any input is welcomed by the Editor and can be communicated to the CCLS office by, e-mail, fax, mail, or telephone.

Annual Meeting 2002

The 2002 Annual Meeting was held in Victoria, British Columbia, March 16–18, immediately following the Association of Canada Lands Surveyors annual meeting. The hospitality and assistance of the ACLS Council, members and staff was generous and much appreciated by the CCLS delegates who attended up to six full days of meetings. Participants included the ten CCLS Directors, four Executive Committee members, two committee chairs, one observer from the Canadian Institute of Geomatics (CIG) and the three from the National Society of Professional Land Surveyors, two delegates from the national Mexican surveyors association, two delegates from the L’Ordre des arpenteurs-géomètres du Québec, and a number of Canadian Association Presidents.

The formal CCLS meeting began with an awards luncheon attended by many friends and participants of the CCLS. The prestigious Champlain Award was presented to Gordon McKay Thomson, BCLS. The contributions of Gerald S. Hawryluk, MLS, past Secretary-Treasurer (1994–2002) and Director for Manitoba (1994–1998), were gratefully acknowledged with the presentation of a plaque.

The meeting included a one and a half day facilitated strategic planning session. It was an intensive but rewarding session and we all emerged with a curious combination of exhaustion and renewed energy. Four broad priority areas were identified as Governance, Communication, National and International Issues, and Operations/Administration. A Strategic Planning Task Force has been struck to lead the organization through the next steps in the process and to build on what was accomplished in Victoria.

Several projects were identified as both appropriate and necessary to keep on track and moving forward in tandem with the strategic planning. These include the distance learning, international trade and national board of examiners initiatives. Other projects were put on temporary hold while we take the time to reassess in more detail our vision and mandate, set both short and long term objectives and develop action plans. The most notable project in this category was the specific public relations initiative that was in its beginning stages. While communication, and its subset public relations, were identified as high priority, the specific goals and means to achieve them will be discussed in more detail before proceeding.

Much work was done and many issues were discussed and debated. Those directly involved deserve the thanks and support of the member associations and the individual land Surveyors in Canada. When your CCLS representative calls to ask for your opinion or your involvement, please give them due consideration.

CCLS Board and Executive Committee

Your current Board of Directors is composed of Scott Murphy, NLS, Serge Bernard, PEILS, Gerald Pottier, NSLS, H. Murdoch MacAllister, NBLs, Denis Blais, OLS, Gord Lund, MLS, Roy Pominville, SLS, Monroe Kinloch, ALS, Dave Bazett, BCLS, and Carl Friesen, ACLS. The Executive Committee members for this year are President Greg Browne, BCLS, Vice President James Dobbin, NBLS, Past President Philip Milo, NSLS, and Secretary-Treasurer Gord Lund, MLS.

CCLS Web Site

The CCLS web site can be found at www.ccls-ccag.ca. It contains key information about the people and work of the CCLS. Please have a look and send any comments or content to the CCLS office.

Geomatics Human Resources Sector Council

In early December 2001, CCLS, CIG and the Geomatics Industry Association of Canada (GIAC), the sponsors of the Geomatics Sector Human Resources Study, completed a cross-Canada series of consultation sessions. The goals of these sessions were:

- to increase awareness in all regions of Canada of the dynamic changes that are taking place in the geomatics marketplace and in the industry, and the impact these are having on human resources;
- to receive an appreciation of the level of support for follow-up actions to address the key human resources issues highlighted in the Study report and in particular, for the establishment of a Sector Council;
- to obtain an indication of the respective priorities in addressing these challenges;
- to create a report to be tabled with the Steering Committee and HRDC, including the recommendations for further action.

Approximately 230 representatives of public and private sector geomatics organizations provided feedback at these meetings. A report on the sessions, available from the CCLS office or web site, provides a brief background to the consultation sessions, summarizes the feedback provided by the participants and
presents a series of conclusions for consideration.

Together with the distribution of the study report in February 2002, the consultation sessions served to inform a significant number of individuals of the HR issues facing the sector now and in the near future. A high level of support for follow-up actions and significant support for further investigation of the Sector Council as a means to pursue those follow-up activities was received. Valuable input for the setting of priorities and identification of specific projects was received and will be studied in greater detail when the mechanism for follow-up is determined. Equally valuable input regarding concerns over the structure and impact of a potential council was received and the outline of an alternate mechanism has been identified. The CCLS, in consultation with the governing bodies of CIG and GIAC, will be considering the results of the consultation process and making decisions on next steps in the coming months.

**International Trade Committee**

The formal fall meeting of the trilateral NAFTA Committee in Mexico was disappointing to the Canadian delegation due to the lack of progress from the American and Mexican committees in moving forward with the Mutual Recognition Document (MRD). Delegates from the USA and Mexico met informally with the CCLS International Trade Committee during the March annual meeting of the CCLS in Victoria and tied up several loose ends with respect to wording in the MRD. The CCLS Board of Directors approved the draft document for signature by President Greg Browne and its submission to our federal government representatives. The American and Mexican delegations will take that news back to their respective organizations and will hopefully progress with their own internal consultation processes. Once the MRD is submitted to the federal governments of the three countries, it will be considered at that level with a view to its annexation to the NAFTA. At that point each governing body (i.e. the eleven Canadian associations and their American and Mexican counterparts) will make their decision to formally sign the final MRD. The current and past members of this committee have reached a significant milestone in their important work to create and maintain a level playing field for Canadian surveyors in the North American marketplace.

Committee Chair Wayne Brubacher, made a presentation to the annual meeting regarding new issues and challenges for Canadian surveyors and the broader geomatics community resulting from evolving licence definitions and restrictions in American states. The increasing inclusion of non-cadastral areas of surveying and geomatics within the land surveyor’s licence in many states has serious ramifications for any practitioner of those disciplines who either practices in Canada or who participates in the American market. The Board has directed the Committee to meet with representatives of CIG and GIAC to discuss the issues surrounding the American licensing changes from the perspective of Canadian geomatics practitioners.

The International Trade Committee is also monitoring the work of the Canadian government representatives on the General Agreement on Trade in Services (GATS) through the World Trade Organization (WTO) and is submitting surveyor specific information to Industry Canada in that regard. All of the issues and discussions that are relevant within NAFTA are reflected on the world stage within GATS and need careful monitoring and the education of ourselves and our members.

**Labour Mobility for Canadian Land Surveyors**

We are fast approaching the first year anniversary of the signing of a mutual recognition agreement (MRA) for land surveying under the Agreement on Internal Trade – Labour Mobility Chapter. The MRA contains provisions for annual review of the agreement. The CCLS will be serving as the administrator for these annual reviews and as a resource for facilitating discussion about any issues that may arise surrounding the implementation of the agreement. There have been several applications for licensure under the agreement. Associations are working towards implementing the necessary changes to their policies, by-laws and regulations in order to fully comply with the agreement and process these applications.

**Opportunities for Involvement**

One of the issues which challenges the CCLS is the need to increase and broaden our pool of committee and project team members. We need to locate and enrol the participation of those many individuals in the Canadian land surveying community who have an interest in dealing with the issues of our profession on a national and international level. Each of our Board and committee members is tasked with balancing the representation of their particular jurisdiction with serving the common interests of the national community. Those who are, or have been, involved in CCLS work find that the interaction with counterparts from across the country and beyond has broadened their perspective and left them with valuable insights to apply to their own lives and businesses. However, we cannot continue to rely solely on these same individuals for all of CCLS’s projects.

The four broad priority areas of governance, communication, national and international issues, and operations/administration identified in Victoria, as well as ongoing projects which are outlined in these Bulletins and on the CCLS web site under Committees and Projects, all need individuals to make them successful. The time commitment is not large. The commitment to provide opinion, thoughtful analysis and input into action plans and decision making is required. Please contact the CCLS office, or any member of the Board or
a current committee, for information about getting involved.

**Professional Liability Insurance Committee**

The Professional Liability Insurance Committee held its regular spring committee meeting in Ottawa on March 3-4, 2002. Renewal negotiations in preparation for the expiration of the current policy period in June have been completed and renewal letters were mailed. The committee members are very pleased with the policy itself and the terms of renewal for the program.

The PLIC has decided to temporarily discontinue the series of loss prevention seminars. Instead, a general practice guide is being developed and will be distributed to all insureds. The PLIC continues to investigate new and better ways of delivering loss prevention and education to its members. This new practice guide will deal with many important issues such as communication, practice exposure, claims handling, risk management and contracts. CCLS and ENCON will continue to collaborate on Loss Control Bulletins dealing with current issues facing land surveyors. As well, the Committee will offer to present a report at each Association AGM.

Very positive responses have been received through the recently implemented feedback questionnaire which is sent to every insured at the settling of a claim. The Committee is in constant communication with the program broker and managers and continues to be available to any individual surveyor who has comments or questions about the Committee, its work, or the program.

**In Summary**

We have an interesting year and more ahead. Stay tuned and get involved!

SARAH J. CORNETT, B.SC., OLS
CCLS EXECUTIVE DIRECTOR
Using MPAs to Design Marine Cadastre Information Requirements

by Sam Ng’ang’a and Sue Nichols

Sam Ng’ang’a is a Ph.D. student in the Department of Geodesy and Geomatics Engineering and is developing software tools for visualizing multidimensional marine boundary information for coastal and ocean management. Sam holds a Bachelor of Science (Surveying) degree (First Class Honors) from the University of Nairobi in Kenya and a Master of Engineering degree from the GGE Dept at UNB. He can be contacted at nganga@unb.ca. Mr. Ng’ang’a is the first-ever recipient of the Association’s Graduate Studies Scholarship.

Dr. Sue Nichols is a professor in the Department of Geodesy and Geomatics Engineering concerned with property rights issues on land and at sea. She has also been involved in research on national spatial data infrastructures in the US and Canada since 1990. She can be contacted as nichols@unb.ca.

Abstract

The ability to establish Marine Protected Areas (MPAs) has provided additional management tools that can be used for better stewardship of marine resources and their habitats (Canada, 1997a, 1999). In Canada, MPAs supplement existing formal marine protected area programs administered by Canadian Heritage (Parks Canada) and Environment Canada (Canada, 1998).

MPAs are being identified, established and managed using existing environmental and ecological data that was collected for other purposes while little attempt is being made to identify what the information requirements are (Canada, 1997b, Fenton and Westhead, 2000). While it is acknowledged that accurate information on the marine environment, its resources and uses is critical in identifying, evaluating, and managing MPAs, it is accepted that management decisions concerning MPAs are being made with limited knowledge (Canada, 1997b) especially with regard to marine property rights.

Clearly the reliability and completeness of information on the marine environment, its resources, and uses is critical in identifying, evaluating, and managing resources in marine space. Resource management does not exist in isolation; it balances the objectives of conservation with property rights (both public and private) associated with the resource. Generally speaking, this implies that two boundaries must be delineated: one defining the resource extent and the other defining the extent of rights within, or in the vicinity of the resource. This latter boundary is referred to as the legal boundary. The primary objective of a legal boundary is to ensure that it gives notice of the spatial extent of rights of individuals (or groups of individuals). From a governance perspective, this provides information to decision makers about the impact that certain decisions (regarding a particular resource) will have on the rights and interests of individuals. Information regarding the resource, together with a record of the nature and extent of rights, would be contained in a cadastre.

This paper uses Marine Protected Areas (MPAs) as a case study to identify some of the information requirements in a marine cadastre. The authors propose that problems encountered in identifying these requirements in MPAs are similar to those expected to be encountered in a marine cadastre. This paper begins by describing MPAs; reviews the concept of a marine cadastre; uses it as a starting point for identifying the cadastral information requirements; and then uses the example of the Musquash MPA in New Brunswick, Canada to develop a list of the cadastral information types. The paper then concludes by outlining some future research directions.

Introduction

The governance of the oceans is primarily driven by global statutes such as the United Nations Convention on Law of the Sea (UNCLOS) which has forced the subdivision of the oceans into Territorial Seas, Exclusive Economic Zones and Continental Shelves, each with its attendant right and responsibilities. As it explicitly deals with the rights, restrictions and responsibilities to the physical offshore, UNCLOS has created a complex multidimensional mosaic of potential private and public interests. When coastal zone management programs and internal jurisdiction and administration issues are added on, a clear understanding of the nature and extent of offshore interests is crucial for decision-making purposes.

One such coastal zone management program is the Marine Protected Area (MPA) program. This is one of three formal protected area programs for the marine environment that the Canadian Government has (Canada, 1998). These programs are administered by Canadian Heritage (Parks Canada), by Environment Canada and most recently by Department of Fisheries and Oceans. The Department of Fisheries and Oceans (DFO) administers the Marine Protected Areas under the Oceans Act (1996).

The DFO Marine Protected Area program is unique in two respects. First, it allows the designation of MPAs under broader guidelines unlike those provided by other programs, which deal with specific habitats or species. Secondly, designation of MPAs provides protection that is much greater than that afforded by other programs. For example, MPA management plans can define buffer areas adjacent to the MPA boundaries whereby certain activities are restricted. This is not the case with other programs.
The MPA program is meant to address a wide range of marine resources and management dilemmas. MPAs are established for numerous reasons and, as a result, take a variety of forms and approaches\(^5\). It is generally accepted that well-planned MPAs do not only protect critical habitats and general ecosystem functions but also meet the needs and even enhance the opportunities of many different stakeholders living in the region [National Research Council, 2001]. From a decision-maker’s point of view, the focus is therefore on being able to visualize how the MPA will affect the rights of community, stakeholders and the general public. An investigation into cadastral information requirements for the governance of MPAs would therefore also provide insight into the requirements for the governance of marine spaces in general.

**What are MPAs?**

MPAs in Canada are defined in Section 35 of Canada’s *Oceans Act* [1996] as, “an area of the sea designated for special protection that forms part of the internal waters of Canada or the exclusive economic zone of Canada”. An area can be designated as an MPA to conserve and protect one or more of the following:

1. Commercial and non-commercial fisheries resources, including marine mammals and their habitats;
2. Endangered and threatened marine species, and their habitats;
3. Unique habitats;
4. Marine areas of high biodiversity or biological productivity;
5. Any other marine resource or habitat as is necessary to fulfill the mandate of the Minister of Fisheries and Oceans.

**Identifying and Establishing MPAs**

The development of Marine Protected Areas (MPAs) follows a standard process. The Canadian process for identifying and establishing MPAs has the following 6 steps (Canada, 1998):

1. Identification of MPA Areas of Interest (AOIs);
2. Initial Screening of AOIs;
3. AOI Evaluation and Recommendation;
4. Development of a management plan for an MPA candidate site;
5. Designation of an MPA;
6. Management of an MPA.

**The MPA Management Plan**

The “governance” of MPAs is perceived by the authors as rigorously beginning with the preparation of a management plan (the 4th step in MPA site planning). The management plan relies to a very large extent on the information that has been collected about the natural resources, activities, ownership, jurisdiction and administration within the MPA. A key component of the management plan is the development of regulatory actions, including the zoning of activities to be prohibited or limited (Canada, 1997a, 1998). The *Oceans Act* (1996) Section 35 allows for the establishment of zones within MPAs and the prohibition of classes of activities. Levels of protection defined in the management plan can vary from a strict “no take” area, where access is severely limited to areas where controlled use, resource harvesting, and various socio-economic activities are allowed (Canada, 1998). In addition, buffer areas may be defined around MPAs to ensure that nearby human activities are managed in a manner that conserves the marine resources.

The purpose of the MPA management plan is to provide details on how the MPA will be managed (Canada, 1997a, 1998). Crucial parameters for management such as the location and boundaries of the MPA, zoning, prohibited activities, and other relevant regulations are included in the plan. The MPA management plan may also provide additional policies, strategies, or other management tools for achieving the purposes stated for the MPA (Canada, 1997a, 1997b). The management plan will therefore rely on information regarding what resources (living and non-living) there are to govern; who holds the rights and responsibilities for their safe and orderly conservation, distribution and exploitation; and the spatial limits (boundaries) of those rights and responsibilities. Information about the ownership, stewardship, and use of these resources is what is expected in a marine cadastre.

**The Marine Cadastre Concept**

To develop a definition of the marine cadastre, the authors begin by referring to McLaughlin’s [1975] definition, which describes a cadastre as “a parcel-based record of interests in land encompassing both the nature and extent of these interests.” Attempts by authors such as Grant (1999) to define a marine cadastre can be seen as fundamentally modifying this basic definition as they describe “a system to enable the boundaries of marine rights and interests to be recorded, spatially managed, and physically defined in relationship to the boundaries of other neighboring or underlying rights and interests.”

Extending these descriptions further, the authors define a marine cadastre as an information system that not only records the interests but also facilitates the visualisation of the effect of a jurisdiction’s private and public laws on the marine environment (e.g. spatial extents and their associated rights, responsibilities, restrictions, and administration). It would be expected that other relevant information such as that regarding the physical and biological natures of the environment might be connected to the cadastre using spatial referencing to give the cadastre a multipurpose function.

The development of a cadastre depends on the several items [see McLaughlin, 1975; National Research Council, 1980, 1983; Niemann and Moyer, 1988]. Initially, there must be a spatial framework, which should normally be in the form of a geodetic
network, which makes it possible to establish spatial linkages between all relevant land information so that any one item can be related in space to another. The spatial framework should be supplemented by a series of large-scale maps or plans and should include a cadastral overlay together with a register of interests. But in the oceans where resources and activities (and therefore rights, restrictions and responsibilities) can co-exist in time and space and can move over time and space, the authors have previously argued [see Nichols et al., 1999, 2000a, 2000b, 2001] that the definition of a parcel is even more complex. Furthermore, the authors suggest that a cadastre in the conventional sense may not be the best unit of representation for all interests. Until another framework is proven more useful, the cadastral concept continues to be considered in this paper as an initial point for exploring ideas.

A marine cadastre is considered an essential part of any nation’s geospatial data infrastructure. Authors such as Nichols et al., (2001) however point out that no nation can claim to have complete, seamless, and comprehensive information on marine rights and marine jurisdictional limits. The marine cadastre is therefore a priority for many countries’ spatial data infrastructure initiatives.

**Canadian Marine Protected Areas a Representative Marine Space**

In the specific case of Canada, there is no comprehensive plan to construct a marine cadastre but there are plans to include marine information as part of the national geospatial data infrastructure. Although Canada is hampered in large part by legal and political issues, technical issues surrounding the collection, organization, integration, and dissemination of data are part and parcel of marine cadastre problems. The use of a case study involving MPAs allows researchers to investigate some of these problems. MPAs can be considered a laboratory for developing and testing elements of the marine cadastre based on the following:

- **There are several clearly defined conservation and protection objectives for MPAs.** At the same time, a number of management principles have been enumerated in the *Oceans Act* [1996] and the MPA program policy in order to facilitate the development and implementation of the MPA programs. These objectives are used to design a management plan and evaluate the success or failure of the MPA;
- **MPAs usually contain a multitude of resources that are simultaneously the focus of economic and conservation objectives.** The authors argue that these resources (and their management) are therefore representative of those found in any marine space;
- **In addition, coastal MPAs are adjacent (or in close proximity) to upland owners and private property rights.** This scenario further complicates tenure in marine space and provides an ideal site for testing tenure issues to be found in any marine cadastre.

**Ocean Governance Research at UNB**

In June 2000, a team of researchers from four universities (University of New Brunswick, Memorial University, University of Ottawa, and University of Victoria) initiated a project with the Geomatics for Informed Decisions (GEOIDE) Research Network under the National Centres of Excellence. The project is entitled “Good governance of Canada’s Oceans: the Use and Value of Marine Boundary Information.” The research aims to address some of the marine boundary issues in Atlantic Canada using case studies [Ocean Governance, 2000].

This project focuses on providing information on what resources (living and non-living) there are to govern; who holds the rights and responsibilities for their safe and orderly conservation, distribution and exploitation; and the spatial limits (boundaries) of those rights and responsibilities [Nichols et al., 2000a; Ocean Governance, 2000]. One of the case studies in the research focuses on private, public, municipal, environmental, and coastal zone boundaries associated with Marine Protected Areas (MPA) for DFO under the new *Oceans Act*. It specifically deals with the management of the proposed Musquash MPA in the Bay of Fundy in Atlantic Canada.

**The Musquash MPA Case Study**

On February 8, 2000, the Department of Fisheries and Oceans (DFO) announced publicly that Musquash Estuary had been accepted as an Area of Interest (AOI), the first milestone in the official Marine Protected Areas (MPA) process. Musquash is the Maritime’s second inshore “Area of Interest” in the Marine Protected Areas (MPA) Program under the *Oceans Act*. On June 23, 1999, DFO announced support for conservation efforts in Basin Head PEI, the first inshore Area of Interest. Identification of a site as an “Area of Interest” is the first step in the Department’s evaluation process to identify and protect important ecological areas in the marine environment. The proposed MPA outer limits included all subtidal and intertidal areas inside a line drawn from the Musquash Head through the southern tip of Gooseberry Island, and extending to the coastline at the western tip of Gooseberry Cove. The inland limit was the head of the tide at the Musquash Hydro Station.

What was unique about Musquash was that it was a coastal MPA and therefore issues related to property rights, administration, and jurisdiction were extremely important. There was a possibility that there would be multiple and unclear jurisdictional boundaries representing federal-provincial, inter-provincial limits, or even provincial-county boundaries. Since the MPA program was still
new\textsuperscript{12}, issues surrounding the co-management arrangements for the proposed MPA were still being tested at other proposed MPAs. At the same time, there lacked a single agency that would be the focal point for managing marine rights and boundaries. This meant that information about the boundaries and rights would have to be shared across departments and agencies. Musquash was therefore an opportunity to address the resulting complexity of data integration issues (involving scale, datums, projections etc) within the mandate of the Ocean Governance project.

As part of its MPA co-management strategy, DFO put together a Musquash Marine Protected Areas Planning Group (MPAPG)\textsuperscript{13} in a bid to facilitate stakeholder and community input into a management plan for the proposed MPA [Singh et al., 2000]. The overall objective of the management plan was described as the “protection and restoration of the Musquash estuary and surrounding salt marshes”. The following goals were identified [Singh et al., 2000]:

- Maintain biodiversity of the area;
- Maintaining a healthy fishing industry;
- Protecting highly productive habitats;
- Increasing the natural habitat and bird life in the marsh and surrounding land;
- Preserving the area for future generations;
- Ensuring the conservation and the sustainable use of the marsh.

In the beginning, the focus of information collection (and summary) in the Musquash was scientific data; including, area morphology, oceanography, water quality (i.e. nutrients and contaminants), plankton and fish larvae, marsh ecology, birds, and terrestrial plants [Singh et al., 2000]. Clearly, the focus was on developing the science requirements that would be needed to monitor MPAs. Later on however, it became clear that in order to obtain the information required for the evaluation of the proposed MPA, as well as for the development of an appropriate management plan, existing information about public and private rights within the MPA (and in the surrounding vicinity) would have to be collected, summarized and used to form the management plan for the MPA.

### Cadastral Information Collection

To provide the base for analyzing the boundary and other cadastral issues, the University of New Brunswick’s Ocean Mapping Group carried out a hydrographic, oceanographic and geophysical survey of the Musquash. Undergraduate students were responsible for collecting the information as part of a 5th year Hydrographic Field Operations undergraduate course. As outlined in the following sections, the hydrographic survey information proved important in providing evidence of tenure in the proposed Musquash MPA.

Visits to the Musquash estuary indicated that private fishing rights (in the form of herring weirs) had at one time been effective in the estuary. In fact, sidescan imagery also indicated that some fishing weirs had been abandoned and were neither visible at high nor low tide\textsuperscript{14}. These weirs could easily be indicative of present, abandoned or expropriated private fishing rights within the spatial extent of the fishing weirs. A survey\textsuperscript{15} of the ordinary high water mark was also carried out in order to determine whether the actual surveyed limit of upland property coincided with provincial mapping in the coastal lands database. The resulting inconsistency was not surprising, as the delimitation of features and limits in the coastal lands database was based on interpretation of orthophoto maps\textsuperscript{16} [Nichols and Monahan, 1999]. The uncertainty caused by the inconsistency between the mapping and legal limits of private property rights is currently under investigation especially in light of the fact that the description of the boundaries in the proposed MPA had referred to the ordinary high water mark\textsuperscript{17}. The New Brunswick Depart-
Point. The exact location of the pipelines was clearly visible on the multibeam imagery collected during the hydrographic survey.

One partner20 in the project, Service New Brunswick (SNB), was also able to provide access to cadastral information about parcels adjoining the proposed MPA. This allowed the group to inspect the nature of tenure surrounding the proposed MPA and determine whether any water lots had, in fact, been granted in the Musquash estuary. Further, it was important to determine (through an inspection of individual deeds) the individual rights of riparian owners on land adjoining the Musquash River.

**Future Direction of Research**

As the project has progressed, it has become increasingly clear that there is a multitude of tenure information sources held in different locations that can be used to build the Musquash MPA “cadastre.” The objectives for establishing MPAs include environmental and socio-economic criteria but they can potentially impact on, for example: oil and gas development rights, including cables and pipelines, traditional fishing rights, aboriginal rights, coastal property rights (including riparian rights), as well as rights for public navigation, recreation, and access. Yet, the MPA administrators, NGOs and community groups involved cannot go to a single source and discover what rights might exist in a specific area. The question to ask is how exactly does the designation of an MPA affect public and private interests within or in the vicinity of an MPA? More importantly, how does one view the interaction of interests in multidimensional marine space?

One approach might be to group the interests according to the physical layers that make up the marine space. If this is the case, then there needs to be an explicit regime that defines what interests exist on the water surface, water column, seabed, and subsurface. Defining interests based on the physical layers of marine space is reasonable. Few marine activities can be said to take place on the “surface” of the water. Nearly everything marine actually takes place in a volume of water. Most marine rights, such as aquaculture, mining, fishing, and mooring rights and even navigation, have at least a three-dimensional nature21. Where and how do these rights overlap? It is entirely possible that any two marine rights intersect not at the surface of the water, but at some point far below, in the water column or even within the seabed. In order to control and regulate marine activity, a more accurate portrayal of rights in the water column is required.

Research in the Ocean Governance project has evolved to address the multidimensional nature of marine cadastral requirements. This is an attempt to allow stakeholders, communities and decision makers to be able to visualize the interaction of interests in marine space. In future, this might involve the creation of a prototype that allows the visualization of the physical marine space (i.e. sea surface, water column, seabed, and subsurface), the laws and regulations in effect, and the spatial extent of static and dynamic (i.e. time varying interests e.g. fisheries closures) interests. This is important because in the oceans where resources and activities, and therefore rights and restrictions, can co-exist in time and space and can move over time and space, the interaction of public and private interests is rarely captured by a static 2D view.

**Summary**

This paper has used MPAs to discuss the marine cadastre concept by showing how marine cadastral information can be used in MPA governance. The paper has described MPAs; reviewed the concept of a marine cadastre; used it as a starting point for identifying the cadastral information requirements; and then used the example of the Musquash MPA in New Brunswick, Canada to develop a list of the cadastral information types. The paper has concluded by highlighting the importance of viewing the interaction of interests in marine space.

Cadastral information captures the interest of stakeholders and communities in the MPA vicinity. This information would allow users (e.g. MPA planning groups and other decision makers) to attempt to ensure harmony between competing objectives in marine space; such as, the environmental objective of MPA designation, economic objectives of existing activities in the area, and public/private rights of stakeholder and the community. Together with other marine information, a record of the nature and extent of marine rights is what would be contained in a marine cadastre.

**Acknowledgements**

The authors would like to gratefully acknowledge the Geomatics for Informed Decisions (GEOIDE) network and the Alberta Lands Surveyors’ Association for their financial support.

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1 Both living and non-living resources — defined as having cultural, social or economic value.
2 Governance has been defined as the process of decision-making with a view to managing change in order to promote people’s well being [Kyriakou and Di Pietro, 2000]. Governance is also about providing information to decision makers about the impact that certain decisions will have on the rights and interests of individuals.
3 In this paper, a marine cadastre is an information system that allows rights in marine space to be defined, recorded, visualized and managed.
4 Strictly speaking this applies only to nations that have ratified UNCLOS.
5 Generally, it is accepted that MPAs are established for: helping to preserve important fisheries, for protecting historical and cultural resources, for conducting scientific research, for preserving natural communities and freeing them from exploitation, and for establishing parks for diving [Canada, 1997a].

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This is very close to the definition of MPAs developed at the 4th World Congress and adopted by the International Union for the Conservation of Nature (IUCN): “Any area of intertidal or subtidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been reserved by law or other effective means to protect part or all of the enclosed environment”.

Internationally, Australia, New Zealand and the USA seem to have well developed initiatives addressing marine information infrastructures.

The Canadian Centre for Marine Communications (CCMC) has launched an initiative to ensure that CGDI will include the functionality required to facilitate access to coastal and marine information for use by a broad range of users in the marine community. This is the Marine Geospatial Data Infrastructure (MGDI) initiative [CCMC, 1999].

MPA managers in Canada are still struggling with operational issues surrounding the steps to designate an MPA. No MPA in Canada has undergone full designation. The relatively novel nature of MPAs (from 1996) in Canada has meant that experience is still being obtained on how to best manage MPAs.

Funding sources included: GEOIDE NCE, DFO, NRCan and Service New Brunswick

These are general boundary descriptions of the proposed Musquash MPA.

Race Rocks, the first Canadian MPA to be proposed as an AOI, was declared a pilot MPA in September 1998 and officially designated in September 2000.

See www.musquashmpa.ca/mpa_index_mpa.htm for more information on the MPAPG.

To obtain a copy of the echogram contact Dr. John Hughes Clarke, Ocean Mapping Group, University of New Brunswick at jhc@omg.unb.ca

This was done as part of the survey camp for GGE undergraduate students at UNB. For more information contact Dr Peter Dare at dare@unb.ca, Geodetic Research Laboratory, University of New Brunswick.

From a large coastal mapping project carried out by the Department of Municipalities, Culture, and Housing.

The boundaries are described as including all salt marshes, mud flats and estuary below the high water mark [Singh et al., 2000].

A new Coastal Land Use policy has been released in 2002. It contains significant changes from the 1996 proposal.

Submerged lands are currently registered as provincial Crown lands in county registries. New legislation is being developed that will see all lands covered by a central registry.

For a complete list of project partners go to www.unb.ca/gge/research/OceanGov/partners.html

Rights in marine space can be perceived as occurring at a certain planimetric location and depth (X, Y, Z description). Strictly speaking one can also have four-dimensional interests when time-limited interests e.g. fishery closures are considered.
SPR Phase 2
Practice Ratings

In June 2000 we promised to provide annual updates on the Phase 2 Practice Ratings. Also the revised weighting system now places a higher weight on all field-inspected products. As this is the third annual report, I thought it might be interesting to compare this year’s report to the past two years.

Examining these three reports, the first thing I notice is that the average practice rating has gone up each year. In 2000, it was 79.89% while it is currently 82.61%. While new highs, and new lows have been set in several categories, nearly all of the averages have increased. This, I believe, reflects overall improvement in the quality control processes of the firms recently reviewed.

As noted in this column in the March 2002 issue of ALS News, the practice ratings are now revised by placing a higher weight on those products that include a field inspection. Since over 80% of all products examined receive a field inspection, the overall change in

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Practice Ratings

Average

79.89

As reported in the June 2000 issue of ALS News, also included were outlines of the components, categories, and product ratings.

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Practice Ratings

Average

80.50 93.04 59.76

As reported in the June 2001 issue of ALS News, also included were outlines of the components, categories, and product ratings.
The positive increase in the practice ratings and the average product scores in individual categories, in my opinion, shows that the Systematic Practice Review program is working.

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Practice Ratings

- Average: 82.61%
- High: 94.31%
- Low: 57.16%
Case Study No. 12
Plan Error?
This is the twelfth 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.

The Problem
About two years ago, I received a phone call from a land surveyor. He had been retained by his client to locate the corners of an acreage property his client had just purchased. The subdivision for the property was registered over 25 years ago, prior to metric conversion. The plan showed a depth for the property of 320 feet. The land surveyor located all four of the corners, but found the depth of the property to be only 300 feet not the 320 feet shown on the subdivision plan.

Our Discussion
Of course the first consideration was are the monuments where they were originally placed. “Yes,” the land surveyor told me, “I am positive that the iron posts are where they were placed originally. However, I think they were supposed to be 20 feet farther west.”

I, of course, asked, “how do you know that?”

“Well, the plan shows 320, but they are only at 300,” he replied.

“How do you know that the plan correctly shows where the monuments were supposed to be?” I asked.

“I don’t,” he said, “but the area shown is for a 320 foot deep parcel.”

I then directed him to the Surveys Act, Section 45(4), which states: 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.

“So does that include a survey blunder?” he asked.

Again who says this is a survey blunder, all you really know is that the plan doesn’t match the field measurement. That is very clearly covered by the Surveys Act. I suggested that he contact the land surveyor who conducted the original subdivision survey, who is still in active practice, and ask him to review his field notes.

“Could I have my client call you?” the land surveyor asked.

“Of course,” I said.

The Land Owner
The land surveyor’s client called me about 30 minutes later. His first question to me was, “how do I get my 20 feet back?”

“You never had 320 feet,” I said, “you purchased Lot 1.” The law says that the boundary lines of Lot 1 are defined by the monuments placed for that purpose. From the very day the subdivision plan was registered in the Land Titles Office, the limits of Lot 1 have been defined by the monuments placed by the survey. The plan doesn’t fix your boundary limits, the monuments do. The plan may be in error if it does not depict the correct measurements and area, but you have no claim for additional land.

“But I pay taxes based on a certain acreage, that I am supposed to own,” he said.

“Your title says that you own Lot 1, containing X acres ‘more or less.’ The Land Titles system and the survey plan do not guarantee your area,” I explained.

The land owner was not convinced. He was adamant that he had lost 20 feet of property, and that someone owed him land. I suggested to him that he could always contact a lawyer but that, in my mind, the Surveys Act is abundantly clear on the matter.

Another Call
About a week later, I received a call from the land surveyor who performed the original subdivision survey. He had been contacted and had reviewed his original files. His field notes show a 20 foot offset line, and the dimension 320 feet is actually from the offset, so the distance between monuments should have been 300 feet. His question for me was how does he correct the plan dimensions and area. I directed him to the Land Titles Procedures Manual section on plan corrections and suggested to him that the changes he wants to make will require the owner’s consent.

The last I heard of the matter, the land owner would not consent to the changes, and the land surveyor was considering obtaining a judge’s order to have the plan corrected.

Conclusion
I have noticed that, more often than not, surveyors consider plans to be error free. At our recent annual meeting, a senior land surveyor suggested that if a land surveyor makes an error in placing a monument the monument doesn’t govern the corner. I don’t see anything in the legislation that would support that claim. True, corrections can be made, and judge’s orders obtained, but the monuments placed always govern the boundaries of a property. The two tests I always use are: 1. Is this the original monument? 2. Is it where the original land surveyor placed it?

If a monument passes these two tests, it defines the corner. No amount of difference between plan and field changes this fact. The message here is to be careful where you place monuments, and build redundancy into your surveys to capture blunders before the plan gets registered.
Field Notes and Other Tidbits

Township Notes

Always remember if there is any doubt on a township plan, be sure and order the notes. The notes can tell you a lot and sometimes information that is not on the township plan. The history that I heard is as follows. The field surveyors would have their actual field books with them and would prepare “fair copy” notes to send in for the preparation of the official township plan. The “fair copy” notes were done in ink and are actually what we get now. There was a need for the actual marking out of quarter sections to accommodate the settlers who were moving west on the new railways as they were being built. At times, the surveyor in charge would go to the nearest railway and telegraph back to Ottawa that a certain township was complete. The surveyor’s name appears on the township plan near the monuments he placed or restored. The monuments without a surveyor’s name are usually covered by a general statement at the bottom of the plan stating who placed them. The date that the work was done is shown opposite the surveyor’s name at the bottom of the township plan. Using these dates, along with Bulletin 38, you can get some idea of the type of monument that should have been placed.

Split Line Notes

With split line notes, you take the survey line split it in half and separate each half by an inch or so. Between each half line, you show the chainages starting at 0.00. The township notes are split line and worked very well for tying in features along the way. Sometimes, you can use these features to locate the monument you are looking for.

The Index Page

The index page will give you a lot of information and maybe some surprises. It consists of a number of small squares, each is a section and the numbering is the same as the township plan. On the lines between the squares will be the page number of the notes for the section line. You can see at once, using the page numbers, the sequence in which the work was done. This is where the surprise comes in. You may well discover that the lines were not run for the full length of the township as we are inclined to think. On the index page I am looking at now, Township 19 Range 3 West of the 5th, I notice that the east boundary of sections 31, 30, and 19 are numbered from the top pages 9, 10, and 11 indicating that he started at the NE of section 31 and ran south three (3) miles. The east boundaries of sections 6, 7 and 18 are numbered from the bottom pages 25, 26, and 28 with page 27 being the north boundary of section 7. This
would indicate that he started at the NE 31 on the south boundary of the township and ran his line north three (3) miles. I would say that there would likely be a bend in the section line at the east ¼ section 18 and also at the NE of section 18. There would also probably be a chainage difference on the distance along the east boundary of the north east ¼ Section 18.

When you examine each page of the notes, there is a lot of information that can be helpful. The dates would confirm the information shown on the index and the bearing or azimuth will show the direction the line was run. Now if the notes show that the section lines were not laid out in the manner we would normally expect but, otherwise, I believe the best solution would be to re-establish the way the notes show. However, as in all cases, be sure and document in your field records, your reason for doing this, your search for original evidence and your conclusions.

The notes may show a different monument than that shown on the official plan. Perhaps it will be a stone mound rather than a mound and pits shown on the township plan. So you are now looking for a stone mound. Keep in mind that the stones will now, in all probability, be scattered but there should still be a good base of stones now somewhat covered by soil. The slope of the land will determine which way the stones scattered. When you see mound shown on the township plan, my experience has been that this means mound and pits both. This can often be confirmed by the township notes.

On the grasslands of south Alberta, pits can still be found sometimes. It is important for the surveyor to have the symmetry of the pits in mind when looking. The depressions may be very slight but can be detected by the experienced eye. These slight depressions will collect rainfall so you may notice that the grass is greener in the pits. Light is also a factor and one should observe the location from different directions. It does make a difference. The township notes will show the location of the trees and, remember when a line was cut, the line was blazed on each side. Some of these scars on trees are still visible.

Present Day Notes

Recording good field notes is a continuing battle that we all struggle with throughout our lifetime. Like anything else, we strive to improve each job with the hope of perfect notes someday. The true test is when you do a second survey at the same location and look back on your own notes from some years previous. The question is, are you happy with your previous field records. I seldom am, although I am happy to say that I’ve always been able to figure them out. The good news is that after forty-five years of surveying, I can see some improvement. Many of us now do more office work than field work so we must deal with the notes of others. There are so many details and so much information that must be recorded. It is our duty to work with those we supervise to make sure everything is recorded properly. For those recording notes, it is so important to remember that you are not only recording for yourself but for those that follow you. Do good numbers, don’t make a five (5) look like a six (6). You are the guy who can cause all kinds of trouble by not recording properly.

When doing a field survey, it seems we are always in a rush to get the job done. However, we must take the time to do a good evidence page. Read the numbers on the post and record them. Record how old you think the post is. Is it original? Pits visible, location of fences, condition? Did you dig up enough of the post to see if its straight or if its bent? Did you restore it? Did you record if there are no fences? What if someone builds a fence after your survey, let’s say three metres north of your
re-established ¼ post. It is important to show there was no fence there when you re-established.

Extent of Search
Let’s say you are doing a survey and you show in our notes Found No Mark. The question that strikes anyone looking at your notes is how thorough were you in your search. Was it a drive by, did you dig for rust hole, or was it something in between? What ever it was, it needs to be recorded. A good example would be: turned angle and measured from plan information, got no reading on setting No. 3, Found No Mark, or falls beside chain link fence dug down 0.9 Found No Mark, or dug and scraped for rust hole, Found No Mark. Whatever you do, and it may not always be the same approach due to conditions, it needs to be recorded. What if a surveyor is required to appear in court, with your notes, and someone asks him the question “how hard did you look for that corner post?” I hope he can look at your notes and answer the question.

Real Property Reports
Notes are equally important no matter what type of survey it is. A real property report is done under the Surveys Act except we don’t do any posting. We must either find governing evidence or show found no mark. There is no choice in this matter. If we show Found No Mark, we need to show the extent of search. The extent of search may vary with the conditions but there is no doubt we need to have a serious look. Some may wonder why, if we need to do such a careful and thorough survey, we charge so little. Why do we even do real property reports? I have come to the conclusion that doing real property reports is something like smoking cigarettes. We know that they are not good for us, but we can’t seem to stop. Anyway if you do them, your notes need to be just a thorough as on any other survey.

End of story for this time anyway. Thanks to Tom Holt and Bob Baker for their help on the township material. These gentlemen have a wealth of knowledge and each could write a book if they so chose. I am not attempting to quote them directly, so if there are any untruths, they are mine not theirs.

I know there are a number of practitioners out there who have had experience on the township system and know the history better than I. Please write in and share your knowledge. It would be a help to us all.
Following are updates to initiatives underway within the Surveys & Technical Services Section, Dispositions and Technical Services Branch, Public Lands Division, Alberta Sustainable Resource Development.

1) Division re-organization

Further to the September 2001 update in ALS News (page 35), re-organization continues within the Public Land Division. Mr. Craig Quintilio is now the Assistant Deputy Minister, responsible for five branches.

a) Dispositions and Technical Services, Val Hoover, Director

Responsible for the administration of all public land in Alberta, including issuing approval to permit the use of public land for a variety of activities, selling public land, and coordinating the provincial land survey system and the spatial referencing system.

b) Land Use Operations Branch, Glenn Selland, Director

Responsible for the management of commercial, industrial and general use of public land, including the development and implementation of policies, procedures, guidelines and operational land use plans.

c) Policy and Business Planning Branch, John Laahrhs, Acting Director

Responsible for providing departmental and divisional support of financial, business planning, policy development and program coordination and administration functions.

d) Rangeland Management Branch, Keith Lyseng, Acting Director

Responsible for the day-to-day implementation of programs and policies concerning the management and integrated land use of public lands with a primary emphasis on agriculture.

e) Resource Data Branch, Vacant

Responsible for the timely provision of reliable natural resource inventory and land related data, and consulting services to business units primarily within the department.

Two sections exist within the Dispositions and Technical Services Branch:

1) Surveys and Technical Services Section, Mike Michaud, Section Head

Responsible for coordinating the provisions of the Surveys Act and the Boundary Surveys Act, and providing technical services in support of administration of public land dispositions. Major tasks are as follows:

- Administer provisions of the Surveys Act and the Boundary Surveys Act, including inspection surveys, board of investigations, re-survey, storage and distribution of survey records and survey control records.
- Provide technical/professional advice to land surveyors, government departments, municipalities, landowners and clients, regarding Alberta’s land survey system, Alberta’s spatial referencing system and public land disposition plans.
- Approve and confirm new township subdivision surveys, settlement surveys, and native land claim surveys, as unsurveyed territory is brought into the Land Titles system.
- Perform technical review of all disposition application plans, ensuring they meet departmental standards.
- Provide clients with scanned images of dispositions plans in association with IHS AccuMap Ltd.
- Develop and maintain plan standards relating to public land dispositions.
- Manage the development of the Application/Disposition Processing and Tracking (ADEPT) computer system to automate the disposition process.

2) Disposition Services Section, Diane Fournier, Acting Section Head

Responsible for administration of dispositions on public land, including application approvals, renewals, amendments and cancellations. Major tasks are as follows:

- Review disposition applications and coordinate referral process.
- Issue authorization and contracts for the use of public land in compliance with policies and legislation.
- Sell public land, including land transfers and exchanges.
- Register assignments, mortgages, and subleases.
- Maintain inventory of capital assets.
- Collect revenue, including assessment of rental and royalties.
- Maintain the departmental crown land registry, Land Status Automation System (LSAS).
- Issue notations and maintain the provincial reservations system for public lands and roadways.
- Maintain dispositions, including renewals, amendments, and cancellations.
- Respond to inquiries from clients and the general public for information about policies, legislation, and historical searches, pertaining to public lands.

Additional restructuring at the section level is anticipated as acting positions are recruited.

2) License of Occupation (LOC) survey and plan standards implemented

On June 1, 2002, survey and plan standards developed in cooperation with the Alberta Land Surveyors’ Association were implemented for all public land clients. The standards, which are found in Part D, Section 5.9 of the Manual of Standard Prac-
Technical Services has initiated a follow-up process which tracks new LOCs and flags those having only a sketch plan on file. LOC conditions require final as-built survey plans to be submitted ninety days after the road has been constructed.

During the coming year, it is anticipated that a working group of the Standards Committee will look at additional plan and survey standards for other types of dispositions. Digital submissions will also be another agenda item for the working group.

### 3) Distribution of township elevation data

A limited provincial coverage of Alberta Township System (ATS) township elevation diagrams are available. All 225 plans have been scanned and are available in a TIFF format as a complete set, on a CD, or as a single digital plan. Included with the CD is a descriptive readme file and a file listing the contents of the CD. For more details, please visit our web site at http://www3.gov.ab.ca/srd/land/dos/LSProducts.html.

Councillor’s Forum continued from page 7

passed at the AGM. This will consolidate and rearrange some of the previous funds for better functionality. This new stabilization fund will strengthen our financial policies and operation management to a more sound basis for the membership and the mandate of protecting the public interest.

The business and committee meetings of the Association slow down during July and August to give us all time to enjoy summer family activities. Have a pleasant summer and we hope to see you at the golf tournament and dinner on August 16. Even if you don’t golf, bring your family for a great meal and see the town of Lacombe.
The Professional Development Committee aided in presenting a seminar at the 2002 Annual General Meeting entitled “Evidence Use And Assessment.” The presenters were Lyall Pratt, Don George, Bob Baker, Mike Michaud, and Dave McWilliam. Various aspects of evidence assessment including searches, types of evidence encountered, and case studies were presented.

The case studies were particularly interesting. Each case study presented a complicated reestablishment in detail. The use of pictures surrounding each area, excerpts from plans, and the speakers notes overviewed the thought processes leading up to each re-establishment. Each case study was well presented and the discussions throughout were thought provoking.

Each year, numerous events result in the destruction of primary survey evidence. We, as Alberta Land Surveyors, are obligated to follow the hierarchy of evidence in the re-establishment of primary evidence. The case studies demonstrated how complicated and time consuming following the principles of evidence can be. The case studies presented during the seminar are a good reminder of how a one-day job suddenly extends to three. One other reminder, if the degradation of the survey fabric can make an Alberta Land Surveyor’s determination of a boundary difficult, think how the owner of the property must feel.

In the past few years, the majority of the seminars put on by the Professional Development Committee have been technical in nature. Being an Alberta Land Surveyor is more than just being an expert on the technical and legal aspects of cadastral work. Surveyors are also business people. They have companies to run, employees to manage, and a clientele to maintain. Technical expertise and good business practices must be an equal part of every surveyor’s repertoire. Surveyors must be able to manage the business side of their organizations to be successful.

During the course of the year, do you stop and analyze your fees to see if they are meeting costs? During the course of the year, do you stop and analyze your fees to see if they are meeting costs? The fees you charge obviously pay for more than everyone’s wages. Rent, utilities, and telephones cost businesses money. You have to do some job costing and analysis to factor in all the above and arrive at a fee allowing you to cover all expenses and make a profit. How many firms look at the cost details when each job is completed?

Bidding on projects and fee schedules are a necessary part of any business. So is competition—it will always be there. How you choose to compete is another matter. Do you compete on price, product, or service? Which one takes the forefront in your decisions on bidding jobs? Competition through price is probably the facet most often used to obtain contracts. In the March/April 2002 issue of Canadian Consulting Engineer, a quote for price competition was included in an article. “It is a battle among firms for the right to lose money working for a customer…” Price competition is detrimental to everyone.

In the past few years, there have been rumours circulating about companies doing large amounts of work, millions of dollars, and still barely breaking even. When the year end reports flow from the accountants, the profit margins are slim—in a few cases, only two or three percent! A company’s viability is difficult when there is no capital to drive growth or to support a firm during a lull. Is it worth it? Are low profits, or worse no profits, a result of problems on the technical side of surveying? Possibly, field problems resulting from—insert anything imaginable here—can cost firms big financially. A few jobs in a year gone badly will not give the margins mentioned above. It is more likely that compensation for the professional services provided are inadequate to offset the costs incurred in providing professional services. At the end of the fiscal year, determining your profit margins to be near zero can make all your efforts seem futile.

The above note on the business side of our profession has been in the works since I was (oops) volunteered to write an article for the PDC. The education provided in the post secondary institutions covering these matters is practically non-existent.

Only about 3% of attendees completed the questionnaire and it is disappointing.

Of the people who responded to the ALSA Professional Development Program 2002 Questionnaire, 75% asked for a business financial planning seminar. With only eight people actually taking the time to fill the questionnaire, the 75% value has marginal, no, statistical significance. Only about 3% of attendees completed the questionnaire and it is disappointing. We, on the Professional Development Committee, need the members’ input on the seminars they would like to attend to give us direction on where to focus our efforts. I encourage the membership, particularly the articling students, to go to the ALSA web site to the members resource page and fill out the PDC poll. Don’t be afraid to fill in the comments section.
The Respondents admit that they are in breach of part of the restrictive covenant and have constructed part of their home within the lands protected by the restrictive covenant. The main structure of the proposed house as constructed projects a full 4.2 metres across the required setback and on to the covenanted land. The main wall of 432 Lochaber is only 4.8 metres from the roadway boundary, rather than the required nine metres. The adjacent house at 428 Lochaber is set back about 13.5 metres from the roadway boundary.

The Respondent states restrictive covenants cease to be enforceable if the character of the neighborhood has so changed that the covenant’s enforcement is useless.

The Respondent argues that the continued development of the lands abutting the roadway and residential intensification have so changed the neighborhood of the roadway so that the restrictive covenant will have little effect on the green image of the roadway. Also, at several locations on the roadway, some narrower locations than the subject property, buildings are visible from the roadway or adjoining pathways.

The Respondent also argues that the property at 428 Lochaber which is immediately adjacent to the subject property is in breach of the National Capital Commission restrictive covenant and has been for some ten years and nothing has been done and, as such, the character of the adjoining lands has been altered.

The Respondent states that, even if the house at 432 Lochaber is relocated within its proper lands, namely 4.2 metres back from where it is presently situated, the house would be no less visible from the roadway and pathways.

The Respondent further argues that in order for the court to grant an order pursuant to s. 61(1) of the Conveyancing and Law of Property Act (CLPA), the court must be satisfied that the detriment to the National Capital Commission (NCC) would be negligible and argues that it would be negligible because of the ongoing breach at 428 Lochaber Avenue.

The Respondents state that they are in breach of the restrictive covenant through no fault of their own and have come to court with “clean hands” and are entitled to equitable relief.

The Respondent further states that, the court must satisfy itself that the balance of convenience is in favour of granting the application and they maintain that the balance of convenience clearly favours them because the NCC will derive no benefit if the house is relocated a few extra metres back from its present location, while the cost of relocating the house would be considerable.

I accept that, through no fault of their own, the Respondents did not know of the existence of the restrictive covenant when they started building the house, and I am sure that they did not purposely intend to violate the restrictive covenant. However, if someone made an error who was retained by them, the Respondents are ultimately accountable for that error.

Although the actual situation is somewhat different, it is clear from the case of Re Ontario Lime Co. Ltd., 59 OLR 646 (C.A.) at p. 651 that the power available to the court pursuant to s. 61(1) of the CLPA should seldom, if ever, be made which will operate to the prejudice of the adjacent landowner who has real rights.

Here it is clear that the restrictive covenant was created in the exercise of a statutory mandate in the public interest.

In my opinion, there is not evidence before me that would support the position that the character of the neighborhood has changed. There may be newer and bigger houses in the area, but primarily it remains a residential area of mainly single family
dwellings, and there was no evidence that the population had greatly increased. The Applicant argues that the proposed breach of the restrictive covenants is detrimental to the original grantor of the restrictive covenant and an order relieving the party in breach should not be made. From the material before me, particularly the photos and the narrowness of the distance from the front wall of the proposed residence to the parkway boundary, I think it is clear that the proposed structure will be detrimental to the public interest, although I think it is apparent that even if the front wall of the structure was moved back behind the setback it would still be visible from the parkway or pathway, but in my opinion, it would be less visible and intrusive than it is in its present location.

The court is not persuaded that if the present structure is allowed to stay that the injury would be negligible. Its impact is significant in my view.

The Applicant also argues that the true function of the statute is to enable the court to get rid of a restriction which is unsuitable as to be of no value and under circumstances where its assertion would be clearly vexatious. That is not the case here.

It is the view of the court on the evidence presented that there is a need for the restrictive covenant and it is in no way spent or of no value. This court cannot accept the argument that because the property at 428 Lochaber Avenue has been in breach of the restrictive covenant for some time that the adjoining lands have been altered. The breach at 428 Lochaber is minimal compared to the extent of the major breach of the subject property and, in my opinion, the breach at 428 Lochaber is in no way obtrusive.

In my view, the balance of convenience here is in favour of the NCC when one considers the reason for the restrictive covenant in the first place. I am fully cognizant of the hardship and the mental distress of the Respondents as well as the great cost that will follow if the application is granted and that has given me great concern in arriving at my decision.

The subject lands are situated at one of the narrower points in the river parkway, being some 85 metres wide. In my opinion, having regard to the major encroachment in the present case that if the cross-application was granted, it may open a floodgate of violations in the future for those who received conveyances to Parts 2, 3,4,5 and 6 on Plan 4R3142 when they sell their property because the new owners, when and if they renovate or rebuild, would ignore the restrictive covenants and would use the granting of the cross-application to enforce their position.

Also, in Re Beardmore, [1935] O.R. 526 at p. 529, it is set out that the test is not merely one based on the balance of convenience that an order relieving a party from a restrictive covenant should not be made unless the benefit of the party seeking relief greatly exceeds any possible detriment to the beneficiaries of the restrictive covenant. In my view, this test has not been met in the present case.

Real Property

COVENANTS - Court of Appeal confirms rule that positive covenants registered on title do not run with the land and refuses to adopt methods developed in England to circumvent rule.

Appellant and respondents were registered owners of adjoining parcels of land. The two parcels were initially one parcel that was owned by a developer. The developer intended to build two high-rise condominium buildings on the parcel in two phases. The two buildings were to share certain recreational facilities that would be paid for by the owners in each building. In addition, each building would have easements over the land of the other for the purposes of support and access. Particulars of the various rights and obligations were set out in a reciprocal agreement between the developer and appellant, which was registered on title of both parcels. The agreement specifically provided that its provisions were to run with the lands. The first phase was completed and subsequently appellant condominium corporation was registered. The proposed shared facilities were located entirely on appellant’s land. The reciprocal agreement obligated the developer, as the owner of the second parcel, to pay a percentage of the cost of the shared facilities. The second phase was never completed. Respondents ultimately became the owners of the land. Respondent refused to continue to pay for the cost of the shared facilities. Appellant registered a caution and issued notice of sale proceedings in accordance with the reciprocal agreement. Respondents applied for an order setting aside the caution and for a declaration that they were not bound by the agreement. The applications judge discharged the caution and issued notice of sale proceedings in accordance with the reciprocal agreement.

HELD: appeal dismissed. It is well established law in Canada that positive covenants did not run with the land. While such a finding may at times cause inconvenience, any reform of that principle should be left to the legislature. Defendant was not, therefore, bound by the positive covenant to pay the interim expenses under the reciprocal agreement solely by virtue of having acquired the phase
two lands with notice of its terms. The issue then is, is defendant liable to pay the expenses under some other recognized legal principle? First, plaintiff places reliance on the doctrine of benefit and burden. However, this doctrine is not as wide or as settled in English law as plaintiff contends, and its adoption would similarly have ramifications that cannot be adequately addressed on a case-by-case basis. Secondly, plaintiff relies on the conditional grant of easement. The question of whether or not a provision in a conveyance is a conditional grant turns on the construction of the relevant instrument. Here, there was no link between the easements conferred under the agreement and the positive covenant to pay interim expenses so as to create a conditional grant.

**Durham Condominium Corporation No. 124 v. Amberwood Investments Limited, Ont. C.A., per Charron J.A. (Cronk J.A. concurring; reasons dissenting by MacPherson J.A.), Mar. 20.02. full Text Order No. 2201-020 (53 pp.)**

**HELD**: application denied. The court is satisfied that the original families did not turn their minds to their respective legal positions. There was consent for placing the boathouse. Thereafter, however, no one sought permission to enter the lands to use the boathouse, slips and deck. The owners of the lands used the boathouse, slip and deck since 1968.

There is no evidence as to the individual ownership of the boathouse - the evidence indicates that the three families owned the boathouse equally. Examining the necessary elements of adverse possession and prescriptive easements, the court finds that: (i) the neighbouring owners have absolute title by way of adverse possession of the lands lying under their respective boat slips, (ii) the neighbouring owners have a prescriptive easement over the walkways and docks for the purpose of accessing their boat slips, and over the roof of the boathouse and any walkways used to gain access to the roof. The court is not aware of any case in which a part of a building has been divided by way of adverse possession—but sees no reason why it is not legally possible. Finally, had the court found it necessary to resort to the principle that equity does not come to the aid of a litigant whose hands are not clean, the court would have refused to assist applicant given his conduct.


**ADVERSE POSSESSION - Easements - Use of boathouse and slips by neighbouring cottagers who were also family friends resulted in successful adverse possession and prescriptive easement claim - Court allows adverse possession claim for part of building.**

Three families, that were close friends, purchased land in 1960, subdivided same, and constructed three identical cottages. They also, on one of the lots, constructed a common boathouse with three boat slips. Each family used one designated boat slip. The roof of the boathouse was used as a deck by all three families. No agreement was entered into respecting the use of the boathouse or slips. Two of the properties were sold, and the new owners used the property in the same fashion as the original owners. In 1999, applicant became aware that one of the owners, G, wanted to sell her property. G advised applicant of the use of the boathouse by all three cottages, and the various walkways that were used to permit access to the boathouse and the other properties. Applicant agreed to purchase the property, and prior to closing obtained a survey which indicated that the boathouse was entirely on G’s property. He sought to have the property conveyed to him free of any encroachments by the neighbouring cottagers. G advised that applicant must purchase the property as described to him. Applicant purchased the property, and then sought to exclude his neighbours from using the boathouse or any walkway approaching the boathouse. He applied for a declaration that he owned the property as described in his survey free and clear from any encroachments.

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David Clifford Holmberg
ALS
April 6, 1930 — April 20, 2002

Dave passed away in Edmonton on April 20, 2002. He is survived by his wife Dora (Blood), daughter Susan (Gary) Trigg of Edmonton, son Robert (Faye) of Mississauga, and six grandchildren.

Dave was born in Edmonton where he attended elementary and high school, graduating from Victoria High School in 1948.

His first experience in land surveying was in the winter of 1950-51 when he served as a chainman under C.B.C. Donnelly, DLS on the survey of the north boundary of the province of Alberta. He worked the following two winters on that survey as transit man until the field work of the project was completed in February of 1953. During the summers of those years, he worked on survey parties with the Alberta Department of Highways.

Following completion of the boundary survey, Dave articled to C.W. Youngs, ALS and was registered on October 22, 1959 as number 253. He continued employment with the Department of Highways as District Surveyor, then Assistant Director of Surveys and ultimately as Director of the Property Services Division until his retirement in 1985.

During his career, Dave was active in the affairs of the Alberta Land Surveyors’ Association. He served on many committees and will be particularly remembered for his leadership and dedication to the objectives of the Examinations Committee. He served on Council from 1964 to 1969, was Vice President in 1967, and President in 1968. His contribution to the Association was recognized in 2001 when he was made an Honorary Life Member.

Dave was equally active in community affairs. His interests included golf, curling, football and skiing. He was one of the original members of the Belvedere Golf and Country Club and helped to do the initial survey of the course. For many years, he provided statistics for the Edmonton Eskimos Football Team. Dave’s son, Rob, was an avid downhill ski racer and rather than sit on the sidelines Dave became very active in the Alberta Division of the Canadian Ski Association and even officiated at alpine racing up to the World Cup level.

Another one of Dave’s passions was his property at Muriel Lake where he enjoyed time with his family, particularly his six grandchildren. True to his independent nature, he designed and built the cabin with the help of family and friends. Many goods times were had at the lake where he often reminisced about his adventures in the bush and the great memories he had as a surveyor. Many nights were spent at the lake with his grandchil- dren rolled up in sleeping bags looking through a transit learning how to chart the stars.

C.W. Youngs, ALS (HON. LIFE)
Dr. Michael Barry Appointed Faculty Member

The Department of Geomatics Engineering is pleased to announce that Dr. Michael Barry has been appointed in a faculty position in the area of Land Tenure and Geographic Information Science. Dr. Barry holds BSc. (Geomatics) and MBA degrees from the University of Cape Town and a PhD from the University of Natal, South Africa. Dr. Barry had ten years experience in private practice and local government prior to joining the Department of Geomatics at the University of Cape Town in 1991. He has broad working experience in engineering surveying, cadastral surveying, offshore engineering surveying, GIS and project management. He has worked as a surveyor in a number of countries including South Africa, Iraq, Indonesia and Zambia.

Dr. Barry is currently an Associate Professor in the Department of Geomatics at the University of Cape Town. His research interests include analyzing cadastral system during periods of uncertainty, especially in developing countries, and developing and testing geoinformation technology systems to improve land tenure security. He has published widely, internationally, and consulted to the southern African Development Community, the South African Government and the City of Cape Town on GIS education, land tenure, land registration, cadastral surveying and informal settlements. He has received a number of international travel awards and was recently Visiting Professor at the Delft University of Technology in the Netherlands.

Dr. Barry will arrive on campus in early fall.

Awards

Dr. Naser El-Sheimy has won both the Department and the Faculty Teaching Excellence Award for 2001/2002.

Dr. S. Skone has been awarded the International Association of Geodesy’s 2001 Young Authors Award for her paper on “The Impact of Magnetic Storms on GPS Receiver Performance,” published in the Journal of Geodesy.

Professor Caterina Valeo, who joined as a faculty member in 2000 was awarded an Establishment Grant from the Alberta Ingenuity Fund in the amount of $243,275. The award will fund research in support of sustainable forest resource management.

Mr. Yong Hu received the 2002 Altenhofen Memorial Scholarship by the Imaging and Geospatial Information Society (ASPRS). This scholarship is given annually to one outstanding graduate student in the area of photogrammetry.

The Department of Geomatics Engineering is pleased to announce that Cameron Ellum, Georgia Fotopoulos and Kyle O’Keefe, PhD candidates in the Department, have each been awarded an Izaak Walton Killam Memorial Scholarship. In addition, Ms. Fotopoulos has been awarded a Ralph Steinhauer Award of Distinction.

Dr. Naser El-Sheimy Becomes Associate Head (Undergraduate Studies)

The Head of the Department, Dr. Gerard Lachapelle, is pleased to announce the appointment of Dr. Naser El-Sheimy in the position of Associate Head (Undergraduate Studies) starting July 1, 2002. Dr. El-Sheimy replaces Dr. Michael Collins who is now Associate Dean (Student Affairs) in the Faculty of Engineering. Dr. Susan Skone will remain Associate Head (Graduate Studies).

Dr. El-Sheimy received a BSc in civil engineering from Ain-Shams University, Egypt in 1984, with specialization in surveying engineering, and a PhD in geomatics engineering from the University of Calgary in 1996.

Dr. El-Sheimy will also become Chair of the Geomatics Engineering Liaison Committee with the land survey associations.
Our Society has just held the best organized Annual General Meeting in our history. Mike Spencer and his crew must be congratulated for their all-out effort. It will become the standard to which all others will be compared.

On Friday, May 10th, 54 attended the 2002 AGM Opener at the Lethbridge Lodge Hotel. Displays and speakers were provided by the following organizations:
- Alberta Society of Surveying and Mapping Technologies
- Alberta Land Surveyors’ Association
- Lethbridge Community College Geomatics Department
- University of Lethbridge Geography Department (GIS Program)
- Geodesy Remote Sensing
- Alberta Construction Safety Association
- Butler Survey Supplies Ltd.
- Cansel Survey Equipment Ltd.
- Land Measurement Systems Inc.
- Leica Geosystems
- TNS Communications
- Alberta Environment

After a welcome from President Farley McKenzie, Bob Baker gave a fascinating report on our formative days. It took four years of effort until the ASSMT was created in 1970. The architects were Ted Rippon, Jack Holloway, Bill Wolley-Dod, Dave Usher, G.R. Howarth, Doug Barnett, Zenny Wydnycky and Bob Baker. It is interesting to note that the technicians who signed the application for registration under the Societies Act were Hans Krajewski, Harold Von Hollen, Garry Schirmacher, Gerald Maaskant and Henry Heidebrecht.

Roy Pominville, SLS, CLS of the Focus Corporation Ltd. gave a perspective on how the ASSMT can benefit their employers. The insights that our members gain from education, networking and participating in conferences are invaluable to the industry.

Jim Webber of the Western Irrigation District gave an illustrated history of irrigation in Southern Alberta. With the drought that we are experiencing, the WID becomes more important.

Ross Keating of the Canadian Hydro Developers spoke on alternative energy sources in the province. The wind power structures are incredible and were an highlight.

Rob Scott of the Lethbridge Community College Geomatics Department gave an overview of their Geomatics Engineering Technology program. This two year program allows graduates to obtain a degree from the University of Lethbridge in two years.

Lyall Pratt, ALS gave a presentation on the ALSA and the Systematic Practice Review. He showed us some interesting examples. A great lesson.

Bill Tremain of the Alberta Construction Safety Association completed the session with an explanation of the Certificate of Recognition. It certifies that a firm is aware of national safety standards.

The next event was the Duffer’s Delight Golf Scramble at the nine hole Evergreen Golf Centre organized by Bob Chambers, CST. Nine foursomes had a super time on a great day. The winners were Kevin Laiss, Janet Rose, Pat Gropp and Mike Gerlinski. Barry Bleay almost had a hole-in-one on the first hole. Everybody received their prizes at the Friday Night Social at Dooly’s, a pool emporium. There was a great buffet and a tricky quiz devised by Mike Spencer that had elements of surveying, sports and entertainment.

Eighteen members and three guests attended the 30th Annual General Meeting on Saturday, May 11th at the Lethbridge Lodge Hotel. President Farley McKenzie welcomed Brian Seitz and Bob Baker, and Paul Dixon. The morning was taken up with reports on the 2001-2002 year. In the afternoon, new business was conducted. Ken Caissie and Darryl Larson were elected as auditors for 2002-2003. The 2002-2003 Council is:

**President:** David Allen
**Vice-President:** Glen Erdely
**Past-President:** Farley McKenzie

**Councillors:**
- Dwight Adams, 1 year remaining
- Clint Johnson, 1 year remaining
- Wayne Latam, 2 years
- Joseph Liu, 2 years
- Ken Revoy, 1 year remaining
- Mike Spencer, 2 years

The proposed budget was adopted. Amendments to our bylaws in regards to borrowing, membership eligibility and amendments were passed by special resolution. Janet Rose, Chair of the Certification Review Committee presented further proposed amendments for consideration.

Presently, two Alberta Land Surveyors sit on the Certification Board and the Panel of Examiners and are the chairmen. The proposed amendments called for each body to select its own chair. These amendments were adopted by special resolution. A further proposal to remove the clause regarding submissions of any bylaw amendments to the ALSA was defeated.

Janet then proceeded to present the report of the Certification Review Committee. They have identified some deficiencies in the present system. Primarily, the applicant’s ability is not always accurately portrayed resulting in a lack of credibility in the eyes of employers and potential members. They propose that an applicant will receive a set of questions prepared by the ASSMT pertaining to their area of expertise which they will submit to an adjudicator for inspection at an interview prior to processing. The Committee plans on submitting a solid proposal for approval in one year with the goal of adoption in two years. The Committee received a mandate from the members.
The following volunteered to Chair various Committees:

- **Legislation:** open
- **Membership:** Ken Revoy
- **ASSMT/ALSA Public Relations:** Mike Spencer
- **Education/ALSA Professional Development:** Daryl Larson
- **ALSA Standards:** Janet Rose
- **Publication:** Farley McKenzie

The 2003 location for the AGM on May 2-3 will be Leduc/Nisku.

At our closing banquet on Saturday evening, Lyall Pratt presented a plaque on behalf of the ALSA to our retiring ALSA Liaison Henry Palindat which cited his efforts on bringing our two organizations closer together. Henry, unfortunately, could not attend but I am sure he will treasure it.

Words are not enough to express our thanks to Henry for his legacy of commitment.

We would like to thank the following companies that contributed to our AGM:

**Major Sponsors:** Baseline Geomatics (J.K. Smith), Brown Okamura and Associates Ltd., Martin Geomatic Consultants Ltd., Midwest Surveys Inc., Mike Spencer Geometrics, Stantec Geomatics Ltd.

**Co-Sponsors:** AMEC Infrastructure, EXH Engineering Services Ltd., MPE Engineering Ltd.


In closing, I really enjoyed attending the ALSA AGM on May 4th and especially the Awards Lunch. On behalf of the ASSMT, best wishes to the 2002-2003 ALSA Council, President Dave McWilliam and all the ALSA Staff as we begin another year.
J.H. Holloway Scholarship Foundation

March 1, 1997 — May 31, 2002
Sponsors have contributed $500 or more to the Foundation.

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Alberta Society of Surveying and Mapping Technologies
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Thank you for your generosity and support!