This will be my last article in ALS News as President of the Alberta Land Surveyors’ Association. I will certainly miss the intimate involvement that I have had over the last year, and I am also in a quandary over what I am going to do with all of my spare time! On behalf of Linda and myself, I would like to thank the membership for giving us this opportunity to network with our sister associations across Canada. It has been both consuming and rewarding.

At our upcoming AGM in Calgary, I will become past president and chairman of the Discipline Committee. Although this Committee is nothing new to me, having spent four years on it from 1989 to 1993, I have been reading the appropriate sections of our Act that outline the operations of discipline in our profession. This exercise indirectly has brought me to my topic for this article, namely “The Foundation of Self-Governing Professions.”

Alberta Land Surveyors have a history to be proud of. In fact, we were the sixth profession to be given self-governing status in Alberta, and remain one of only twenty-six in the province today. The expectations placed on our profession by the legislators of the day can be read in our founding document—the Alberta Land Surveyors Act of 1910, which I was able to find on the website www.ourfutureourpast.ca. In reviewing the Act, I found that it is amazingly similar to our Act of today. But as I leafed through the pages, I was struck by how the pertinence of the 1910 Act has not changed over almost 100 years. The essence of the Act of 1910 was the “protection of the interests of the public.” The ideals held high by our colleagues a century ago remain as our ideals today.

Just recently, the Government of Alberta developed a new policy that allows them to check into an employee’s background—undoubtedly the reaction to the breaches of trust that we have recently seen in the news. There are “positions of trust” in society, and the public deserves to rely on the assumption that people holding these positions are worthy of a higher level of trust—trust without question. I not only believe in that assumption but I also believe that self-governing professions fall into the category of “positions of trust.” In 1910, the “thread” of trust is wound throughout self-governing acts and was obviously intended to be the prime objective in the creation of all professions in Alberta.

To ensure that this prime objective is maintained, it was deemed to be necessary to have a discipline section in the Act. There may be many reasons why a member is disciplined, but contravention of legislated requirements and standards of practice, or not adhering to the Code of Ethics are the most common. But all reasons can be attributed to that member losing sight of the prime objective. It is when this compromise occurs, that the discipline process is activated.

Although discipline is not a very palatable circumstance to either the member subjected to it, or, for that matter, the remainder of the profession, I believe it is necessary in certain cases. It should be viewed by the public, as a sign that the profession is operating just as it should. Internally, however, it does not speak well of the member being disciplined, as his peers believe that he has placed the interests of the public secondary to something else.

Section 51 is the last section in the Act of 1910 and reads:

Any Alberta land surveyor who knowingly and willfully acts as a professional agent of any person not duly qualified to practise as a land surveyor or uses or suffers his name to be used in any such agency or does any act or thing or affords any means of facility tending to enable such unqualified person to practise in any respect as an Alberta land surveyor or which is calculated to, or does, or may mislead the public or anyone to believe that such unqualified person is authorized to practise as a land surveyor

shall be liable under section 39 of this Act to a charge of misconduct in the execution of the duties of his office and to discipline in addition to any liability which he may incur by such misconduct.

Allowing, or assisting an unqualified person to practice and thus subjecting the public to an inferior service and product, is a betrayal of the trust placed with our profession. I feel that a member who would commit this betrayal must have disdain for his peers and the public alike.

This section is no longer in our Act of today; however, it is captured in section 1.9 of our Code of Ethics. I

continued on page 18
Well we have come to the close of another Association year with the annual meeting approaching in April. I have had the privilege of being on Council for one term and, my, how quickly the time passes.

As I reflect on this past year, I ask myself what can I write to the membership that will be of the most value that I may be qualified to comment on. I thought I might comment on how I came to serve on Council.

When I was first approached by the Nominating Committee to let my name stand for Council, I gave the ultimate good rejection excuse. I stated to Mr. Pals, “are you kidding! I am a small business owner. I have no time!” Mr. Pals shared with me that he understood my situation, but that all the firms were busy at this time, and that he was receiving a similar response from most of the potential candidates for the Council position. I informed Mr Pals that if he could not get a candidate to fill the Council position, give me a call and I may rethink my position. Well, two weeks later I received a call from Mr. Pals and the rest is history.

My original response was wrong, for reasons that were not readily apparent at the time. Sitting on Council has turned out to be the best thing I could have done for my business. There are many reasons and I will take the opportunity to mention a couple.

In 1991, when I sat on Council, one of the major agenda items was developing a strategic plan for the Association. It was an expensive undertaking in terms of time and resources. Twelve years later, while sitting on Council for a second time, I am amazed at how well the strategic plan has worked for the Association.

We identified, back in the early 90s, that the members of our Association are highly skilled in the land surveying profession and stayed well informed with the Association’s business of the day. One of the goals of the day was to harness the skills of the members by reviewing committee structures and terms of reference. The effect on empowering the committees was to free up Council to focus on the overall business of the Association.

For example, I sit on the Legislation Ad Hoc Committee as Council Liaison. The strategic plan is working just like the original writers of the plan had envisioned—or maybe even better. With the implementation of easily accessible tele-conferencing, members from far-off corners of the province can fully participate on the committees with less of an impact on their day-to-day business operations because of traveling.

...I am so impressed by the successful results I witness within the Association, that I have gone to an outside consultant this year to get a scaled-down version of a strategic plan for my business. I am betting it will not take twelve years to get a return on my investment.

A second reason members may want to consider letting their name stand within the Association is to associate with other land surveyors, in dealing with the issues of the day. The process itself is a great contributor to the continuing of our education within this profession.

This year, when an opportunity is presented to you to actively participate on Council or committees, step up to the plate and say, “I’m in.” The experience will enhance your business and professional life in some way not known to you at this time. That is a promise.
If the survey business was more like professional sports just think of the endorsement deals we could get. Survey supply firms would be giving our professional surveyors free equipment.

United States. We would invite the media and as each firm/team calls out their draft selection, they would come up to the podium and put on the survey firm’s officially licensed baseball cap and jersey.

Speaking of jerseys, each survey firm would have its own distinct logo and colour scheme. We could put the staff member’s name and number on the back of their jersey. This would certainly help landowners who want to know which survey firm is looking for an iron post on their lot. By looking at the jersey, they could call the survey company and tell them, “#10, Smith was on my property.”

The survey firm could then talk to Smith and give him a two-minute penalty for not looking for wooden posts. If Smith objects, he might end up with a ten-minute unsportsmanlike conduct penalty and be thrown out of the game.

In urban areas, the public is often quite interested in what a survey crew is doing and watches them intently. If the survey business was like this sporting world, we could now charge them admission. If they were really keen, they could get seasons tickets and, who knows, someone might even start up a fan-club website.

If that doesn’t work, we could set up a betting system for surveyors. For 2003, the over-under for the total number of iron posts sold is 175,000. What’s your bet?

I think this could really work. What could possibly go wrong? Of

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March 2003

by Brian Munday, Executive Director

Well, here it is Saturday night and, like any good Canadian, I am settling down in front of the TV to watch Hockey Night in Canada. Watching hockey games in the winter (and now the summer) on a Saturday night is something that many of us have done for years and years. It is a tradition that I am now teaching my son.

This Saturday is a little different. No, not just because both the Flames and Oilers will win tonight, but because I have some ALSA paperwork that I must read. I decide to put it aside for a little while (there is always Sunday after all) and my mind starts to wander during this tight-checking contest that makes up the first period of the first game in this Saturday night double-header.

And then I think to myself, wouldn’t it be great if the survey business was more like professional sports. Yes, I think it has potential. It could be a lot of fun. Just imagine.

If the survey business was more like professional sports, just think of the endorsement deals we could get. Survey supply firms would be giving our professional surveyors free equipment. Just as CCM or Bauer give professional hockey players sticks and skates to use in exchange for an endorsement, the same could be done in surveying. Imagine new surveyors using the same total station that President Dave McWilliam uses. Or how about the Vice President Halliday GPS unit with his name on it? Just as pro hockey players have their names on their sticks, we could put the surveyors’ names on the tripod legs.

Think about this for moment. Instead of wondering who won the bid on a job, we could publish the scores in the newspaper. The headline might read, “Challenger Geomatics earns victory in close contest.” We could publish the standings in the newspaper. It would show each survey firm and the number of jobs they won, the number of jobs they lost and the equivalent of goals for and against. This way, there wouldn’t be any secrets. Everyone knows where they stand.

After working for a firm for a period of time, a surveyor could declare himself a free agent and then negotiate with several teams/firms for his services. Yes, it is true that we might see surveyors’ salaries rise to an average of more than a million dollars a year, but surveyors are worth it aren’t they? What surveyor wouldn’t want to sign a guaranteed $30 million – four year contract, with many other perks such as equipment support staff to haul all of your total stations and iron posts and marker posts into the field.

Of course, if we allow free agency into the survey world, we would have to allow trades. I can see the day when two survey firms get together in a hotel bar and one makes an offer to the other, “I’ll trade you your party chief and instrument person for my CAD operator and future considerations.” Why not? We already see survey technologists move from one company to another.

To make things fair, we would have to set up a system to draft players out of university and college. The team/firm that won the fewest number of jobs in the previous year would have his first choice of University of Calgary Geomatics Engineering graduates. We would, of course, have to make provisions for students who want to enter the draft early after their third year of studies. But this is common for college basketball and football players in the

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course, if we were going to do this, we would have to make sure that we choose the right sport. Rodeo is appealing. A professional cowboy can earn as much as $50,000 for eight seconds of work. Eight seconds of work sounds pretty good but it can be awfully dangerous and cowboys have to pay their own entrance fees. In steer wrestling, a cowboy jumps off his horse at roughly sixty kilometres an hour and wrestles a steer to the ground. The cowboy who does it fastest, wins. I don’t think we would really want a party chief jumping out of his truck at sixty kilometres an hour and winning the competition by setting up over the point in the fastest time. Somehow, I don’t think it would work.

Curling is a much more gentle game. It’s all about weight and distances and angles. These are things that surveyors can understand. However, I have a difficult time imagining the party chief yelling to his assistant, “hurry hard” as the assistant goes to set up on the next point.

Perhaps surveying could be more like professional football. Surveyors are already used to wearing helmets and other equipment to protect themselves for safety reasons. This has potential. Instead of using a chain to mark ten yards for another first down, the surveyor could introduce the latest in survey technology to count off ten yards. But, of course, it would then be ten metres instead of ten yards for a first down. There are even more similarities. Just as fans yell at the football referee for marking the ball in the wrong spot and denying the team a first down, the landowners could boo the surveyor for putting the iron post in the wrong spot.

Yes, I think this could work. All of us might be better off if surveying was a little more like the sporting world. There would be fans and free agents and trades and cheers and theme songs and jerseys and championship trophies. We might even see a coach or a manager get fired just like we do in the sports world. Uh, wait a moment. Wait just a second. Maybe this isn’t such a good idea after all. I think this is a horrible idea. Forget I said anything.

See all of you at the AGM in Calgary. I should have my tongue extracted from my cheek by then.

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About the Cover

*Historical Treasures of the Hyatt Regency Calgary*

The Lineham Block
Although its origin is clouded in uncertainty because records for the period are incomplete, some historians contend that the Lineham Block was built in 1886 as a two-storey rough sandstone building. An additional two storeys were added to the original structure in 1907 and that date graces the current facade. The first tenants of this building were the Imperial Bank of Canada which also occupied the neighbouring structure. The current structure houses the Hyatt’s impressive atrium lobby with pillars stretching 65 feet toward the ceiling. The building is full of natural light, inviting colours, warmth, and character - the centrepiece of the Hyatt Regency Calgary’s design.

The Thomson Brothers Block
One of Calgary’s earliest sandstone buildings houses Thomsom Restaurant on the first floor, several boutiques and office space on the second floor, and the Nielson meeting rooms with their rounded-arched windows located on the third floor. Built in 1893 by Melville Patrick and James Arthur Thomson, this building originally housed the brothers’ bookstore. Sons of a Presbyterian Minister, the brothers served as apprentices in a congregation member’s bookshop in Ontario. They moved to the West following their father’s death and opened their first bookshop in Portage la Prairie before opening another one in Calgary in 1884. The Thomsons continued their expansion westward with another shop that was opened in 1900. Their Calgary store was later taken over by another entrepreneur. The Thomson Brothers Block was named a provincial historic resource in 1981.

The Imperial Bank of Canada
Another of Calgary’s sandstone treasures, the Imperial Bank Building forms the western wall of the atrium lobby. The first building on this site was built of wood by I.G. Baker & Co. and the North West Mounted Police, serving as a supply outfitter. A stone building replaced it following a fire in 1886 and the building was later sold to the Imperial Bank of Canada. In 1909, the facade was renovated to lend an air of sophistication to the thriving business. In 1977, the Imperial Bank Building was designated a provincial historic resource. The building has been completely renovated, its foundations and sandstone exterior strengthened, to prepare it for use by future tenants.
PRB Interpretation Feedback

Re: Road Widening Surveys
As discussed with Clayton Bruce today, in my experience (since 1958) if a bearing is not shown between the monu-
ment and the re-established section or quarter sector corner, it was assumed a perpendicular offset from the
section line was utilized. I believe the last paragraph of the
commentary should read: “On road widening plans that do
not show bearings to monuments on the section line being
paralleled, the practitioner would be justified in assuming
that a perpendicular offset was utilized.”

MURRAY INGALLS, ALS

The Practice Review Board would like to thank you for
your comments regarding the assumption a perpendicular
offset from the section line was utilized if a bearing was
not shown between the monument and the re-established
section or quarter section corner, which were presented to
the Board by Mr. Bruce.

During discussion of your comments, the Board re-
viewed the information used in the development of this
interpretation and it was thought that you may find it of
interest.

Report of Proceedings—
Morning Session, January 20, 1959
On motion of Mr. Youngs, seconded by Mr. Olsen, the
report of the Committee on Practice was adopted and it
was agreed that the rules of practice set out therein be
endorsed as standard procedures.

Good Practice Resolution #3
It shall be considered good practice, in the surveying of
roads or other rights of way which run parallel and/or
adjacent to established road allowances, to proceed as
follows:
a) If the limit of the right of way being posted is more than
66 feet from the posted boundary of the road allowance,
then it shall be necessary to make an actual intersection
with each surveyed line crossed.
b) Where the limit of the right of way is 66 feet or less
from the surveyed section line, said intersection may be
made by offsets at township plan angles from the
section line being paralleled and a note to this effect
shall be placed in the legend of the plan of survey.

While no change is planned for the Interpretation, the
Practice Review Board is always open to comments from
the membership and is thankful for your input.

JOHN VAN BERKEL, ALS
CHAIRMAN, PRACTICE REVIEW BOARD

....continued on page 13
Further to my comments and the Chairman’s reply, I believe the last paragraph of the commentary should read: “For all road-widening plans, including those surveyed to 1959, when Good Practice Resolution #3(b) stated ‘where the limit of the right of way is 66 feet or less from the surveyed section line, said intersection may be made by offsets at township plan angles from the section line being paralleled and a note to this effect shall be placed in the legend of the plan of survey,’ a practitioner would be justified in assuming that a perpendicular offset was utilized, if not otherwise stated in the legend of the plan.

This knowledge was gained from my experience in surveying road-widenings since 1958.

MURRAY INGALLS, ALS

Millennium Statue Unveiling

David Thompson—Charlotte Small

Millennium Statue Unveiling

Friday, July 18, 2003

Over two years ago, we initiated a project to commemorate the memory of David Thompson, “the Canadian Mapmaker.” Our objective was to erect a bronze, heroic sized statue of David Thompson, the explorer and surveyor for the Northwest Company, and his Metis wife of 49 years, Charlotte Small, who resided in this area for two years, from 1807-08, during the course of his exploration of the Columbia River.

The project was fully funded through a broad spectrum of generous donations for the statute to Rich Roenisch of Longview, Alberta in the spring of 2002. Rich is well known for his bronzes in western Canada and the western US and has superbly captured the essence and spirit of this remarkable surveyor and explorer. Casting has commenced on the two figures at a foundry in Kalispell, Montana and we expect that the statue will be completed some time in May.

The gala unveiling event is scheduled for Friday, July 18th in Invermere, the anniversary of Thompson’s arrival in this area in 1807, and we would very much like to have you or a representative of the Society in attendance. We want to publicly acknowledge your Association’s support of the project and have you join in the celebration of the memory of David Thompson and his life-long wife and partner, Charlotte Small.

We are in the process of organizing the event and, although all of the details are not finalized, we have scheduled a reception and dinner on the evening of July 18th following the unveiling. Jack Nisbett, author of “Sources of the River” has agreed to speak at this event and we hope to entice other “David Thomson” devotees to attend. We are also inviting a number of dignitaries including the Lieutenant-Governor of the Province of British Columbia. The evening will also include a musical tribute to Thompson and the Columbia River.

Invermere is located three hours south west of Calgary, however, it is also possible to fly into Cranbrook on Air Canada via Calgary. We are about an hour and a half north of the airport. There is a large selection of accommodation in the area, although it is a very popular summer destination so we want to secure accommodation for our guests well in advance.

CAMERON BERRY
WINDEREMERE DISTRICT HISTORICAL SOCIETY
E-MAIL: ELCAMBER@ROCKIES.NET
TELEPHONE: (250) 342-9436

MLA Night

On behalf of the Government Caucus, I would like to extend a sincere thank you for hosting the Government MLA Reception held on February 26, 2003 at the Royal Glenora Club.

After speaking to a number of my colleagues who attended, I am delighted to say they were very pleased. The Government Caucus looks forward to a continuation of our positive relationship with the Alberta Land Surveyors’ Association.

CAROL HALEY, MLA
AIRDRIE-ROCKY VIEW CONSTITUENCY GOVERNMENT CAUCUS WHIP

Happy New Year

By the time this epistle reaches you it will be 2003 so Happy New Year to you all (American influence).

Most pleased to receive your computer generated Christmas card—signed by you all. Much warmer than a typed signature from the Association.

What with computers and digital cameras, et al, I have one more suggestion I respectfully submit. Whereas the general body of the Association only comes in contact with a few of your staff at general meetings and most, if not all, contact between you and them is over the phone, how about a picture as well as a signature on your Christmas card? It would be nice to put a face with the voice on the phone. Just a thought.

Also, most pleased with the “beaver” dissertation in ALS News. It added a much needed note of humour.

Also, I have always had a soft spot in my heart for beavers.

J.C. HORN, ALS (RET.)

Scholarships

Thank you for your ongoing support of advanced education at SAIT. It is my pleasure to inform you that the Alberta Land Surveyors’ Association Award for 2002/2003 valued at $1,250 has been presented to Matthew Harris, a student of the Geomatics Engineering Technology program.

We at SAIT are fortunate to see the impact your award has on students; knowing the assistance you provide to our students helps them to obtain their present and future goals. You are a vital link to the success of SAIT and we truly appreciate your involvement.

MARIE HOLDER
STUDENT AWARDS COORDINATOR

I would like to take this opportunity to thank the ALSA for the SAIT scholarship for 2003.

I am a twenty-four year old from Penticton, BC. Due, in part, to the softwood lumber situation, I have
been forced into a new field.

Surveying was a logical choice for me because of my love of the outdoors and a little exposure to mapping grade GPS work in the forestry industry.

Winning this award is an honour and it will definitely come in handy for my final semester at SAIT.

Once again, thank you very much.

MATT HARRIS

It is my pleasure to inform you of the 2002/03 recipient of the award you have generously contributed to the University of Lethbridge. The students and the University of Lethbridge community benefit from your support and encouragement to pursue a university education. On behalf of the Student Awards Committee and the University community, thank you for your generous gift, which makes this award possible.

The 2002 recipient of the Geographical Information Science Scholarship is Jonina Millis. Ms. Millis is enrolled in the Bachelor of Arts program with a major in Geography—Co-op.

REBECCA LORE, COORDINATOR SCHOLARSHIPS AND STUDENT FINANCE

It is with pleasure that the Student Awards Office announces the recipient of the Alberta Land Surveyors’ Association Scholarship as nominated by the Geomatics Engineering Technology program at NAIT.

The selected candidate for the 2002-2003 academic year is Jade Van Peteghen. Ms. Van Peteghen is a second year student in the Geomatics Engineering Technology program. She completed her first year with an Honours standing.

BONNIE MEGLEY
STUDENTS AWARDS ADMINISTRATOR

Thank you so much for your generous award! It helps a lot with the expenses while I am attending NAIT. I am looking forward to graduating and going to work out in the field.

Thank you!

JADE VAN PETEGHEN

Geomatics Information for Prospective Students

The primary reason for this memo is to promote awareness about NAIT’s articulation agreement with the University of Lethbridge. Students who complete a NAIT Geomatics Engineering Technology Diploma and have an equivalent grade point average of 2.5 or higher on the University of Lethbridge 4.0 scale are eligible to transfer directly into the third year of their post-diploma B.Sc. Degree in Geography with a concentration in GIS (Geographic Information Systems). The University of Lethbridge also has a co-op program.

This is a great opportunity to obtain a degree and apply two full years of NAIT course work towards it! The student potentially has an opportunity to obtain a NAIT diploma and a degree in four years.

ALLAN THERIAULT, PROGRAM HEAD GEOMATICS ENGINEERING TECHNOLOGY, NAIT
Changes to the Register

Abbey, Jay: new e-mail address—jaya@midwestsurveys.com.

Dick, Bassil, ALS (Ret.) has joined the ALSA as Registrar.

Beairsto Stewart Weir Engineering Ltd. has changed its name to Beairsto Lehners and Ketchum Engineering Ltd.

Bruce Beairsto, ALS: new e-mail address - bruceb@blkeng.com.

Scott Brooks, ALS: correct e-mail address is sbrooks@crape.com.

Fred Cheng: has resigned from UMA Engineering Ltd. in Calgary effective February 28, 2003.

The Cadastral Group Inc. url website has been changed to www.cadastralgroup.ca. All of the company ALS e-mail addresses have also been updated to reflect the change. Cadastral.org is still active but will be phased out over time.

Cridland & Associates Ltd. closed its Fort McMurray branch office on December 31, 2002. The firm has also become part of Midwest Surveys Inc. effective March 1, 2003. Cridland & Associates, under the direction of Lloyd Cridland, will continue to operate until at least May 1, 2003 in order to wrap up business. All other staff will move to the offices of Midwest Surveys Inc. in Calgary.

Brian Dixon, ALS is operating as a sole practitioner at 8309 - 160 Street, Edmonton T5R 2H2; e-mail - bdixon@telus.net.

Paul Ellegood, ALS: e-mail address - nicjac@shaw.ca.

Don Jaques: e-mail address is now donjaques@shaw.ca.

Kinloch Underwood & Associates Ltd.: new e-mail address - kinloch@telus.net.

John Lehners, ALS: new e-mail address - johnl@blkeng.com.

David McArthur, ALS has left All West Surveys Ltd. effective January 20, 2003. He is now with AMEC Land Surveys Limited. Direct phone (cell):

(780) 886-7014; e-mail: david.j.mcarthur@amec.com.

Al Nelson is now at the Edmonton office of Stewart, Weir & Co. Ltd.

Jason Paziuk is currently employed with All West Surveys Ltd. in Grande Prairie.

Stewart, Weir & Co. Ltd. in Calgary have moved to #208, 1610 - 37 Street SW, Westbrook Professional Building T3C 3P1. Phone and fax numbers remain the same.

Terre-Alta Corp. is located at 84 Rockyleedge Crescent NW, Calgary T3G 5M9; Tel: (403) 540-5878; Fax: (403) 269-58171; E-mail: richardschlachter@telus.net.

David Thomas: new e-mail address - david.thomas@canam.com.

Darryl Tronnes, ALS: new e-mail - darrylt@tronnessurveys.com.

Jim VanDam, ALS is not currently practicing at The Focus Corporation Ltd. He can be reached at 6 Redwood Crescent SE, Medicine Hat T1B 3Z4. Jim’s e-mail address is jimvandam@monarch.net.

John West, ALS has a new (vineyard) address: RR 1 S32 C5, Oliver, BC V0H 1T0; Tel: (250) 498-6026; Fax: (250) 498-6022; E-mail: jrwest@cablerocket.com.

Paul Westersund is practicing as a sole practitioner effective February 21, 2003. His contact information is: Suite 130, 2726 - 45 Avenue, SE, Calgary T2B 3M1; Tel: (403) 640-2929; Fax: (403) 640-2928; E-mail: paul@wsinc.ca.

Dwight Wiberg, ALS is now at the Edmonton branch of the Focus Corporation Ltd.

New Affiliate Members:

Ravi Shrivastava AF016 - 2003.02.05
640 - 3 Street East
Saskatoon, SK S7H 1M1

Scott Dufour AF018 - 2003.03.05
McElhanney Land Surveys (Alta.) Ltd., 450, 999 - 8th Street, Calgary, AB T2R 1J5

Don Hanson AF017 - 2003.02.05
McElhanney Land Surveys (Alta.) Ltd., 5704 - 44 ST SUITE 116 Lloydminster, AB T9V 2A1
New Members

#694 PAZIUK, Jason R.

Jason Paziuk was born in Prince Rupert, BC on December 24, 1970. He graduated from Grande Prairie Composite High School in 1988 and went on to receive a B.Sc. in Geomatics Engineering from the University of Calgary in 2000.

Greg Stromsmoe, ALS served as principal from June 2000 until Jason received his ALS commission on December 18, 2002.

Jason is also an Engineer in Training with APEGGA and serves on the Standards Committee of the ALSA.

Jason’s surveying experience began in 1988 with Alberta Transportation and Utilities. Jason acquired several years experience with oil and gas surveys, including two years of project management on large-scale shallow gas recovery projects. He is currently employed with The Focus Corporation Ltd.

Recreational activities include mountain biking, downhill skiing, squash and golfing.

#695 THISTLE, Jason O.

Summerside, PEI is the birthplace of Jason Thistle. He was born on August 16, 1972 and graduated from Middleton Regional High School in Nova Scotia in 1991. He graduated from the College of Geographic Sciences in 1993 and went on to receive a B.Sc. in Engineering from the University of New Brunswick in 1997.

Articles were served under Tony Melton, ALS and Don MacNeil, ALS from January 1999 until he received his commission on January 21, 2003.

Jason worked in the oil and gas field from 1997 to 1998 with SESL Geomatics and from 1998 to the present with All West Surveys Ltd.

Jason enjoys golf, hockey and camping and lives with his wife Melanie and daughter Emma in Calgary.

NOTICE
Public Land Disposition Plans
Alberta Sustainable Resource Development

Effective June 2, 2003, all disposition sketch plans submitted to the department will require proposed approximate bearings and distances relative to the survey fabric and all intervening courses for the entire activity.

#696 PARTRIDGE, S. Scott

Scott Partridge was born in Toronto on October 28, 1954. He graduated from Harry Ainlay Composite High School in Edmonton in 1971. Scott attended NAIT in 1972, spent some time at the University of Alberta and graduated from the University of Calgary in 1985 with a B.Sc. in Surveying Engineering.

Alberta Land Surveyors Blaine Benson, Paul Ellegood and John Matthyssen served as Scott’s principals from 1996 until he received his commission on January 21, 2003. The topic of the technical report submitted as part of the qualifying examination was titled “An Assessment of Evidence Concerning the North Boundary of Section 11 Township 41 Range 28 West of the 4th Meridian.”

Scott also holds a designation as a professional engineer with APEGGA. He serves on the ALSA Public Relations Committee.

Scott worked in a wide variety of surveying activities including legal, oil and gas and municipal engineering. He also has experience in CAD and GIS management and GPS application and software development.

Scott is an Oilers fan who lives in Calgary with his wife Dyane and their two children Morgan and Connor. He also enjoys camping with his family and losing at playing video games with his children.

Have you booked your hotel room for the AGM in April??
nominees
council

Jim
Halliday
(Calgary)

Ross
Woolgar
(Calgary)

Les
Frederick
(Edmonton)

Dave
Higgins
(Spruce Grove)

Dirk
VandenBrink
(Edmonton)

Vince
Ziegler
(Edmonton)

For President:

J.G. (James) Halliday, ALS
- Born in Shoal Lake, Manitoba.
- Employed with Midwest Surveys Inc. since 1973.
- Obtained ALS, Commission No. 479 in July 1978.
- Served on Convention and Social Committee for four years including chair for one year.
- Served on Practice Review Board for four years including chair for one year.
- Member of Council for Condominium Association.
- Served as member of ALSA Council 2000-2002.
- Served as Council Liaison to Professional Development Committee, ASSMT, and Section 9 Ad Hoc Committee.
- Married to Joanne and have three adult children; Jennifer, Jacalyn, and Joel.

For Vice-President:

N.R. (Ross) Woolgar, ALS
- Born in Moose Jaw, Saskatchewan—1943.
- Graduated from the Southern Alberta Institute of Technology (SAIT), Diploma in Survey Technology—1967.
- Articled with W.E. Turner and R. Fulton
- Received ALS commission—1976.
- After SAIT, employed by Midwest Surveys, Walker Newby and Strong Lamb & Nelson.
- Belonged to Toastmasters organization for several years.
- Presently employed with Challenger Geomatics as a Project Manager.
- Started participating in Association affairs as Southern Regional Chairman in the late seventies. Also served on the Legislative and Planning committees.
- Former chairman of the Public Relations Committee.
- Served as member of ALSA Council 2001-2003.
- Served as Council Liaison to Public Relations, RPR and Standards committees.

For Council:

L.J. (Les) Frederick, ALS
- Born in Cleveland, Ohio.
- Graduated from University of Toronto, Survey Science program in 1981.
- Moved to Alberta in 1981.
- Articles served under John Wallace, ALS.
- Received ALS commission in January 1999.
- Vice chairman of the Historical and Biographical Committee 1998-present.
- Resides in Sherwood Park with wife Marie, and three children Colin, Jonathan, and Heather.
D.B. (Dave) Higgins, ALS
- Born in Sudbury, Ontario in 1948.
- Raised in Ontario, British Columbia, Texas, Manitoba, New Brunswick and Alberta.
- Graduated with diploma in Surveying Technology from SAIT in 1969.
- Received ALS Commission in 1975.
- Member of various committees of the ALSA from 1975.
- Obtained private pilot’s licence in 1979.
- Member of two oldtimer hockey clubs since 1974.
- Minor hockey coach for four years.
- Former member of the Spruce Grove Municipal Planning Commission and the Spruce Grove Development Appeal Board.
- Former Spruce Grove Venture advisor, scout and cub leader.
- Married to Elaine and has new daughter Melanie Taylor born in December 2002.

D.H. (Dirk) VandenBrink, ALS
- Born in 1957 at Regina, Saskatchewan and raised in Rocky Mountain House, Alberta.
- Began surveying as a summer job in 1976 with Snell & Oslund Surveys in Red Deer.
- Graduated from the University of Calgary with a B.Sc. in Surveying Engineering in 1981.
- Articled to Ralph Bunting ALS and received Alberta Land Surveyor commission in 1985.
- Received Professional Engineer status from APEGGA in 1984.
- President of Snell & Oslund Surveys (1979) Ltd. since 1989.
- Active member of ALSA having served on several committees since 1985.
- Served as a member of the Practice Review Board from 1998 to 2002, including one year as chairman.
- Active in local boys and girls competitive softball including coach of a girls softball team from 1995 to present.
- Hobbies include hockey, motorcycles, camping and farming.
- Resides near Innisfail with his wife Judy, two sons Chad and Kyle, and one daughter Nicole.

V.A. (Vince) Ziegler, ALS
- Born in Calgary, Alberta 1952.
- Graduated from Southern Alberta Institute of Technology, Diploma in Survey Technology 1972.
- Graduated from Southern Alberta Institute of Technology, Diploma in Survey (Photogrammetry) Technology in 1976.
- Articled to G.H. DeWitt, ALS and A.D. Hosford, ALS.
- Received ALS Commission in 1978.
- Previously employed with Clark, Swanby & Associates; Wolley-Dod & MacCrimmon; North West Survey Group, Hosford, Impye, Welter & Associates; Alberta Transportation, Property Services Branch; AGRA Land Surveys; Challenger Survey & Services.
- Presently a partner in Baseline Geomatics in Drayton Valley.
- Past member and chairman of the Professional Development Committee.
- Past member and chairman of the Standards Committee.
- Hobbies include curling, photography and wood working.

Elections take place at the AGM on April 26, 2003 at 9:00 a.m.

President’s Message
continued from page 5
find it ironic that the essence of the above section has been with us since our birth, and yet its contravention is the root of the recent discipline cases that our Association has gone through.
Our Code of Ethics is a doctrine of what we believe, as a collective profession, that adherence to, is characteristic of being a professional, and contravention of, deserves discipline. Within section 35(1) of our current Act, we clearly address the importance that we place on our Code of Ethics as its contravention is listed as one of the specific reasons for discipline.
The apparent rigidity of discipline is softened somewhat by the operation of society, as discipline is usually only activated as a last resort. After all, we are only human and, as such, we err. It is usually not the fact that we have erred that causes someone to be disciplined by his peers. More often, it is how we react to the problem at hand. If we truly and innocently have only erred, we will be eager to address the problem in order to rectify the situation. Whether the reason for discipline is unprofessional conduct or unskilled practice, the effect on the public is the same, for they are not receiving the elevated level of trust that they deserve.
“Protection of the public” is our most basic cornerstone and we must hold it above all else, for it alone is the foundation of self-governing professions.
I sincerely hope that I have no need to activate the discipline provisions of our Act while I am chairman of the Discipline Committee. Although I said previously, that discipline action should be viewed as “the profession working as it should,” I also believe that having no discipline also indicates a strong and healthy profession that has not lost sight of its prime objective.
See you in Calgary!
BUSH or PRAIRIE?
by David Marquardt, ALS

In Case Study No. 14 in the December 2002 issue of ALS News, the Director of Practice Review brings up a few key considerations when assessing and re-establishing section and quarter section corners from pits and/or mound configurations, according to Bulletin 38, (assuming no trace of a wooden post or rust hole is found).

When finding an iron post and a full or partial pit and mound configuration, he indicates the first question to ask is, is the post original or not? The second question to ask is, is it in its original position? A third question might be, if there is no post or trace of it, where was it as opposed to where should it be?

Knowing a thing or two about past history and Bulletin 38, I thought there might be some regulation, instruction, or at least a rule-of-thumb that the good ole boys followed when determining what configuration of monument to place in those transition areas, between bush and prairie. After all, with all the records of Thompson, Hearne, Henday, Palliser, and others, they knew what they were up against, as far as what type of terrain to expect. Not necessarily so.

A few scenarios are fairly straightforward. Let’s say you are somewhere south of Oyen, in a township surveyed in 1883, and find a rusted, but solid iron post marked correctly, in the center of four good but fading pits, and a very old fence line heading west. Couple that with the fact that the seventy-five year old landowner is with you relating every detail of when his family homesteaded the place and he remembers helping replace or erect the fence. I hope one place and he remembers helping.

When assessing and re-establishing section and quarter section corners from pits and/or mound configurations, according to Bulletin 38, (assuming no trace of a wooden post or rust hole is found).

As I perused through copies of old township plans, this transition area varies in width from 6 to 18 miles or more, and goes in an arc from the US border up along the east side of the Porcupine Hills, around Turner Valley and Bragg Creek, to just east of Cremona, to just west of Innisfail, to a point north and west of Camrose, and then turning north east to around township 51 ranges 8 & 9, just west of Vermillion. From there, to a point just north of Winnipeg, anything south and east of that rough area was prairie and was indicated as such on the original field notes and the original township plan. I say original, in this case, referring to the township plan, because in some succeeding editions, some of the original topographical notes and line work of the first editions have been left out. It is interesting to note a few incidentals on this rather subtle transition from prairie to bush. The buffalo, which were primarily grass and shrub feeders, did their unique part to keep this area fairly well-defined from a topographical perspective.

As I perused through copies of old township plans, this transition area varies in width from 6 to 18 miles or more, and goes in an arc from the US border up along the east side of the Porcupine Hills, around Turner Valley and Bragg Creek, to just east of Cremona, to just west of Innisfail, to a point north and west of Camrose, and then turning north east to around township 51 ranges 8 & 9, just west of Vermillion. From there, to a point just north of Winnipeg, anything south and east of that rough area was prairie and was indicated as such on the original field notes and the original township plan. I say original, in this case, referring to the township plan, because in some succeeding editions, some of the original topographical notes and line work of the first editions have been left out. It is interesting to note a few incidentals on this rather subtle transition from prairie to bush. The buffalo, which were primarily grass and shrub feeders, did their unique part to keep this area fairly well-defined from a topographical perspective.

So now that we know that, and upon only finding say two pits (no trace of wood or rust hole), at a corner, can we say for sure where the post was? Some areas perhaps yes; some areas I would say no, definitely not. The difference between the position of the post in a bush monument configuration and one in a prairie configuration, according to Bulletin 38, is that the bush post is about 3.5 feet, or 1.07 metres, north of the centre of the four pits on the north side of the mound. The prairie one would be in the centre of the mound and pits. When I looked at the township plans for the transition area I have described, a few things stand out. The topographical descriptions are amazingly consistent and, secondly, the majority of the township/range blocks I looked at had no less than five survey dates between 1881 and 1917, (all were partially surveyed in 1883), and no less than 6 DLSs or DTSs were involved in that particular survey.

Knowing this, is it reasonable to expect to find both bush and prairie monument configurations in the same area? Not only reasonable, unfortunately, but a reality. Many of my colleagues have found what I have found: a prairie monument configuration in an area you would think was bush, and vice-versa. Another reason for this is the fact that many field surveyors didn’t get updated instructions from Ottawa on a regular, and timely basis. (Perhaps one can appreciate cell phones and emails a little more.) Consider this as well. During the record-setting year of land surveying in Western Canada, 1883, a total of 119 crews were in the field on township survey projects. I am not sure if there was one DLS per crew, I suspect a few DLSs operated a series of crews within their project area, and conferred their instructions to the mounders who were the persons who actually did the pits and mound configurations and set the monuments. They (the DLSs and the various survey crews) were not a well-connected bunch. Telegraph lines didn’t reach Alberta until the 1880s or so and were not usually that
reliable until later. Most surveyors usually accompanied their field returns back to Ottawa via Winnipeg and the northern USA/Chicago, into the mid-1880s as the Lake Superior section of the CPR was not completed until mid-1885, and it was unusual for them to do that more than once a year. Thus, when monumentation configurations changed, some field surveyors spent a whole season or more erecting older configurations, in places where new ones should have been.

Referring to the year of 1883, in which the majority of the surveyed portion of Alberta was completed, then Surveyor General Edward Deville was quoted as saying, a couple of years later when issuing contracts for resurveys due to sub-standard work, “...and it was surveyed within a year, but it was not surveyed with the degree of accuracy that we are used to today...anyway it was done.”

So in transition areas, how do we know which configuration was used for our particular corner, as the original township notes don’t say which configuration was used? I asked this question to Tom Holt years ago in an intense eight-hour session studying for ALS exams at his house, over tea and sandwiches and plenty of homemade cookies. The original notes give a date and the name of the surveyor (DLS/DTS) who surveyed or re-surveyed that line. That information gives you yet another clue as to solving the problem. With thanks to Leanne Martens and Heather Evans at Alberta Sustainable Resources Development, Strategic Corporate Services Division, copies of the field notes are readily available online these days for a minimal charge. The confirmation comes in checking out other monument configurations in that area, which were established and erected by that surveyor. That is... if you can find one. And herein lies yet another obstacle. Province-wide, I estimate that maybe 20% of the original monumentation still exists, possibly 25% in the north and maybe 15% in the south, and is declining every year. One other disturbing fact is that this document, Bulletin 38, that we have come to rely on sometimes heavily, was drafted in 1915, in part by a Saskatchewan Land Surveyor, some 32 years after most of the West was surveyed. So it is really not surprising that most of the inconsistencies we find in township monumentation occur on surveys prior to 1900. In the preface to Bulletin 38, H.L. Seymour DLS. states, “From old correspondence on file, it would also appear that surveyors in the field were not always cognizant of changes in instructions, relating to their posts, or were not always in a position to follow out their instructions. There can therefore be no guarantee that a surveyor has always closely followed his manual or the general instructions as outlined in the annual reports referred to. In some cases the surveyor’s field notes show that he did not. Furthermore, it has been found that monuments on the ground are not as shown in the notes.”

However, if the present-day surveyor has done his due diligence, and has found traces of the original corner, and has recorded it and confirmed and monumented its position using proper methodology, it will never really be “lost.” If no traces of the original can be found, and we are left with only one or two pits, or none, the rule of best evidence, both physical and documentary, must always apply.

By the way, how are we doing with our evidence assessments and descriptions? Can we do a little better here? I’m sure we all can. One of my favourite articles on evidence, is in the June 1993 issue of ALS News by Hugo Engler, ALS, BCLS, SLS entitled “Survey Evidence” and I would like to echo his parting thought, “re-establish – to place the corner where it was, not where it should be.”
**Mercator**

*The Man Who Mapped the Planet*

by Nicholas Crane

Journey over all the universe in a map, without the expense and fatigue of traveling, without suffering the inconvenience of heat, cold, hunger, and thirst.

—Miguel de Cervantes

Mercator—surveyor, map maker, astronomer, cosmographer, mathematician, geographer, scholar, businessman, historian and author, was a namesake even in his day. He was recognized as the expert on anything related to cartography and geography. Ironically, Mercator was not a well travelled man, having seldom strayed more than a few hundred miles from his several abodes, all of which were in Belgium and western Germany.

As reviewer Denis Chute stated: “Mercator (the book) is a work of amazing scholarship filled to overflowing with sumptuous details.” Mercator, is a very detailed and scholarly work full of the most intricate details, like the man himself, charting the details of location and life. And for those that want more in depth coverage there are footnotes and a bibliography of nearly 200 other references.

But the book is more than just a collection of detail but a story of the life of Gerard Mercator and small town Europe in the 16th century. At a time of religious strife, exploration and discovery, war and persecution, Mercator went about his work, applying logic to change mediaeval mapping from the artistic cartouche to the modern collection of precise land information charts known today as the Atlas. He adopted standards which simplified map reading, using symbols which were universally recognizable by the layman and a useful tool for the navigator. He theorized on how to show a constant bearing (a rhumb line) as a straight line on a chart when in effect it continued to spiral around to the pole; he came up with his cartographic namesake—the Mercator projection - the map we now learn about in elementary school.

*Mercator—The Man Who Mapped the Planet* is an interesting book, not an exciting book, but a story of life in the Low Countries in the sixteenth century, a story of the development of modern geography, a story that we can relate to in the historical sense, benchmarked to events that may lie dormant in the back of our mind but brought back to life by this well written biographical work about the father of modern geography.

The book contains about 300 pages of text plus numerous maps, sketches and a centrepiece of interesting colour plates.

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**Surveying the Courtroom**

*A Land Expert’s Guide to Evidence and Civil Procedure*

by John Briscoe

In these cases (land and natural resource disputes) the expert’s role, ... is much more like the lawyer’s role than is the part of an expert in virtually any other kind of law case.

—John Briscoe

This is a very comprehensive reference book on the in’s and out’s of being an expert witness. The first part of this 200 page text describes the rules of evidence in nine chapters dealing with subjects like documentary evidence, hearsay, and an especially good chapter on expert testimony and opinion evidence. The second part describes the procedure in a civil case from the initial pleadings right through to appeal.

Despite the fact that the book is based entirely on US law and procedure, it is likely the best text available to the Canadian land surveyor who is faced with appearing as an expert witness. It cites a considerable number of examples and anecdotes from land and boundary law cases. With its descriptive table of contents it is fairly easy to navigate through the most relevant chapters to get a good understanding of the surveyors role in litigation. It is very current and even has references to the notorious legal affairs involving former US President Bill Clinton. This book is available in the ALSA Library—L0905.
When Do Monuments Govern?

by G.K. Allred, ALS

The current debate in the ALSA is centred upon the question “When do monuments govern?” In particular, the argument relates to the establishment of the N 1/4 on a blind line. It was very interesting to read a 25 page mostly verbatim set of minutes of a recent meeting of the Ad Hoc Legislation Committee where the Committee and the Director of Surveys had an obviously extensive debate on the subject. It is clear that there are a host of different opinions on this very complex issue and, if we are to resolve it, we need to come to some consensus on some basic issues. I offer the following comments in an attempt to suggest some basic principles that need to be considered in order to ensure that we are all on the same wavelength.

Part 2 Surveys

Under the Surveys Act, Part 1 establishes the General thrust of survey legislation and jurisdiction in Alberta. Part 2 sets out the framework for Surveys of Public Land in Unsurveyed Territory, Part 3 Surveys other than Part 2 and Part 4 deals with Miscellaneous items.

Surveys of Public Land in Unsurveyed Territory applies to the initial surveys of the Province of Alberta that subdivide Crown land into parcels that can be disposed of to the public. Without Part 2 surveys, no legal interest can pass from the Crown to a private party. Once a patent is issued to a private party, that party has a vested interest in a legally definable parcel of land. That parcel is defined by the Part 2 survey monuments placed along the road allowances and the various sections in Part 2 that verbally describe the boundaries of quarter sections, LSDs, and so on. Section 26(1) very clearly defines the position of a quarter-section corner along a blind line.

The boundaries of the SE 1/4 of section 20 are therefore defined by two monuments at the NE and SE corner of the quarter section, the midpoint between the monument at the SE corner of section 20 and the monument at the SE corner of section 19 (after allowing for the road allowance), and the intersection between that midpoint and the monument at the north 1/4 of section 20 with a straight line joining the monument at the E 1/4 of section 20 and the E 1/4 of section 19. (In all cases, we are speaking of original monuments.)

Now let’s say that the subdivision of the SE20 is divided into two eighty acre lots, each one with frontage on the road allowance, and rearage on the quarter line. When the owner of the SE20 sells the most southerly lot (let’s call it Lot A), a gore of 10 metres tapering to 7.5 metres of the SW20 is also included in the lot. In law, you cannot sell what you don’t own. The owner of the SW20 still owns to the midpoint on the blind line but the bona fide purchaser of Lot A is entitled to all of Lot A which is governed by monuments on the ground.

...I would suggest that a court would rule that you can’t sell what you don’t own...

The midpoint is still the midpoint, and I would suggest that a court would rule that you can’t sell what you don’t own, and the boundary of Lot A is based on the midpoint regardless of the Part 3 monuments placed. Now the purchaser of Lot A likely has an action against the owner of the SE20 and through him the surveyor, but he has no claim against the part of the SW20 that is purportedly within Lot A.

This is an attempt to simplify the situation but I think the principle is clear, and I don’t think you can legislate a retroactive provision that will take away someone’s land without compensation.

Legislating a Tolerance

It may be feasible to legislate a tolerance as Saskatchewan has done through section 29 of the Land Surveys regulations whereby they have established certain standards of accuracy based on the dates of surveys and the standards of practice in those eras. I think the courts would accept a standard of accuracy as a
means of determining where the true corner is or was originally located. Courts don’t like to deal with trivialities, and if the monument was established based on reasonably acceptable standards at the time, I am sure the courts would accept that as reasonable. But blunders will not likely be accepted.

Part 2 vs. Part 3 Surveys
The argument is the same for Part 2 surveys as Part 3 surveys. In fact, the example I have described is really a Part 3 survey defining a point that is defined based on Part 2 methods and monuments.

The same principles apply - you can’t subdivide what you don’t own. The difference is that under Part 3, surveys for subdivisions, every corner is monumented and hence you don’t have corners defined by written definitions. Essentially, a quarter section is a form of a legal description - same as a metes and bounds description or a description describing the west half of a parcel.

Standards of Accuracy vs. Evidence of Original Monumentation
Concern has been expressed where a midpoint has been established from original section corners which are now missing and have been re-established. Now, we have an entirely different situation. The midpoint which now does not fit with the re-established section corners is likely the best evidence of the location of the midpoint and may even be the best evidence for the re-establishment of the original section corners.

Ancient Blunders with Complex Subdivisions Encroaching
Let’s assume the above-noted situation in the SE20 happened sixty years ago and the entire SE20 is now subdivided into urban lots with improvements right up to the quarter line. Now the situation is extremely complicated with multiple owners; probably no original parties to the subdivision being alive; and in general, a real mess. The courts have another couple of solutions in this regard. They could look towards adverse possession, acquiescence, estoppel, conventional line or some other remedy to resolve a problem of this magnitude. But it’s not the surveyor’s job to resolve the problem, only to determine the best evidence and report the facts.

Boundary Adjudication Board
When the new Surveys Act was passed in 1988, the intention of Section 9 was to establish a Boundaries Adjudication Board (BAB) to attempt to adjudicate on these types of problems or “survey errors” as they seem to be labeled. Section 9 was carefully designed so that it could be a “court of first instance” which would hopefully give all parties an opportunity to be heard in an informal setting and, hopefully, the BAB would apply reasonable legal principles to come up with a fair solution to these types of problems. If the parties were not satisfied with the result, an appeal could be made to the courts but hopefully the Section 9 process would look after most of the cases.

Unfortunately, the administration of Section 9 seems to be avoiding the use of this method and forcing problems into the courts. Also, because of expensive and slow court procedures and relatively low land values, most of these problems likely get swept under the rug, only to be uncovered many years later when things are often much more complex, and likely involving more parties.

Conclusion
This issue seems to have been raised by a concern expressed that the public should be able to rely on monuments placed by a professional land surveyor and that those monuments should govern.

In point of fact, Part 3 monuments do govern—if they are placed correctly! And that is the job of a professional surveyor—to ensure that there are enough redundancies in the survey to ensure certainty that the boundary was established correctly! Remember, redundancy is the means by which errors and blunders may be trapped!

A surveyor, just like any other professional, is engaged to render a professional opinion. This is not a question of blind trust but rather a question of skilled practice in exercising one’s professional responsibility and getting it right!

Get Your Tickets at the AGM
The J.H. Holloway Scholarship Foundation will be holding a draw for the “Bull Moose” print by Rick Berg.
In the last Director’s message printed in the December 2002 of ALS News, I talked about Phase 2 of SPR, road pits, and wooden posts. In the current case study article, we have expanded the discussion on wooden posts. I must, however, apologize for some of the information in the road pits article.

OOPS

It was brought to my attention that the discussion on road pits implied that there was only ever one size of road pit dug. I did not realize, and did not research far enough back to find, that the very first Surveys Act, Chapter 13, assented to February 16, 1912, had a different size specified for road pits. The 1912 Surveys Act states under Section 27(3):

Each point marked by an iron post as provided in this section shall be further marked by digging four pits, each three feet square and eighteen inches deep and so placed that two straight lines drawn through the iron post at right angles to one another shall pass through the centre of two of the pits and the inside edges of pits shall lie on the sides of a square whose sides are six feet long and whose centre is the iron post.

Under Chapter 61, Section 2(3) of the 1921 Surveys Act assented to on April 19, 1921, the pit size was changed to the size mentioned in the December 2002 article. So, for any road plans registered between the dates of February 16, 1912 and April 19, 1921, you should expect to find larger pits than those registered between April 19, 1921 and the 1965 amendment that allowed marker posts instead of pits. I was not aware of the different size of road pits during this period and I thank the Director of Surveys Office for pointing it out. All of this old survey legislation is available at www.ourfutureourpast.ca. Check it out.

Getting it Right

As I write this, the March 13 & 14, 2003 Calgary edition of the Getting it Right seminar is full. There is even a waiting list started. If you want to attend these seminars, please register early. Soon, details of the Edmonton session on April 10 & 11, 2003 will be sent out. Then, after the AGM, there is a Lethbridge session on May 8 & 9, 2003. Consider registering for the Lethbridge session if you cannot get into the Calgary seminar. I am impressed by the excellent response we have to these seminars. I am also convinced that there is a correlation between the large Getting it Right seminar turnout and the improvements we see in plans, field notes and surveys examined in Systematic Practice Review.

...perhaps another 110 to 150 geomatics students have had some exposure to the quality control mindset of getting it right.

Field Staff Seminars

Since the start of Phase 2 in 1999, I have conducted several field staff seminars. These are seminars put on by myself at the request of a practitioner. Often, after going through a practice review, a land surveyor will request that I come out to speak to his staff at a field staff seminar. Lately, I have been customizing the seminar somewhat to cover topics the practitioner would like to see covered. In 1999, the field staff seminars were essentially a synopsis of the field portion of the Getting it Right seminars. The last few, due to the customization, have been somewhat
different and tailored more to the practice as the land surveyor requests.

...the land surveyor must provide the venue, and also attend the seminar.

Should you be interested in a field staff seminar, please contact me. We will then try to arrange a mutually agreeable date and time. There is no charge for the seminar. However, the land surveyor must provide the venue, and also attend the seminar. Depending upon questions and discussions, the seminars run from about two to three hours. I need a reasonable number of people attending in order to justify my time and efforts—so, if you only have two or three staff, consider speaking to other small practices, and perhaps we can do one field staff seminar that includes three or four smaller practices.

**Random Thoughts**

As noted in the current case study, I think the proposed restoration database is the ideal place to house information on wooden posts found and, hopefully restored, during the course of a survey that normally would not require that a plan be registered in the Land Titles Office.

**These reference points established might some day be the best evidence to re-establish that monument.**

Many land surveyors are asked to reference statutory iron posts before construction begins on a road upgrade or widening. These reference points established might some day be the best evidence to re-establish that monument. Additionally, if the reference notes are filed in the proposed restoration database, should any land surveyor require the monument during construction or before the referencing land surveyor could replace the monument, a record of the location is available. I, for one, can’t wait to see the restoration database up and running.

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Please fill out the Professional Development Questionnaire at the AGM
Case Study No. 15: Looking for Pre-1912 Survey Evidence

This is the fifteenth 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 Issue

The first Surveys Act in Alberta was enacted February 16, 1912. The legislation made note that wooden posts placed at lot corners prior to February 16, 1912 are monuments governing lot corners. Our current Surveys Act Section 45(4) says:

*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 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.*

Section 45 (5) says:

*Notwithstanding subsection (4), every lot on a linear block boundary in a subdivision survey shown on a plan 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.*

Wooden posts placed at any lot corner shown on a plan registered before February 16, 1912 are governing monuments. Part E, Section 4.8 of the Manual of Standard Practice explains this concept in very simple terms. It says:

*Before February 16, 1912, all lot and block corners on subdivision surveys were required to be monumented. Therefore when retracing lot boundaries originally created before that date, and after June 9, 1988, it is essential to search for original evidence at all lot corners.*

Based on the practice reviews conducted so far, it is my observation that very few land surveyors locate pre-1912 survey evidence. I believe that this is because not many land surveyors dig at the lot corners. Do surveyors today search extensively for pre-1912 wooden posts? It is extremely important to note the date of registration of a subdivision plan. Each time we conduct a review of a survey within a subdivision the plan of which was registered before 1912, we always ask the practitioner if he has looked for the original lot corners. The answer more often than not is “nobody ever finds wooden posts in this area.” I am often not sure that many of the practitioners realize until it is pointed out to them that the subdivision plan was registered before February 16, 1912. I have personally found wooden posts and our SPR field inspections have occasionally unearthed wooden posts. But seldom today do we ever examine a survey that has located and used wooden posts placed within a pre-1912 subdivision survey. I have even had senior land surveyor in the Edmonton area tell me that the local soil conditions here are not conducive to the preservation of wooden posts, so looking for them is a waste of time.

Wooden posts can be found today, even in Edmonton, but not with a metal detector. If you don’t dig, I guarantee you will not find them.

The Project

The practitioner conducted a real property report survey on Lot 16, Block 10, Plan LX. Plan LX was registered in the Northern Alberta Land Titles Office before February
16, 1912. There had been a further subdivision of part of Block 10 registered in 1976. This plan did not show finding any wooden posts in 1976.

The Question
As this real property report survey was selected for examination during our review of the practice, we reviewed the plan, field notes, and conducted a field inspection of the property. While we did not excavate at the lot corners during the field inspection, we noted that digging would be possible at some of the corners. In the report, we asked the practitioner the following:

The practitioner is requested to describe instructions given to staff, if any regarding digging for original evidence at lot corners on plans registered prior to February 16, 1912.

The Answer
In his response, the practitioner indicated that his crew had not dug for wooden posts at the lot corners. However, in May, under frost-free conditions, he would return to the site and do so. He says he spoke to several senior land surveyors and was told by all that he would not find any wood. He personally returned to the site May 29, 2002 and looked for wood posts at all corners of Lot 16. The NW corner fell within a hedge. However, he located wooden posts at all other corners, and another wooden post two lots north of the NW corner of Lot 16. He told me that he wasn’t sure, when he found them so he asked another land surveyor he knew that had previously located wooden posts to come out and verify his find. Sure enough, he had found the wooden posts that nearly everyone told him he would not find. What he found were 0.07m square pieces of wood fibre about 0.4m to 0.5m below ground level. He corrected the real property report to reflect the governing survey evidence, and provided the corrected RPR and copies of his field notes. He also says he photographed the wooden posts he located, and promised to send copies of the photos to me.

A Problem
Many of the pre-1912 subdivision surveys are already 100 years old, and all are at least 91 years old. If land surveyors had been as diligent as required over the last 91 years, I have no doubt that most of the original wooden posts would have been located and unearthed by now.

Currently, our reviews find that most evidence searches rely heavily on the use of the metal detector. Previous case study articles confirm this. Looking only with a metal detector is fast and easy, but not conclusive for all types of evidence. The day will come when fewer and fewer wooden posts can be found. Somehow I think we have to document for future reference all discoveries of wooden posts. Of course, a subdivision survey would be registered in the Land Titles Office and any wooden posts found would be shown on the plan of survey. Real property reports are not available publicly, so where should these types of findings be documented? If approved and implemented, perhaps the corner restoration database is a good place to file your wooden post findings for the benefit of all current and future land surveyors. This database was approved by the membership as Recommendation #10 at the 2002 AGM. Remember, if you find a wooden post and place an iron post within the wood, you are not re-establishing the corner, you are restoring it. While placing iron posts within the wood posts found may seem to be unnecessary, I believe that you are fulfilling your responsibility as an Alberta Land Surveyor by preserving the original survey evidence. As outlined in the Code of Ethics we have an ethical duty to maintain the survey system.

Do your field staff know the significance of February 16, 1912, and, if they do, are they looking (digging) at lot corners for the governing evidence? Wherever there is a chance that a wooden post has survived development and construction, a land surveyor is required to search for this governing evidence before re-establishing it from other survey evidence. Be certain that your staff realize this as well.

Net Notes
Well, spring is just about here. So I typed in “spring” and “surveyor” into my favourite search engine and this is what I found:

Surveyor Online - The Sweet Smells of Spring
http://www.hollandc.pe.ca/Media/Journalism/Surveyor/04-11-00/opinion2.htm

Latest Images from Mars Global Surveyor Now Online: Springtime on the Martian South Polar Cap

Red-Shouldered Hawk and Spring Woodpecker Survey

The Spring on Seale Road
www.lake-louisa.ca/English/spring2.htm

McDONALD, ARCHIBALD, colonial administrator; author, fur trader, justice of the peace, and surveyor; who in the spring led 31 of the settlers, most of them in their teens or early 20s, on snow-shoes 150 miles south along the shore of Hudson Bay to York Factory, a march of 13 days.

http://royal.okanagan.bc.ca/resource/histdocs/hbc/mcdonbio.html
Systematic Practice
“A Re-View”

Phase 2 of the Systematic Practice Review (SPR) is nearing completion. Once this phase is complete should the program be scrapped or should we continue with the exercise?

Before any judgment can be made, I believe two basic questions must be answered:
1. Is the program producing any appreciable improvement in the practitioner’s operations?
2. Is the program cost effective?

Improving Practitioners’ Operations

In order to evaluate the first question, one must look at areas that affect not only the scope of the practice being reviewed, but also the impact the program has upon the profession as a whole. As a member of the Practice Review Board (PRB), I am aware that not all members of our Association are practicing in a manner that projects a professional image. When a practitioner performs a survey and fails to register the plan within a reasonable period of time, is he acting in his client’s best interest? When the plans or the surveys contain errors, are they corrected as soon as possible after the defect is identified? Do these failures promote our profession? I think not.

The review process is based on a set of guidelines, which should be unbiased to all members of this Association and ensure impartiality. Any deficiencies or shortcomings identified through this process are forwarded to the practitioner for response. The reviewed member then has six weeks to respond to the items addressed in the Director of Practice Review’s report. Most of the membership have no difficulty in responding to the report within the allotted time. Some of us, though, seem to put little importance on this facet of the review process and request a time extension for responding. Most, I am sure, have legitimate reasons for asking for an extension, but I cannot help feeling that some keep procrastinating in hopes that the issue “will go away.” It is somewhat disheartening that some cannot, or will not, meet their own self-imposed time extension requests.

Identifying and correcting deficiencies or shortcomings found through the SPR will, no doubt, benefit our practices. The number of concerns identified during Phase 1 of the review process substantially decreased in Phase 2. It is obvious that most of our membership have, or are enacting, systems and procedures to improve their operations. If this action is in part the result of SPR, then I would endorse the program and recommend the progression to Phase 3.

Cost Effectiveness

Is the money spent on the Systematic Practice Review program effective? Are we getting a “bang for our buck?” I am sure that there are quite a few different philosophies regarding these questions. In the last issue of ALS News, Murray Young stated: “Regardless of what the Phase 3 review process consists of, the cost of this process should be secondary to the benefits provided to both the membership of the Association and the public.” I wholeheartedly agree with Mr. Young; however, this should not preclude the concept that the money spent could be directed to more beneficial designs in the SPR program.

Is it necessary to review those members who are employed by government agencies, educational institutions, or those who do not provide services to the public? Should members who provide services outside our “exclusive area of practice” be subject to analysis? There are some members who continue to be on the active roster but do not perform any land survey services.

Perhaps these individuals could be exempt from review if they complete an affidavit stating they have not performed any services since their last audit. The money retained by not reviewing these practitioners could be put towards other areas. For example, the Getting It Right Seminar is usually over-subscribed. Additional funds could be directed to offering this course more often to accommodate as many as possible.

I have also heard that dollars could be saved if we only did a cursory review of those with a favorable record. Others have indicted that new members or practitioners who have not previously been reviewed should be scrutinized in greater detail. I believe this would not be a good policy for the SPR. In order for the program to be unbiased, each review should be implemented without any previous criteria.

...it is imperative that the membership understands the requirements necessary to operate in a safe, reliable, and professional atmosphere.

Whatever direction the next phase of the Systematic Practice Review takes, a major component must be education. With the ever-increasing rate of technological advancement, it is imperative that the membership understands the requirements necessary to operate in a safe, reliable, and professional atmosphere. The SPR is an excellent avenue for identifying problem areas and promoting the positive practices that the public demands and your colleagues deserve.

It is money well spent.
Spring time for articling students means professional exams. This is the time when students subject themselves to perhaps the most stressful event of their career—sitting and writing the practical exam. For some reason, this exam keeps stumpng many students year after year.

Last year, thirty-four people wrote the exam, nine passed (see Analysis of 2002 Professional Exams, June 2002 issue ALS News). Students have complained of lack of time allowed to finish the exam, that there were too many calculations required, or that sorting through multiple pages of photocopied and reduced plans was too complicated.

This year, the Registration Committee has changed the exam format (page 21, December issue of ALS News). The number of questions is going from four to ten with “fewer and/or simpler calculations.” This is a positive change that should be welcomed by most students. It will shift the focus of the exam to knowledge intensive. The result should be a better indication of the pupil’s grasp on the topics tested.

As a result of the changes generated from the Registration Committee, there will also be some changes made for the Practical Exam seminar.

Over the past ten plus years, the Professional Development Committee has tried to help prepare the students by presenting an exam seminar a few weeks prior to the professional exams. In the past, the exam from the previous year would be worked through by volunteer land surveyors which allowed the pupils to see first-hand, how each problem would be solved in practice. Since the 2002 exam has not been released, the presenters for the current seminar will either present a survey problem from their own practice or one from a previous exam. Although the format of the practical exam has changed, the content will remain the same. Working through previous exams is still a good way to prepare for the practical exam. If a student has the knowledge to tackle all the concepts contained within the older exams, then they should have no problem with the current exam. Exams from 1994 through to 2001 can be downloaded from the ALSA website. To get the most out of the seminar, students should work through as many of the older exams as they can and bring questions on concepts they had difficulty with, forward for discussion.

If any member of the ALSA is interested in presenting at future exam seminars or has interesting survey problems that could be used, please contact myself or any member of the PDC.

Spring time is also the time to start thinking about what committee to serve on. The Association wouldn’t be able to operate without the numerous committees and volunteers that run them. If time commitment is a problem, but you would like to contribute to the Association, the Professional Development Committee may be the committee for you.

Alberta Land Surveyors’ Association
39th Annual Golf Tournament
August 15, 2003
Lacombe Golf and Country Club
Register at the AGM
The Surveys and Technical Services Section is working on a number of initiatives designed to improve and update our services to you and other Albertans.

1) Public Land Dispositions
In the December 2002 edition of ALS News, I provided you an internet link to the Division’s sketch and survey plan requirements associated with public land dispositions. The following is a list of the most common problems/omissions my staff have identified in the course of reviewing submissions.

a) Total area shown does not equal the individual area breakdowns.
—These must be identical (differences due to rounding off are acceptable).

b) Discontinue hatching and colour on plans.
—Plans are subsequently scanned, photocopied, and faxed and quickly become unreadable.

c) Bold outline not shown correctly.
—It must match the area being applied for.

d) Plans not to true scale.
—Plans at reduced scale are not acceptable.

e) Linear dispositions do not show total length by individual widths.
—Total length for each width is required, and used to determine charges/fees.

f) Plan purpose is missing or incorrect in the heading.
—It must match the application form.

g) Not showing the correct surveyors’ certificate.
—Certification found in Part E, Section 5, Schedule D, of the MSP is required for survey plans.
—Date survey was completed must be shown.

h) Plans must be signed by an Alberta Land Surveyor (except pipeline plans, which will be registered at the Land Titles Office).

i) Not defining in the legend or, on the body of the plan, the type of monumentation placed.
—Subsequent users of the plan do not have a clear understanding of the type of monument placed.

j) Missing bearings and distances (angles are not acceptable).

2) Notice
Effective June 2, 2003, all disposition sketch plans submitted to the Department will require proposed approximate bearings and distances relative to the survey fabric and all intervening courses for the entire activity.

3) Digital Integrated Dispositions
On February 4, 2003 the Department Executive Committee, chaired by Dr. Bob Fessenden, Deputy Minister, approved a three-month pilot project to work out the details of a Digital Integrated Disposition (DIDs) mapping program. As noted in the December 2002 edition of ALS News, DIDs would have three major components: digital plan submissions, a disposition mapping fee, and a digital mapping product.

4) Non-Monumented Survey Plans (Section 47, Surveys Act)
My staff continue to monitor plans registered under Section 47 of the Surveys Act and we are still concerned with the number of late registrations of Form 11.1 at the Land Titles Office. The review for the year 2001 has been completed. Some of the statistics available are:

• Total number of Section 47 plans = 259 (177 North & 82 South)
• Section 47 Subdivision plans = 229 (159 North & 70 South)
• Current number of Section 47 plans with Form 11.1 incomplete = 36 (25 North & 11 South)

Review for the year 2002 registrations is now underway and results will be available in the near future. The review process has benefited from the addition of Form 11.1 registrations being added to Alberta Registries data on SPIN. The inclusion of Section 47 Plans on the DIPS form provided by AltaLIS will also improve the monitoring process. Your cooperation is requested to ensure that the requirements of Section 47(3) are fully complied with.

NOTICE
Public Land Disposition Plans
Alberta Sustainable Resource Development

Effective June 2, 2003, all disposition sketch plans submitted to the department will require proposed approximate bearings and distances relative to the survey fabric and all intervening courses for the entire activity.
Reasonable Care—Surveys on Rural Land

Developing good relationships with rural landowners is one of the most beneficial functions land surveyors perform to ensure that their clients’ needs are met and the landowners’ rights are respected.

In the landowner’s eyes, the land surveyor is often seen as acting on behalf of the client and the responsibility to show consideration and keep the landowner informed is vital to everyone’s best interests.

For this discussion, I would like to expand the definition to also include occupants and grazing lease holders who have specified rights to land through leases or other agreements. The lawful right of an Alberta Land Surveyor to enter private property is stated in the Surveys Act, RSA 2000, Section 16 as follows: “A surveyor and the surveyor’s authorized assistants may, using reasonable care, pass over or measure along and ascertain the bearings of any line or boundary, and for those purposes may pass over and through the land of any person, but the surveyor is liable for any damage the surveyor or the surveyor’s assistants may cause.”

Key words in the preceding section are “reasonable care,” and “liable for any damage.”

Although many of the complaints raised by urban and rural landowners are similar, there are additional concerns related to rural surveys which should be noted. According to Land Titles’ plan registration statistics, the most common types of surveys being performed in rural areas are utility right-of-ways for pipelines, power lines, roads and other dispositions. For illustration purposes, the following example chronicles the events from start to finish for performing a legal survey of a pipeline right-of-way on freehold land.

1. The oil company client sends out a request to survey a pipeline right-of-way to the land company and the land surveyor.
2. The land company contacts the landowners and occupants affected by the proposed right-of-way for permission to survey.
3. Once the land company has received permission from the landowners, a line list is forwarded to the land surveyor. The line list will spell out any specific concerns or requirements for each parcel of land or owner.
4. The surveyor contacts the landowner to arrange for access and a field meeting.
5. Instructions are issued to survey crews such as access by motorized vehicles or foot traffic only, ensure all post holes are filled, gates closed, routing considerations, staking requirements, contact phone numbers for owner/occupant, watercourse restrictions, crop restrictions, hazardous chemicals warnings (fertilizers, weed killers), marker post usage, cattle at large, residence buffers, and so on.
6. Field crews meet landowner (usually on site) and discuss routing and any specific concerns.
7. Legal survey is performed.
8. Plans are prepared. Land company meets with landowner to sign agreements.
9. Client calls surveyor to have pipeline right-of-way staked for construction.
10. Surveyor or field crews usually contact landowner prior to staking.
11. Staking for construction is performed.

Obviously, from the above steps, we note that there are many instances where communication with the landowner comes into play. Sustaining a good relationship with the...
landowner ensures that communication lines are kept open and expedites the process of acquiring the right-of-way. All it takes is one blunder to have the owner feel that he/she is being mislead or ill-treated. Furthermore, significant delays in acquiring the right-of-way may cost your client money and jeopardize any future work. If a landowner calls the client and complains about lack of respect, damages, or failure to follow instructions, then one can only hope that the client is very understanding and will not terminate your contract.

Unlike urban surveys, many of the complaints rural landowners have with surveyors never make it to the Association office. Often, the landowner addresses any complaints directly to the land surveyor, land company, or client. The Association, therefore, does not have many statistics on these types of complaints. However, individual survey corporations heavily involved in oil patch activities will likely have knowledge of the number and types of complaints they have received from landowners over time.

The following is a list I have compiled outlining common problems and consequences associated with not taking "reasonable care."

**Problem:** Gates not closed during or after survey.
**Consequence:** Domestic animals escape. Farmer must spend time rounding up. Animals may be killed/injured by traffic.

**Problem:** Counter-sunk post holes not filled in.
**Consequence:** Damage to farm equipment. Injury to cattle, horses. Injury to farm workers.

**Problem:** Post not counter-sunk in cultivation.
**Consequence:** Tractor tire puncture. Farm equipment damages post.

**Problem:** Leaving iron spikes in cultivation.
**Consequence:** Tractor tire puncture.
**Problem:** Unauthorized motor-vehicle use.
**Consequence:** Trucks and quads causing damage to crops, creating ruts, scaring cattle, horses. Snowmobiles cutting through fences.

**Problem:** Lack of communication with landowner.
**Consequence:** Re-work. Delay in land acquisition. Landowners feel left out of the process.

**Problem:** Stakes not visible in high crop.
**Consequence:** Farmer cannot see right-of-way and knocks down stakes. Stakes damage farm equipment.

**Problem:** Using flagging in grazing areas.
**Consequence:** Cattle and horses will eat flagging.

**Problem:** Cutting down trees, bushes.
**Consequence:** Cost to replace vegetation.

I have been fortunate enough to have had the opportunity during my career to meet many rural landowners and can attest to their friendliness, courtesy and helpfulness. Countless times, many a farmer, without hesitation, has pulled a survey truck out of a mud field or snow-filled ditch with their tractor. Most of these rural landowners are grain farmers or ranchers who have an intimate knowledge of their land. However, farmers and ranchers have been experiencing some tough times these past few years due to droughts, low grain prices and high-feed costs. The last thing they need is further stress caused by neglectful survey crews.

By including the landowner in the survey process, all parties will benefit.

I have found that by spending a little extra time at the start of a project talking to the landowner, valuable information can be obtained such as route selection, field access points, underground structures and other concerns they landowner may have. By including the landowner in the survey process, all parties will benefit. Here are some key points to keep in mind during communications:

- Listen carefully to any concerns the landowner has.
- Determine where the field access points are situated.
- Check with farmer on the use of trucks, quads, or snowmobiles. Only foot traffic is allowed on cultivated land from seeding to end of harvest.
- Discuss whether staking should occur during the legal survey or at another time. Usually staking is performed just prior to right-of-way construction. Well sites are usually staked during the survey.
- Find out if there are cattle or horses grazing in close proximity to the survey.
- If access to adjacent lands is required, then the landowner is usually a good source of information on how to contact the adjacent landowners.
- The landowner may have some knowledge as to the whereabouts of survey evidence in the vicinity.
- Document any specific requests by the landowner.
- Keep the landowner informed of any changes throughout the project.
- Leave a business card and let the landowner know to contact you if he/she has any concerns. This is great for marketing and opens up the possibility for extra work.
- Above all, show respect.

The right to enter land for surveying purposes was first incorporated in the Alberta Surveys Act in 1931 and included in subsequent acts since then. I am sure we all agree it is absolutely essential to retain this right in order for the land surveyor to perform his/her duties under the Surveys Act and Land Titles Act. However, laws can and may be changed to accede to the wishes of public sentiment. Without public support of Section 16, land surveyors could eventually lose the right to access private land.
Bronwyn Cox
Wins ACLS Trip

Bronwyn Cox is one of two winners of the Association of Canada Lands Surveyors (ACLS) Student Sponsorship competition. Bronwyn now has an all-expenses paid trip to the ACLS 2003 Annual Meeting and Conference in Saskatoon, Saskatchewan, 12-14 March 2003 courtesy of GeoSkills, part of the GeoConnections initiative. Congratulations Bronwyn!

Boipuso Nkwae
Awarded Two Scholarships

Boipuso, a GGE Ph.D. candidate, was recently informed in January 2003 that he is the recipient of a graduate scholarship from the Alberta Land Surveyors’ Association and a grant from the International Federation of Surveyors (FIG). The $5,000 annual scholarship is open to a student enrolled in a masters or doctoral program at a Canadian university. The candidates must demonstrate that their thesis, report, or course work pertains to the study of cadastral surveying.

The US $1,093.00 grant that Boipuso received from the FIG Foundation was one of 12 awarded to applicants from 10 countries (Canadian applications won two grants). We extend our congratulations to Boipuso for this recognition of his scholarly abilities.

Earl Epstein is 4th Fulbright Chair in Property Studies

On 5 February 2003, the UNB Centre for Property Studies announced the arrival of its 4th Fulbright Chair in Property Studies.

Dr. Earl Epstein is visiting from the School of Natural Resources at Ohio State University and will be with the Centre for the 2002/2003 winter term. Dr. Epstein graduated with a B.Sc. in Chemical Engineering from Washington University in 1961 and, in 1968, he obtained a Ph.D. at the University of Wisconsin-Madison where he studied physical chemistry and chemical bonding in organometallic molecules by single crystal x-ray diffraction. After postdoctoral work at Brookhaven National Laboratory, he joined the physical chemistry faculty at Colorado State University.

He returned to the University of Wisconsin-Madison where he worked in the Institute for Environmental Studies while attending law school. After graduating with a J.D. degree in 1977, he worked for the environmental affairs section of Wisconsin Power and Light where he represented the company in federal and state hearings in regard to air, water, and waste statutes and regulations.

He subsequently joined the faculty of the University of Maine Geographic Engineering department where he focused on cadastral and environmental studies. He moved to the School of Natural Resources at Ohio State University in 1988. His research has focused on the legal, economic, and administrative aspects of land information, especially the role of land information on the distribution of power to influence decisions about land and its resources.

Dr. Epstein can be reached by e-mail at property@unb.ca or by calling 506-447-3344.

Join us at the Awards Lunch at the AGM on April 24, 2003.
Presentations will be made to new members and 50 and 25 year pin recipients. Special awards will be presented for honorary membership, honorary life membership and the presidents award.
Ralph Bunting, ALS
October 16, 1926 to January 19, 2003

Ralph was born in Kelwood, Manitoba where he attended elementary and high school. He graduated in 1954 with a degree in Survey Technology from the Manitoba Technical Institute in Winnipeg.

Ralph began his survey career with Canadian Engineering Surveys in 1954 where he worked out of their Edmonton and Regina offices. In 1960, Ralph moved to All-Can Engineering and Surveys working out of their Calgary office. During these years, Ralph would survey in the winter and return home to Manitoba to farm in the summer. In 1973, Ralph and his family moved to Red Deer where he was an associate with Snell & Oslund Surveys until he retired in 1989. I remember Ralph saying that it took one quarter section to buy his home in Red Deer.

Ralph articled under Gillis Oslund, ALS from 1974 to 1978 and obtained his commission as an Alberta Land Surveyor in January 1979. He was active in the Alberta Land Surveyors’ Association, serving as a member of Council from 1987 to 1989 and as a member of several committees.

Ralph was also active in the community. When his sons were still at home, Ralph was a regular at the local hockey rinks and ball diamonds. In his later years, he was a volunteer at the Red Deer archives and put in many hours cataloguing the field notes, plans and other items donated to the archives by Charlie Snell, ALS.

Ralph was a hard worker, often working overtime in the evening or weekends to complete a wellsites or pipeline survey promised to a client the next day. He enjoyed doing the fieldwork whenever he could and his chainmen were hard pressed to keep up with him in the field. He took great pride in being the first one up a steep hill while carrying more than his fair share of the Wild DI10 Distomat. He was a conscientious surveyor and was well respected by all that knew him.

DIRK VANDENBRINK, ALS

Business Agenda — 94th Annual General Meeting
April 25 and 26, 2003 — Hyatt Regency - Calgary

2. Introductions—including the introduction of our newest public member on the PRB.
3. Committee Reports.
4. Recommendation #1: Amendments to the Manual of Standard Practice
5. Recommendation #2: Commitment to Property Damage Mitigation
6. Elections
7. Private Member’s Bill#1: Council Honoraria.
8. Private Member’s Bill #2: Marker Condition Reports
9. Private Member’s Bill #3: Changing the Name of the Association
10. Induction of New President
11. New Business Motions
12. Open Forum
Johnson v. Alberta
/Public Works Supply and Services/, 2002 ABQB 1068
Date: 2002.12.06 Action No: 9701-18144

IN THE COURT OF QUEEN’S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:
WILLIAM WALTER JOHNSON, PAUL W. JOHNSON,
GABRIEL RICHARD RIEBEL, JOHN PETER RIEBEL,
ALEXANDER F. J. RIEBEL, THOMAS RIDER, CORINNE RIDER,
SHEILA ANN JOHNSON, DENNIS BENNETT and SYLVIA SAWYER
Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
ALBERTA, THE MINISTER OF PUBLIC WORKS,
SUPPLY AND SERVICES AND
THE MINISTER OF ENVIRONMENTAL PROTECTION
Defendants

REASONS FOR JUDGMENT
of the
HONOURABLE MADAM JUSTICE B. E. ROMAINE

APPEARANCES:
Virginia A. Engel and Lorenz Berner for the Plaintiffs
William H. Hurlburt, Q.C. and Sheila C. McNaughtan for the Defendants

SUMMARY
[1] The primary issue in this application is whether Alberta Land Surveyors retained by the Crown as part of a process of expropriation should be considered employees of the Crown within the purview of Rule 200(1) of the Rules of Court and therefore available for examination for discovery. If the surveyors are found to be Rule 200(1) employees, the Crown applies under Rule 200(2) to limit the number of persons examined in this case by excluding the surveyors, on the grounds that such examinations are unnecessary and, in their effect, though not in their intention, vexatious.

[2] I find that the surveyors named in the Plaintiffs’ application should be available for discovery under Rule 200(1), and decline to limit their discovery under Rule 200(2).

FACTS
[3] In mid-1998, the Crown expropriated lands of the Plaintiffs adjacent to Buffalo Lake, northeast of Red Deer, in order to complete its plan to flood the lake and stabilize the water level. Compensation for such expropriation will be determined by the Land Compensation Board of Alberta. The issue of the location of the boundary of the Plaintiffs’ lands at the time of expropriation, which will determine how much land is subject to compensation, has been referred to this Court for determination pursuant to the Expropriation Act, RSA 2000 Ch. E-13.

[4] On the upland side of Buffalo Lake, the Crown established a “take line” for expropriation purposes that approximated where the water would reach if the lake was flooded to a specified elevation. The other boundary that had to be surveyed to determine the area to be expropriated was the natural boundary dividing the land from the lake.

[5] The survey of the natural boundary was problematic because Buffalo Lake had receded substantially since its original historical survey and the shallow slope of its shore made the extent of accretion difficult to determine.

[6] Under the Surveys Act, RSA 2000 Ch. S-26, only a professional Alberta Land Surveyor may determine the location of a natural boundary. The Crown does not employ staff land surveyors and, between 1992 and 1995, retained several survey firms to prepare plans in relation to the take line and the natural boundary on the lands of the Plaintiffs. These surveys were used to create right-of-way plans which were filed by the Crown at Land Titles, and upon which the expropriations were based.

[7] The Plaintiffs allege that the surveyors retained by the Crown have improperly located the natural boundary of the lake, thereby under-representing the full extent of the Plaintiffs’ land before the expropriation.

[8] The Plaintiffs have examined Crown officers and employees. They submit that none of the Crown employees can give evidence of what the surveyors took into account in establishing the location of the natural boundary nor what they saw before the flooding had occurred. The Plaintiffs have retained an Alberta Land Surveyor to give an expert opinion in connection with the expropriation proceedings, but this surveyor carried out his survey in 1997, after flooding had commenced. His opinion assumes that pumping of water had no effect on the level of the lake until the time of expropriation in 1998. The Crown unilaterally began flooding the lake in 1996, against the objections of the Plaintiffs.

[9] Section 17 of the Surveys Act sets out the procedure to be followed by a surveyor determining a natural
boundary. A surveyor may perform the survey by any method that has the effect of accurately determining the location of the natural boundary, but Section 17(2) of the Act provides that “the surveyor shall determine the position of the line where the bed and shore of a body of water cease” and Section 17(3) provides that “the bed and shore of a body of water shall be the land covered so long by water as to wrest it from vegetation or as to mark a distinct character on the vegetation where it extends into the water or on the soil itself.”

The Plaintiffs submit that discovery of Crown employees has provided evidence that there was extensive interaction between the employees of the Crown and the surveyors. This interaction included the Crown’s approval or rejection of draft plans prepared by the surveyors, and attempts to resolve conflicts between where some of the surveyors located the natural boundary and where certain Crown employees thought the natural boundary should be located. There is evidence of meetings of Crown employees with the surveyors to provide and discuss opinions as to the location of the natural boundary. After being informed of the opinions of Crown employees, some surveyors reconsidered their positions and altered their plans.

The Crown submits that its employees did not provide “specific” instructions to the surveyors on how to conduct the surveys, nor did they tell the surveyors how to complete their tasks. It points to the contracts entered into between the Crown and the survey firms. However, there is no dispute that at least two Crown employees expressed their disagreement with some of the surveyors on the position of the natural boundaries, and meetings as described above did occur. These employees state that “in almost all, but not all cases of disagreement”, their opinions were more favourable to the Plaintiffs.

The Crown submits that the test set out in Marine

The relevant portions of Rule 200(1) and Rule 200(2) are as follows:

200(1) Before trial, a party to proceedings may orally examine under oath, without an order of the Court, (a) one or more other persons who (i) are or were employed by the other party, and (ii) have or appear to have know-

edge of a matter raised in the pleadings that was acquired by virtue of that employment.

200(2) The court may on application limit the number of employees...of any party who may be examined and may set aside any appointment for the examination of any employee which it regards as unnecessary, improper or vexatious.

The Plaintiffs submit that the test of who may be examined under Rule 200(1) is set out in Cana Construction Co. Ltd. v. Calgary Centre for the Performing Arts (1986), 30 D.L.R. (4th) 455 (Alta. C.A.). In that case, an unpaid volunteer who bore the title of Chairman of the Construction Committee was held to be an officer within the scope of Rule 200(1), and therefore subject to discovery. The Court held that, since the object of the rule is to force pre-trial disclosure of non-privileged information, its limiting factors, being a connection with the party as officer or employee, should be given a wide application. The test is whether the person sought to be examined “can be regarded as an officer or servant in any permissible sense.” (supra, page 2, citing Bell v. Klein (No.3), [1955] 1 D.L.R.37, 13 W.W.R.(N.S.) 193.) The test also involves enquiry as to whether the proposed person is a person “connected with the company best informed of matters which may define and narrow the issues between the parties at the trial.”

The Crown seeks to narrow the scope of Cana Construction (supra) by suggesting that it is limited to consideration of the status of potential officers, rather than employees. It prefers the test set out in Marine
Pipeline & Dredging Ltd. v. Canadian Fina Oil Limited (1964), 48 W.W.R. 462 (App. Div.), which it submits remains the leading case with respect to interpretation of the reference in Rule 200(1) to employment. Marine Pipeline considered the question of whether a pipeline contractor could examine inspectors hired by a consultant to the owner. It focussed on the elements of an employer-employee relationship, and held that the inspectors were employees of the consultant and not of the owner.

[18] Kerans, J.A. in Cana Construction (supra, at page 458) states that Marine Pipeline is of little assistance because the court in that case was deciding the narrow question of whether all indicia of employment were present, and not whether the persons in question were officers within the meaning of the Rule.

[19] While Cana Construction may be primarily concerned with the question of whether the person sought to be discovered was an officer, the case represents a widening of the scope of Rule 200(1). The test applied by the Court in Cana Construction to the issue before it refers to both limiting factors in the Rule, being whether the person in question has some connection as an officer or as an employee, and the wider application taken by the Court has been continued in subsequent cases.

[20] Moore, C.J. Q.B. applied the Cana Construction case in several subsequent decisions relating to the employment limitation of the Rule. In Mikisew Cree First Nation v. Canada, [2000] A.J. No. 832 (Q.B.), he discussed the principles laid out in his previous decisions and states that consultants who are not strictly employees may be examined under Rule 200(1) if it is appropriate in the circumstances of the case (supra, para. 13) in his view, the test is not whether a person is an employee, “but whether that person is akin to an officer or employee.” (supra, para. 12) He found that a consultant to a First Nation Band performed functions “broadly equivalent” to those of employees of the Band.

[21] Moore, C.J. referred to his decision in Adams v. Norcen Energy Resources Ltd., [1998] A.J. No. 1199 (Q.B.) where he found that consultants retained by Norcen for the purpose of converting a pension plan and for assistance in the termination of employees could be examined for discovery by aggrieved employees. He found that the consultants had been directly involved in the events that underlay the cause of action, and had first hand, and in some cases sole, direct knowledge of certain events. He states that a consultant may be discovered if there is more than simply a contractor, arm’s length relationship between him and the party that retains him. That relationship should be assessed on a case-by-case basis. He distinguishes the case from his decision in Trizec Equities Ltd. v. Ellis Don Management Services Ltd. (1994), 19 Alta. L.R. (3d) 433 (Q.B.) where the consultants became involved only after certain construction problems had occurred, and there was no more than a mere contractual relationship with them. In Adams, Moore, C.J. found that the consultants performed duties analogous to those of Norcen employees.

[22] In summary, factors that should be considered in determining whether a consultant or other third party may be discovered as an employee under Rule 200(1) are as follows:

(a) The limiting factor of employment should be given a wide application in accordance with the object of the Rule. A consultant or person sought to be discovered who is not strictly an employee may be examined under Rule 200(1) if it is appropriate in the circumstances.

(b) The test is not whether the person in question is an employee, but whether he or she is akin to an employee.

(c) The test must be applied on a case-by-case basis.

(d) There must be more than a mere contractual basis to make such a person akin to an employee under the Rule.

(e) A person may be found to be akin to an employee if he or she performs duties analogous to those of employees.

(f) If the person sought to be discovered is the person best informed of matters that may define and narrow the issues between the parties at trial, the policy behind the rule, to force pre-trial disclosure of non-privileged information, adds force to the submission that the person should be considered akin to an employee.

(g) The test will be less likely to be met, and the person sought to be discovered will be more likely to be considered an expert witness, if the retainer is entered into after the events that found the litigation occur.

[23] In this case, there was more than a mere contractual, arms-length relationship between the surveyors and the Crown. While it is true that only professional Alberta Land Surveyors can prepare valid plans of survey, the services provided by these professionals were closely connected to the duties being performed by the Crown’s Land Administration Division staff in the course of implementing the Buffalo Lake Project, and akin to the duties performed by the staff. Crown employees reviewed plans setting out boundaries between private and Crown land, including the surveys, and gave advice to the various Crown departments involved in the project as to whether or not the survey plans accurately depicted the natural boundary. They explained their opinions in that regard to the surveyors. The Crown concedes that its employees were responsible for advising the Crown to accept or reject the work done by the surveyors. When differences arose between the surveyors and Crown employees on the determination of the natural boundary, they met to attempt to resolve them. It appears from the evidence that, in some cases, compro-
mises were reached and the surveyors revised their plans. If the work was not accepted, the Crown would not register the survey plans at the Land Titles Office. The surveyors were members of the team charged with determining the private lands to be expropriated as part of the stabilization project.

[24] This is not a case of consultants being retained after the fact to provide litigation advice. The surveyors were involved in the events that found the Plaintiffs’ cause of action prior to the flooding of Buffalo Lake and the expropriation proceedings that followed. While it is true that they may be experts in their field, and may have expert opinion to give on the location of the boundaries, they were retained to prepare plans of survey and, for that purpose, to determine the natural boundary of Buffalo Lake in accordance with s. 17 of the Surveys Act.

[25] I am satisfied from the evidence that the surveyors have the best and most direct information about the location of the natural boundary of Buffalo Lake prior to the flooding. The broad objective of Rule 200—to force pre-trial disclosure of non-privileged information—would best be served by permitting examinations of the surveyors as akin to employees of the Crown as requested by the Plaintiffs.

[26] The Crown submits that allowing such examination pursuant to Rule 200(1) gives the Plaintiffs a “one-sided advantage” in examining the Crown’s experts. The Plaintiffs, however, do not seek to examine the Crown’s experts retained for the purpose of providing advice or evidence relating to litigation. That the surveyors in question happen by their training and experience to be appropriate for qualification as experts to give opinion evidence does not detract from their position as analogous to employees under Rule 200(1) in the circumstances of this case. This determination does not affect the operation of Rules 218.1 to

Rule 218.15 with respect to experts retained for the purpose of litigation. [27] One of the surveyors refused to alter his plans despite disagreement with Crown employees. The Crown submits that at least he should be considered an arms-length consultant. It is clear, however, that this surveyor also had some interaction with the Crown over this disagreement and, as a result of his refusal to alter his plan, certain parts of the lands were re-surveyed. I decline to treat this surveyor differently for discovery purposes given the extent of interaction over his report and his part in the history of events.

[28] The Crown’s application under Rule 200(2) to limit the number of employees by excluding the surveyors is based on its view that additional examinations will add to delay and cost of this proceeding. The Crown also repeats its objection made with respect to the Plaintiffs’ application that discovery of those surveyors will give the Plaintiffs a special advantage, and is therefore “vexatious.” It also repeats its previous position that the Rule 218.1 procedure for exchange of expert reports is sufficient disclosure of the surveyors’ evidence to meet the needs of justice.

[29] The Plaintiffs do not agree. They repeat their position that the surveyors are key factual witnesses, and submit that the expert reports prepared by the surveyors years after they completed the plans of survey provide no significant detail of what the surveyors did or observed.

[30] As stated previously, I am satisfied that the surveyors have the best and most direct evidence about the location of the natural boundary. I note that the Plaintiffs have not sought to examine all of the many Crown employees involved in the project, but have concentrated on six individuals who they submit had the greatest involvement in the matters at issue. I see no reason to limit the Plaintiffs’ discovery by excluding the surveyors. Allowing such discovery does not give the Plaintiffs an unjustified advantage, but allows the principle of pre-trial disclosure of relevant non-privileged information to be satisfied.

CONCLUSION

[31] The Defendants are to produce the surveyors named by the Plaintiffs in their application for examination for discovery under Rule 200(1).

[32] The Defendants’ application to limit discovery under Rule 200(2) is dismissed.

DATED AT CALGARY, ALBERTA THIS 6TH DAY OF DECEMBER, 2002
Real Property

MUNICIPAL BOARDS AND COMMISSIONS—Appeal—Appellate court holds that a county cannot appeal a decision of an inter-municipal planning commission.

Appellant applied to subdivide a quarter section of land located in respondent county. The Inter-municipal Planning Commission approved the subdivision application with certain conditions. The county appealed the approval to respondent subdivision and development appeal board. The board amended the conditions for subdivision approval. Appellant was granted leave to appeal the board’s decision on two grounds: (i) whether the board erred in accepting an appeal by the county when the notice of appeal did not include the legal description of the lands to be subdivided, as required by s. 678(4)(a) of the Act.

**HELD:** appeal allowed and decision of commission restored.

Section 678(1)(c) does not permit an appeal of the decision of a subdivision authority of the municipal planning commission that was also the subdivision authority. The county had delegated its subdivision authority to the commission. Pursuant to s. 626(2) of the Act, an inter-municipal planning commission is deemed to be a municipal planning commission. Therefore, the county did not have standing to appeal a decision of its planning authority pursuant to s. 678(1)(c) of the Municipal Government Act (Alberta); and (ii) did the board err in accepting an appeal by the county when the notice of appeal did not include the legal description of the lands to be subdivided, as required by s. 678(4)(a) of the Act.

**HELD:** appeal allowed and decision of commission restored. The requirement that the legal description be included is so that the board may identify the property at issue in the appeal. In this case, the county included the subdivision application number, which was adequate to enable the board to identify the correct property. As the object of the legislation was achieved and there was no prejudice, the failure to provide the property description was not a fatal defect.

*Albert Snyders Holdings Ltd. v. The Subdivision and Development Appeal Board of the County of Newell No. 4, Alta. C.A., Fruman, McFadyen and Wittmann JJ.A., Dec. 12/02. Full Text Order No. 2240-013 (5 pp.)*

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