<table>
<thead>
<tr>
<th>Page</th>
<th>Section</th>
<th>Author/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>President’s Message</td>
<td>Bob Wallace, ALS</td>
</tr>
<tr>
<td>7</td>
<td>Councillor’s Forum</td>
<td>Bruce Beairsto, ALS</td>
</tr>
<tr>
<td>9</td>
<td>Editor’s Notes</td>
<td>Brian Munday, Executive Director</td>
</tr>
<tr>
<td>13</td>
<td>Letters</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>Association Notes</td>
<td>ALSA Office—New Employees</td>
</tr>
<tr>
<td></td>
<td></td>
<td>New Members</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Members on the Move</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Question Time</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A Message from Land Titles</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Professional Exam Results</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ken Allred Receives CIG</td>
</tr>
<tr>
<td></td>
<td></td>
<td>President’s Citation</td>
</tr>
<tr>
<td>23</td>
<td>Loss Control Bulletin</td>
<td></td>
</tr>
<tr>
<td>26</td>
<td>Video Evidence and the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Land Surveyor in a Changing</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Environment</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Oliver MacLaren and Mike</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Barry, University of Calgary</td>
</tr>
<tr>
<td>35</td>
<td>SPR Message</td>
<td>Fred Cheng, ALS</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Ratings Report</td>
</tr>
<tr>
<td>37</td>
<td>SPR Corner</td>
<td>Fred Cheng, ALS</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Case Study No. 32:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Omitting Governing Survey Evidence</td>
</tr>
<tr>
<td>43</td>
<td>Guardpost</td>
<td>Ed Lyster, ALS</td>
</tr>
<tr>
<td>45</td>
<td>PDC Corner</td>
<td>Pat Moloney, ALS</td>
</tr>
<tr>
<td>47</td>
<td>Public Relations</td>
<td>Jonathan Phillips, ALS</td>
</tr>
<tr>
<td>48</td>
<td>Safety Sense</td>
<td>Victor Hut, ALS</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- New Federal Commercial</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Drivers Hours of Service Regulation</td>
</tr>
<tr>
<td>50</td>
<td>Education News</td>
<td>University of Calgary</td>
</tr>
<tr>
<td></td>
<td></td>
<td>University of New Brunswick</td>
</tr>
<tr>
<td>52</td>
<td>Legal Notes</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Sale of Land—</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Abatement of Price</td>
</tr>
<tr>
<td>53</td>
<td>ASSMT Notes</td>
<td>Clint Johnson, CST</td>
</tr>
<tr>
<td>54</td>
<td>David Thompson</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Bicentennial Events</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Allan Main, ALS</td>
</tr>
<tr>
<td>55</td>
<td>History</td>
<td>Brian Munday, Executive Director</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- 1931-1934—Hard Times</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Charles A. Magrath</td>
</tr>
<tr>
<td>57</td>
<td>History</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**ON THE COVER**

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CANADA POST PUBLICATION #40051474
I am pleased to take the reins of president from Dirk. It has been a crash course on issues that confront our Association, both from a provincial and national perspective. Attending the president’s forum at our AGM, as well as the Newfoundland and Saskatchewan AGMs, brought to light where the other land surveyors’ associations are with respect to the survival of our legal survey profession.

It appears that our species is strong in Alberta, but because of our dwindling numbers in other provinces, legal surveyors are on the endangered list and are in fact threatened with extinction in some areas.

You may ask, how does this affect us in Alberta? In some areas of the country, survey services are not available at any price because of the lack of qualified personnel. If an area cannot be serviced by medical personnel, then people must travel to seek out treatment. In our case, however, if land surveying is not available, then landowners have two options; seek alternative options such as title insurance or employ the services of some other (non-survey) individuals or professions that will provide these services. In Alberta, this problem is beginning to arise in areas such as Fort McMurray where there may not be enough Alberta Land Surveyors to satisfy the work demand.

In all provinces, the area of boundary measurement is legislated to the land surveyors who are administered by their provincial associations. If there is increased pressure from individuals, companies or municipalities to change that legislation because of the inability of land surveyors to provide services, it is not inconceivable that our legislated domain may be altered or eliminated. In Alberta, we continue to observe our government changing legislation or regulations with little consultation or input from those who are affected by these changes.

As land surveyors, we all must realize that losing our area of legislated practice in any part of Canada could be the precursor to change in all jurisdictions. I think the title insurance companies would gladly expand their scope of coverage to include subdivisions and boundary adjustments. Perhaps a land man armed with a hand-held GPS and an insurance policy could stake a well site and prepare a plan.

A little silly or far fetched, you think? Maybe not. Simply look around the continent for similar practices because the legislation is weak or absent. Not only would this degrade our land tenure system, but it would threaten the foundation our predecessors worked so hard to establish. Perhaps society takes our system for granted. No one believes that the Torrens title system is vulnerable.

If the lawyer is removed from the land transfer, if property is conveyed by insurance companies and boundaries are determined by people without the geomatics background, would our quality of life change?

Enough of the futuristic gloom. What can be done to strengthen our position in society as land surveyors? Throughout North America, we have many provincial and state associations resulting in a weak disjointed voice. We have national organizations such as CCLS (Canadian Council of Land Surveyors) in Canada and NSPS (National Society of Professional Surveyors) in the U.S. These organizations stand apart from our provincial organizations and, therefore, they lack the resources to truly represent our concerns on a level that can make a difference.

We need to plan a forward strategy as a collective and unified entity in order to command the respect we need for our survival and to continue our mandate of being caretakers of property boundaries and the title or deed registration systems.

In order to accomplish this goal, borders and protectionism must disappear. We see that starting to happen with the past labour mobility agreements and now TILMA (Trade Investment Labour Mobility Agreement) in B.C. and Alberta. By accepting the concept of labour mobility, it would allow greater movement of people to areas that need service as well as those that have an economic demand. Perhaps, similar to what the medical system is considering, incentives can be given to those who will consider working in rural or remote locations.

Many associations in Canada are considering the standardized academic standards (CBEPS) for entrance into their respective associations. Once this standard for education is established, a verifiable national curriculum can be created and the graduates will think on a national scale.

Land surveyors throughout Canada have common values and issues. By being united in our approach we can be successful in working on national issues that not only affect our survival but allow us to have a higher profile.

By being united in our approach we can be successful in working on national issues that not only affect our survival but allow us to have a higher profile.

by Bob Wallace, ALS

June 2007 www.alsa.ab.ca ALS News • 5
About a year ago, I put up my hand in a Council meeting to be one of the Alberta Land Surveyors’ Association’s representatives on a TILMA working group. I didn’t know much about TILMA at the time but I knew it had something to do with labour mobility and, as the Association’s Council Liaison to the Registration Committee, I figured it made sense for me to get involved.

I didn’t know a lot about TILMA then and there is still a great number of things about the agreement that I don’t know but I wanted to pass on to you, the membership, what I have learned about the Alberta-British Columbia Trade Investment Labour Mobility Agreement (TILMA).

When I first got involved with TILMA, the first questions I asked myself was, how did this agreement come about? Quite frankly, two right-of-centre government in Alberta and British Columbia (Alberta’s Klein government and the then newly-elected Gordon Campbell government in British Columbia) decided to get together to discuss a number of common issues. Over the years, the two provincial governments have signed a number of agreements but perhaps the agreement that has got the most attention is the Trade Investment Labour Mobility Agreement.

In general, the TILMA agreement is designed to promote freer trade and a greater flow of goods and services between the two provinces. While Canada has had the agreement on internal trade for more than a decade now, it was the feeling of some that it didn’t have any teeth if a province failed to comply. TILMA has teeth and a government could be fined up to five million dollars if it does not comply.

Many politicians in government have come out strongly in favour of the agreement and are actively promoting an Alberta-British Columbia economic juggernaut within Canada.

We are open to any suggestion as long as it satisfies what the politicians have told us we must do.

Many of you will remember Justice Cote’s speech from the 2006 Annual General Meeting about self-governing professions: “We’ve all grown up with that and we assume that exists for the same reason that the sun rises in the east and sets in the west, because it is in the necessary nature of things and it has always been that way. But that’s wrong, It isn’t in the necessary nature of things, and it hasn’t always been that way. I think, and I dare say, most of you think, it’s the best system. But, as we’ve seen from the modern world, what seems to us to be the best way of running things isn’t always what happens. What has seemed to be a long-established way of doing things can change pretty quickly.”

I certainly do not view TILMA as a threat to the survival of the profession. But, many of us have regarded our registration process as the natural and proper way of registering Alberta Land Surveyors. Taking a lesson from Justice Cote, we better learn to consider change and embrace it.

At our most recent Council meeting, we reviewed a newspaper article from the Lawyers Weekly with the headline of, “Initiative announced by competition bureau puts self-regulated professions under the gun.” In the article, it states that “from an economic perspective, excessive regulation may operate as a barrier to entry or discourage innovation, which may in turn result in higher prices and less consumer choice.” My immediate reaction when I learned of the TILMA agreement was to tell the government where it could go in not very polite terms. However, when you sit down and look at what the agreement actually says and what we need to do to truly protect the public interest, this is really an opportunity for the land surveying profession. The government has made it quite clear that this is going to happen. We have been given fair warning by Justice Cote and the bureaucrats in the competition bureau have publicly declared that they don’t want self-governing professional regulatory organizations to create unnecessary or excessive barriers to entry.

With that in mind, I asked myself a second question. What does the Trade Investment Labour Mobility Agreement actually say? It is not my intent to reprint the entire agreement here but let me give you a brief synopsis of the agreement as we reported it at the Annual General Meeting this year. Alberta and British Columbia signed the Trade Investment Labour Mobility Agreement on April 28, 2006. It came into effect on April 1, 2007 and includes a two-year transitional period for labour mobility measures. TILMA is to be fully implemented by April 1, 2009.

Unless a measure is clearly identified as an exception, it is subject to the rules of the agreement. Exceptions to the agreement include provincial measures for water, taxation, royalties, labour standards, occupational health and safety, procurement or health and social services, social policies and aboriginal policies and programs. Under the agreement, workers who are certified for a given occupation in one province are supposed to be recognized as qualified in both. Professionals and trade workers will still be required to register with the regulatory authority for that occupation; however, they are not supposed to be required to do any material amount of additional examination or training. Any professional regulatory organiza-

....continued on page 36
June 2007

editor’s notes

by Brian Munday, Executive Director

I’ve been thinking a lot about customer service lately and I’m getting depressed.

Conventional wisdom is that with a strong economy and a shortage of labour, it is increasingly difficult to get good customer service. I don’t believe it.

Terry Hudema mentioned the same concern in his Councillor’s Forum in the last issue of ALS News. In a different context, he was referring to customer service in municipalities from the point of view of getting subdivision approvals. My rant is not specific to the land surveying profession although I am certain that many of you could take my comments and apply them to your own situations and businesses.

My concern over the sad state of customer service in Alberta stems from our 98th Annual General meeting at the Fairmont Chateau Lake Louise. The service wasn’t bad at Chateau Lake Louise. In fact, it was far from it. What struck me, however, was that the Chateau Lake Louise was able to provide extraordinary customer service. While the facility was pricey, what made their service exception really had little cost attached to it. How much does it cost for a member of the wait staff to remember that you have an allergy and require a special meal? How much does it cost staff to be available by walkie talkie when things start to go wrong.

Let me relate to you a couple of personal experiences that have happened to me since the AGM. As I said, these are not survey-related customer services issues but are symptoms of bigger problems.

Our microwave died. It was five years old and had lived a good life. We contemplated giving it a proper burial in one of Alberta’s land fills but decided to take it to The Brick for some microwave CPR. We were told on the phone that we could bring the microwave in for some diagnostic testing and, based on that, could decide whether to send it out for repairs or not. Great customer service, I thought. When we got to our local Brick store, we were told that the microwave had to be sent away for the diagnostic testing as they had no ability to do that on-site. Bad customer service, I thought. My wife and I decided to send the late lamented microwave away for the testing. Pretty soon, we received a phone call from the third party that did the diagnostic testing and was told how much it would cost to repair the machine. By the way, there is a really nasty dent on the microwave. What dent? Of course, neither The Brick nor the third party tester was going to take responsibility for this dent which magically appeared. Rotten customer service, I thought. When my wife called the third party tester back to tell them to stuff it, this new person on the phone said there was a little scratch but certainly no dent. Still rotten customer service, I thought. We still told them to stuff it.

Like moths to a flame, my wife and I went back to The Brick to look for a brand new microwave. We picked out one model in particular that we thought would work and asked the sales rep, once we finally found one, if it was available in black. The sales rep replied that it was available in black and proceeded to show us an entirely different model that was $200 more than the one we had picked out. Again, rotten customer service.

I relay this story to you not because I want to pick on The Brick but because it is such a classic example of how things can go so terribly wrong. I wanted to give The Brick my money but, in essence, they decided they didn’t want to take it. Having gone to MBA school many years ago now, I learned that people’s money in exchange for a good or service is almost always a good thing. Perhaps things have changed.

While my wife and I grew entirely frustrated with The Brick, we were still without a microwave. Next stop, the appliance department of Sears Canada. At Sears, it was still tough to find a sales rep, but, when we did, this older gentleman provided us with a tape measure (which I had accidentally left behind at home) so we could measure the microwave to see if it would fit in the space available and he checked the inventory. We were disappointed to find out that the microwave we wanted was not in stock at that store so we asked if he could call around to other stores in the area. The sales rep replied that he could but, as this was a Saturday, the chances of anyone answering the phone were quite slim. I could have been frustrated by this reply but the customer sales representative was honest with us. He made no false promises and did not create any unrealistic expectations for us. We bought the microwave from this gentleman and he made sure we were aware of the return policy in case anything should go wrong and confirmed with us the delivery date for our newborn microwave. I was quite happy with the customer service I received from Sears.

Unfortunately, we made the mistake of going into a different department in the same Sears store. As we were about to pay for our merchandise, the male cashier made the usual small talk by asking, “How are you?” I stupidly replied, “Fine, how are you?” The sales rep replied that he was itchy. I said that was more information than I cared to know but he naturally proceeded to tell me at great length about the new tattoo on his arm. Strange customer service, I thought. While this young, male cashier was doing his best to be friendly and personable, he obviously did not know where to draw the line between personable and too personal.

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Big retail operations are not the sole source of questionable customer service. Canadians love to complain about the banks and me, being a proud Canadian, am no different. Over the years, I have probably dealt with all of the five major Canadian banks and have been thoroughly frustrated by their customer service at any given time. I certainly recognize that rules have been put in place to safeguard against unauthorized withdrawals and identity theft and money laundering and I am truly glad that the financial institutions have taken those steps. However, there are some basic things that individual employees can do to make their clients feel appreciated. Let me give you an example. After the AGM, I had to deposit a large amount of cash into the bank thanks to the wonderful generosity of the membership who succumbed to Lyall Pratt’s salesmanship in support of the J.H. Holloway Scholarship Foundation raffle. The customer service representative went to great steps to make sure that her count of the money and my count of the money matched. It was a little thing but it was thoughtful. Great customer service, I thought. At about the same time, we had to make some minor changes to our banking structure which required some additional paperwork. I hate paperwork, but knew that these forms had to be filled out. I didn’t mind that the forms had to be filled out but I became incensed when it appears that the changes that were supposed to have been made last year were never done. In reply to my first e-mail questioning this situation, I was told that the paperwork had to be completed. My second e-mail questioning how this happened in the first place has yet to be answered.

Many years ago, I worked for a trust company. While I was there, this company unveiled its new mission statement which was, “exceeding customer expectations.” It was an incredibly inane mission statement but it was a time when those things were just starting to come into vogue. Anyway, after the big unveiling of these three little words, we had a staff meeting to figure out how we could “exceed customer expectations.” It was decided that a desk at the front reception area would be useful for those times when a client did come in to sign some paperwork. Great idea, everyone thought. When I left to start my MBA studies six months later, I don’t think that that desk had yet arrived.

My last vent regarding financial institutions centres around the insurance industry. I had the occasion about a year ago to make some changes to my insurance coverage. I changed carriers and wrote to my now former insurance company that I was cancelling the policy. My broker advised me to put a stop payment on the automatic withdrawal of the insurance premium because it was well known in the industry that they would keep withdrawing money from the account regardless of how many cancellation letters were sent to them. It was not done out of malice but it appears that no one ever got around to processing these requests.

If you sat down to write an article for ALS News, you would probably come up with a different set of examples but the same frustrations. It’s only June but it appears that I’ve turned back into the Grinch again. Every one and every organization makes mistakes. Some are small mistakes and some are big embarrassing mistakes. Often, in the surveying profession, it is the smaller things (property damage) that will cause the bigger headaches than the major items (proper evaluation of survey evidence).

From my perspective, my biggest peeves when it comes to customer service are:
1. Getting an answer from a company representative instead of getting the right answer. If you don’t know the answer, don’t guess but find someone who can get the right answer to me. I would rather wait a little longer the first time then have to call back two or three times and pick the best two out of three answers.
2. I hate e-mail messages that never get returned. I once wanted to buy something through eBay and sent an e-mail question to the seller. I never got a reply. Once again, I wanted to give this person or this organization money and they decided that they did not want to accept it.
3. I hate e-mail messages that are not returned. I once wanted to buy something through eBay and sent an e-mail question to the seller. I never got a reply. Once again, I wanted to give this person or this organization money and they decided that they did not want to accept it.
4. I still hate voice mail. I hate calling a company at 4:55 p.m. and getting a voice mail message that says, “The office is now closed for the day. Our business hours are 8:30 a.m. to 5:00 p.m.” The same thing has happened to me when I call the organization at 8:35 a.m. or when I call them at 1:10 p.m. and their voice mail tells me that their lunch break was over ten minutes ago but no one still answers the phone.

Yes, I have turned into the Grinch again. Maybe my heart really is two sizes too small. But I will a hearty thank you to the person and the organization that empathizes with my concerns, gives me the right answer the first time, and finds a way to fix the problems when they inevitably arise. That creates a happy and loyal customer and is far beyond “exceeding customer expectations.”

2007-2008 Regional Meetings

Edmonton
September 25, 2007
January 30 and April 9, 2008

Calgary
September 26, 2007
January 31 and April 8, 2008

Grande Prairie
October 3, 2007
February 5 and April 3, 2008

President’s Tour
Lloydminster, Medicine Hat and Lethbridge
August 30, 2007
Condominium Property Act

To: Mr. George Yates, Director of Consumer Programs
Service Alberta, Consumer Services Branch, Consumer Programs

RE: Your File No. #8050-C29
Thank you for your letter of April 19, 2007 concerning a proposed amendment to the regulation under the Condominium Property Act to allow purchasers to choose title insurance. Based on your letter, the Alberta Land Surveyors’ Association understands that title insurance would be a voluntary option for consumers during the gap in title registration. We also understand that the condominium plan pertaining to the unit will have to have been submitted to the appropriate Land Titles Office and the unit will have to be substantially completed. Furthermore, the purchaser will have to have obtained the approvals required for the lawful occupation of the unit.

The Alberta Land Surveyors’ Association has long argued that title insurance precludes the need for full disclosure and therefore does not resolve problems but only masks them until they are uncovered at some future time by unsuspecting land owners. The Alberta Land Surveyors’ Association takes the position that complete and full disclosure in the real estate transaction is of paramount importance to all parties involved. Through full disclosure, the public will be protected. A title insurance policy provides coverage other than just gap insurance and, over time, these other provisions in a title insurance policy could be used as an excuse by government to not undertake its other responsibilities which may adversely affect the Torrens system and the benefits of full disclosure in a real estate transaction.

More specifically, the Alberta Land Surveyors’ Association is concerned that the unit holder may not be familiar with all of the provisions and exclusions in a title insurance policy. The Alberta Land Surveyors’ Association believes it is incumbent on Land Titles to examine its existing process and take responsibility for the problems created by the delay in registration and design a solution to the problem. While positive steps have been taken in that direction, the proposed amendment to the regulation may be seen as a signal that Alberta Land Titles does not need to rectify the issue surrounding delays in the registration process. Land Titles has recently introduced an automated registration process that allows the applicant to look forward in the queue of registrations for items that may adversely affect their application (such as builder’s liens). This may give the lending institutions and their agents the confidence necessary to advance funds without the need for gap insurance.

Perhaps a more appropriate amendment would be to extend the provisions of the Land Titles Assurance Fund to cover gap problems rather than condoning a solution that will increase closing costs with little perceived benefit. It is felt that this solution would be more cost effective and resolve the specific concern trying to be addressed.

The additional coverage offered by title insurance with respect to title defects, is redundant in Alberta because with our Torrens system, there are very few title problems. If title defects do arise, they are covered by the Land Titles Assurance Fund.

The Law Reform Commission of Saskatchewan has collaborated with the Manitoba Law Reform Commission to produce a report on Private Title Insurance. The report is a joint report by the two Commissions. The report considers the effects of title insurance within the context of residential real property conveyancing and contains 15 recommendations aimed at protecting the interests of residential property owners and purchasers and protecting the public land registration system, while ensuring freedom of choice for consumers. I would ask you to kindly review this report which provides additional information about the need for title insurance, its coverage and potential problems it will cause. (http://sklr.sasktelwebhosting.com/TitleI.pdf)

The Alberta Land Surveyors’ Association is concerned that your letter of April 19, 2007 presents the proposed amendment to the regulation as something that is going to be done and that consultation is taking place after the decision has been made. It is unfortunate that the Alberta Land Surveyors’ Association was not considered a stakeholder earlier in the process and that we were given only two and a half weeks from the date we received your letter to respond to this issue. Hopefully with the information we have provided, your department will reconsider the need for Title Insurance.

The Alberta Land Surveyors’ Association, established in 1910, is a self-governing professional association legislated under the Land Surveyors Act. The Association regulates the practice of land surveying for the protection of the public.

ROBERT M. WALLACE, ALS
PRESIDENT

Wellsite Plan Certification

To: Mr. Dale Schafer
Assistant Manager
Alberta Energy and Utilities Board

This letter is to advise you that the membership of the Alberta Land Surveyors’ Association amended its certification for wells site plans at its 98th annual general meeting. The
change to the certification takes effect May 15, 2007.

The wellsite certification will now read:

I, __________________ , Alberta Land Surveyor, of __________________, Alberta, certify that the survey represented by this plan is true and correct to the best of my knowledge, has been carried out in accordance with the Alberta Land Surveyors’ Association Manual of Standard Practice, and the field survey was performed between the ______ day of _______ , 20__ and the ______ day of ______, 20__. 

Alberta Land Surveyor 

Date Signed 

Witness (name of witness) 

The intent of the amendment is to clarify when the field work was done and when the plan was signed. It is intended that the date signed would be revised for each revision when no additional field work was required.

Should you have any questions about this revised certification, please do not hesitate to contact the Alberta Land Surveyors’ Association.

BRIAN MUNDAY 

EXECUTIVE DIRECTOR

Limitations Statutes Amendment Act

April 30, 2007

Thank you for your letter dated April 12, 2007 regarding Bill 17, the Limitations Statutes Amendment Act, 2007.

The area of dealing with the recovery of possession of land is an area of the law which crosses property law, land titles, and limitations law. The amendment deals only with the limitations law component.

The Limitations Act sets out the time in which an individual may bring a claim, the objective being the timely resolution of disputes. The Limitations Act came into force on March 1, 1000 when it replaced the Limitation of Actions Act. The Alberta Law Reform Institute in their May 2003 Final Report No. 89 on the “Limitations Act, Adverse Possession and Lasting Improvements,” raised a concern as a result of the repeal of the Limitation of Actions Act. The concern was it may be unclear as to how the limitation period regarding an owner’s right for the recovery of possession of land under the Limitations Act now works.

The current wording of the Limitations Act does not clearly set out the start point for the 10-year limitation period. This is the period in which the landowner has to take action to recover his land from another. Given there was no intention to change the law in this area, this amendment is being brought forward to clarify the effect of the ten-year limitation period. It is also being brought forward to clarify when the ten-year limitation period begins and the consequences of the expiry of the ten-year period. This amendment will in no way change how these disputes are currently dealt with by the Courts or the recourse available to either a land owner or an adverse possessor.

Given Bill 17 is not changing the law governing adverse possession, consultation was not conducted beyond the Alberta Law Reform Institute, the Canadian Bar Association, the Law Society and Service Alberta.

I can appreciate the area of adverse possession is an issue of concern to Alberta Land Surveyors and can advise the Alberta Land Surveyors’ Association will be consulted if the Government of Alberta contemplates changing this area of the law.

Again, thank you for writing.

RON STEVENS, QC 

MINISTER, JUSTICE AND ATTORNEY GENERAL

To: Dr. Neil Brown, MLA 

Further to our letter of April 12, 2007 concerning Bill 17, the Limitations Statutes Amendment Act, I am writing to advise you that the membership of the Alberta Land Surveyors’ Association at its annual general meeting last week overwhelmingly passed a motion, “that the ALSA assembled here today at our 98th annual general meeting strongly encourage the Alberta legislature to delay the passage of Bill 17 – the Limitations Statutes Amendment Act, 2007, until such time as the ALSA is able to present their concerns to the government of Alberta.”

The annual general meeting of the Alberta Land Surveyors’ Association enjoyed its largest turnout ever. Approximately 60% of the practicing Alberta Land Surveyors were in attendance.

As we indicated in our previous letter, the Alberta Land Surveyors’ Association has had an interest in this amendment as it deals with the principles of adverse possession, more commonly known as squatters’ rights. We identified our concern in 2004 and were told that we would most definitely be asked to participate in the consultation process. However, we were not given that opportunity and, therefore, we are requesting the delay. We look forward to hearing from you.

ROBERT M. WALLACE, ALSA 

PRESIDENT

To: Members of the Legislative Assembly

May 4, 2007

I am writing with regard to Bill 17 - The Limitations Statutes Amendment Act, 2007 which is now before the Legislature having received second reading on April 11.

I am concerned that in 2003, after the Law Reform Institute tabled its Final Report No. 89 - Limitations Act - Adverse Possession and Lasting Improvements, the Alberta Land Surveyors’ Association requested an opportunity to make a presentation with regard to adverse possession. The ALSA was advised that it was not a priority at the time but they would be advised and given an opportunity to make a presentation.

It is now three years later and all of a sudden, Bill 17 appears on the Order Paper with no notice or opportunity for consultation.

This Bill may be clarifying the law, but in the minds of ordinary Albertans, it is very clearly bringing adverse possession back into the laws of Alberta after it was removed in 1999. It may have been removed
by inadvertence in 1999, but nevertheless, it was removed from the statute law in 1999.

It is my position, supported by the ALSA, that it is important to have the debate about adverse possession based on the principles of the issue now and not after we further confuse the law by passing Bill 17.

I believe a very good case can be made as to why adverse possession should have never been brought into Alberta based on the argument that the Law of England was adopted in the Northwest Territories in 1870. The Law of England can be distinguished from the law of Alberta on the basis that boundaries in England are not defined by survey but rather by the concept of general boundaries (fences, ditches and hedges) whereas in Alberta, we have a system of fixed boundaries defined on the ground prior to settlement. The principles of our Torrens system of land registration are also different than English real property registration.

The reinstatement of the concept of adverse possession in Alberta has huge implications and could potentially affect virtually every landowner (particularly in rural areas) in the province. When land was only worth $10/acre, this was not a big issue but now that land is rising in price, particularly on the periphery of urban areas, it is very significant.

Adverse possession is not a big concern in Alberta. Less than 100 cases have been heard by the courts since Alberta became a province and very few have been successful. There is no apparent urgency to clarify the law at this juncture.

In conclusion, I would urge you and all members of the Legislative Assembly to put this bill on hold to allow for some further consultation and deliberation on the implications of this proposed legislation. I recognize that the Law Reform Institute has prepared a paper on this issue but that is a purely legalistic approach. There are practical considerations that need to be assessed which the Institute has not considered. These arguments can rebut the legal arguments raised by the Institute.

In the interests of an open and transparent government, it is imperative that Bill 17 be delayed pending public input.

G.K. ALLRED, ALS, CLS

May 7

To: The Honourable Dave Hancock, Government House Leader
The Honourable Rob Renner Deputy Government House Leader
Mr. Wayne Cao, Chair Cabinet Policy Committee on Government Services

Further to our discussions last week at the Progressive Conservative convention, I am pleased to summarize my understanding of the process that I can expect with regard to Bill 17 - The Limitations Statutes Amendment Act, 2007:

• Bill 17 will not be referred to Committee of the Whole until the fall sitting of the Legislature.
• In the next few months I will submit a brief setting out my position and/or that of the Alberta Land Surveyors’ Association.
• There will be an opportunity to make an oral presentation to the Cabinet Policy Committee on Government Services.
• Bill 17 will proceed to Committee of the Whole at the fall sitting of the Legislature.
• Amendments may be introduced in Committee of the Whole or perhaps the Bill could be withdrawn in its entirety.

If my understanding of the process is not as outlined above, I would appreciate clarification. If there are any other formalities that I should be aware of, I would appreciate advice on those matters was well.

I thank you for this opportunity to make a presentation on this Bill. While the subject matter may appear to be rather innocuous to some, I feel there are important principles that need to be addressed now before the law with regard to adverse possession is clarified.

I am pleased that the new process which includes the Cabinet Policy Committees allows further public presentations after bills have been introduced to the assembly. In my opinion, this is a great step forward in promoting openness and transparency in government.

G.K. ALLRED, ALS, CLS

Land Titles Act Amendments

This letter is to acknowledge receipt of your letter dated April 4, 2007 requesting Land Titles’ assistance in bringing forward a proposed amendment to Sections 91 and 92 of the Land Titles Act.

Your Association’s proposal has been sent to solicitors for the Registrar for review and comments. I will advise you of the outcome of that review as soon as it is completed. Unfortunately, I cannot tell you at this time how long this review will take.

Please let me know if there is any additional information you require at this time.

TIM GRUSIE
DIRECTOR, SURVEY REGISTRATIONS

Scholarships

On behalf of the staff and students of the Schulich School of Engineering, I would like to thank you for contributing $2,500 in 2006 to support the Alberta Land Surveyors’ Association Scholarship. We are very grateful for the financial support of donors like you.

Your gifts, alongside those from our many supporters, have allowed us to enrich the student experience, support research, and upgrade our facilities. You gift demonstrates your trust in us and a strong commitment to our shared goals of being one of Canada’s finest engineering schools.

We are proud to share some examples of how we have invested in our students over the past year:

• Addressing the service needs of our students: Dr. Lynne Cowe Falls has been appointed to the new position of Director of Students. Dr. Cowe Falls will oversee frosh orientation, serve as liaison to student clubs, and develop programs to enhance the undergraduate experience. She is
the face of the Schulich School for all first-year students and prides herself in helping students succeed.

• **Providing outstanding out-of-classroom experiences for our students:** Last year, over 1,600 of our students directly benefited from the Schulich Students Activities Fund. $400,000 was given to students to support field trips—exchanges, industry tours, and conferences—and to support student clubs and projects like the UC Solar Car.

We will continue to update you on our research advances, new school initiatives, and to share student success stories. We invite you to stop by our offices or visit our school. We would be pleased to set up a tour, introduce you to some of our researchers and showcase our student areas.

Once again, thank you for supporting the Schulich School of Engineering.

**DR. M. ELIZABETH CANNON, FCAE, PENG, PHD**  
**DEAN, SCHULICH SCHOOL OF ENGINEERING**

Thank you for your support of post-secondary education and, in particular, your support of NAIT. Your contribution to the academic achievement awards is greatly appreciated both by the recipients and by the NAIT community.

We would appreciate your feedback. Please e-mail Lynda Townsend at lyndat@nait.ca with your suggestions and comments regarding the evening.

**PETER LAWLOR, DEAN**  
**SCHOOL OF APPLIED BUILDING SCIENCE**

I am writing to thank you and the Alberta Land Surveyors’ Association for the scholarship I received at the annual NSCC Student Success Awards Banquet on May 4, 2007. The scholarship is greatly appreciated and will be used towards my enrolment in the Geomatics Engineering Technology program at the Centre of Geographic Sciences, during the 2007-2008 school year.

Thanks again!

**JOSH GOREHAM**

**Thanks from the Piper**

Thank you, again, for the opportunity to pipe at the president's ball. It is always a pleasure to do so and the new venue was great. Lake Louise is more than a kilometre higher than Grande Prairie, so a little bit of tweaking was required on the bagpipes. It made for a good show for all of the tourists on the lake. I am sure that they thought that I worked there as I tuned-up and posed for pictures with them.

**JOHN HAGGERTY, PIPE SERGEANT**  
**GRANDE PRAIRIE AND DISTRICT**  
**PIPES AND DRUMS**

**2007-2008 Professional Exams**

**Fall Sitting**  
October 2nd and 3rd, 2007

**Spring Sitting**  
April 1st and 2nd, 2008
association notes

ALSA Office —
New Staff
Heather Gildart
Administrative Assistant
Systematic Practice Review

Heather originated in Winnipeg but gravitated to Alberta early in her career. She has supported many boards and committees both in government and in private industry over the past 25+ years. Her most recent work was with Alberta Health, supporting Advisory Boards for the Provincial Health Officer. Among many other assignments, she has worked as executive assistant to one of the associate vice presidents at the University of Alberta, and was in real estate sales for about ten years.

She is married to Ossie Gildart, and has a large family, including nine grown children and step-children and eleven grandchildren.

John Ironstone, ALS
Assistant to the Director of Practice Review

Born in Brampton, Ontario. Graduated from Ryerson Polytechnic in 1977 (major - Geodetic Science) and moved to Edmonton the same year.

Articled to Bob Baker, ALS (Hon. Life) member, from beautiful downtown Lethbridge, and received ALS commission in 1984 while employed with the Director of Surveys office.

John amassed a vast range of surveying experience from both the public and private sector from 1977 to 2007. Most recently involved in the oil and gas industry, in the capacity of Project Manager (Hamilton & Olsen Surveys & All West Surveys). John has also been an inspector in the Director of Surveys office under the auspices of Section 6 of the Surveys Act.

Married to lovely wife Linda for 27 years; they have two beautiful daughters Vanessa and Stephanie and grandson Logan.

Hobbies include hockey, golf and cruising on an assortment of motorized machines (like to feel the wind through my hair).

Will soon be relocating to beautiful Lac Bellevue, County of St Paul.

Adam Pluim
Geomatics Technologist
Systematic Practice Review

Adam Pluim joined the Alberta Land Surveyors’ Association on May 1, 2007 as the Geomatics Technologist with Systematic Practice Review.

Adam was born and raised on a farm outside of Wetaskiwin. During his senior year at high school, he received anultimatum from his father that: “if you want to farm, fine; but you cannot have it until you get either an education or a trade.” After job shadowing an Alberta Land Surveyor for a day, Adam applied to the Geomatics Engineering Program at NAIT and received his diploma in May 2007.

Adam spent last summer surveying on the Alaska Highway with the federal government, and is currently writing his remaining Canadian Board exams so that in the future he will be able to article for his commission.

Adam’s leisure activities include, but are not limited to, farming, writing and canoeing.

New Members
#775 BERNS, Cheri

Cheri was born in Lethbridge in November 1975. She graduated from Catholic Central High School in 1993 and went on to receive a B.Sc. in Geomatics Engineering from the University of Calgary in 1999.

Articles were served under Alberta Land Surveyors Jim Sweeney, Jerry Quinlan and Frank Meashaw from July 2000 until she received her commission on March 7, 2007. She is currently employed with Stewart, Weir and Co. Ltd. as branch manager of their Grande Prairie office.

Cheri also holds a designation as a P.Eng. and served as treasurer (2000-2002), vice-chair (2002) and chair (2003) with the Peace River branch of APEGGA. She also volunteered for the Multiple Sclerosis Society of Canada, Canadian Cancer Society and Diabetes Association.

Surveying experience includes subdivision and road-widening work preceded by three years of oil and gas surveying.

Cheri enjoys swimming, travelling, fine food and wine. Cheri is married to Eric and they reside in Grande Prairie.
**#776 NGUYEN, Huong**

Huong Nguyen was born in Vietnam in August 1976 and entered Canada in 1985. She graduated from Fredericton High School in 1995 and received a B.Sc. in Engineering from the University of New Brunswick in 2000.

Al Nelson, ALS and John Stephens, ALS served as Huong’s principals from August 2002 until she received her commission on March 14, 2007. Huong is currently employed with Focus Surveys Limited Partnership in Edmonton. She is also an engineer-in-training with APEGGA.

ALSA experience includes serving on the Public Relations Committee from 2004 to 2006.

First order surveys for HPN, highway topographic surveying and oil and gas surveying are some of the areas that Huong is experienced in.

Canoing, camping, painting and pottery are some of the other activities that she enjoys.

Huong and her husband, Stephen Rawlinson, reside in Edmonton.

**#777 STOCKDALE, Jeffrey**


Alberta Land Surveyors John Matthysen and Mark Kocher served as principals, respectively, from December 2004 until he received his commission on March 20, 2007. Jeffrey is currently employed with Millenium Geomatics Ltd. in Calgary.

He completed seven Western Canadian Board exams in two years and surveyed in Australia for approximately one year and in Ontario for five years.

Surveying experience includes municipal work with Coordinate Surveys and Stantec Geomatics and oil and gas work with The Cadastral Group and Millennium Geomatics.

Other activities include renovating a cabin on Kootenay Lake, BC and walking his German Shepherd, Josie.

Jeffrey is married to Lily Nichols and they make Calgary their home.

**#778 EKLUND, Darren Garth**

Darren Eklund was born in Edmonton in March 1970. He graduated from McNally Composite High School of Edmonton in 1988 and in 1995, received his Geomatics Engineering Technologist designation from NAIT.

Alberta Land Surveyors, Craig Hughes, Steven Card and Peter Walker served as principals from December 2005 until he received his commission on March 27, 2007. Darren is currently employed with Precision Geomatics Inc. in Calgary.

Darren has eight years of field experience in oil and gas and road construction surveys as well as four years as a project manager in the oil and gas field.

Running, adventure racing, triathlons and mountain biking are a few leisure activities that Darren enjoys.

Darren and Marliss Eklund and their two children, Kevin (6 years) and Kyle (2 years) reside in Calgary.

**#779 PLANTE, Justin Michael**

Justin Plante was born in Grande Prairie in February 1982. He graduated from Lindsay Thurber Composite High School of Red Deer and went on to receive a B.Sc. in Geomatics Engineering from the University of Calgary in 2004.

Articles were served under Ron Hall, ALS from July 2004 until he received his commission on April 5, 2007. Justin is currently employed with Focus Surveys Limited Partnership in Grande Prairie. He is also an engineer-in-training with APEGGA.

ALSA experience includes serving on the Public Relations Committee from 2004 to 2006.

Justin mainly enjoys outdoor activities including hunting and shooting.

**Members on the Move**

The following are changes to the Telephone Listing and Supplement to the Annual Register of Members

**ACTIVE MEMBERS**

Robin Arthurs: the e-mail address arthurals@nucleus.com e-mail address is no longer in service.

Cheri Berns received her commission as ALS #775 on March 7, 2007. Mr. Berns is currently employed with Stewart, Weir & Co. Ltd. in Grand Prairie.

Scott Brooks is now listed as a sole practitioner. His contact information is 3214 - 30 Street SW Calgary T3E 2M7; Tel: (403) 252-6187; E-mail: cksj@shaw.ca.

Cam Christianson: fax number is (403) 362-5288.

Sandy Davies is with Crape Geomatics Corporation in Calgary. Her new e-mail address is sdavies@crape.com and her extension is 272.

Darren Eklund received his commission as ALS #778 on March 27, 2007. Mr. Eklund is employed with Precision Geomatics Inc. in Calgary.
Rick Gauthier is now at the Focus Surveys Limited Partnership office at 500-4 Avenue SW, Suite 400 in Calgary.

Don George, of no fixed address, is presently travelling across Canada. He'll be back in six months.

David Gosling is now employed with Focus Surveys Limited Partnership - FCS Land Services Limited Partnership due to the merger with Waberski Darrow Survey Group Ltd. The address is 10720 - 100 Avenue, Fort St. John, BC V1J 1Z3.

Kevin Grover: direct phone number is 917-6963.

Ron Hall is now at the Focus Surveys Limited Partnership office at 500-4 Avenue SW, Suite 400 in Calgary.

Stan Hutchinson changed his June 2007 ALS and can be reached at: Tel: (780) 429-8805; Fax: (780) 429-3374 or E-mail: stan_hutchinson2007@yahoo.ca.

Leanne James is now with Stantec Geomatics in Calgary. Her direct phone number is (780) 716-8127 and her e-mail address is leanne.james@stantec.com.

Huong Nguyen received her commission as ALS #776 on March 14, 2007. Ms. Nguyen is employed with Focus Surveys Limited Partnership in Edmonton.

Allan Nielsens is now employed with Douglas Surveys Inc. His temporary e-mail address is jefnr@douglasssurveys.com.

Justin Plante received his commission as ALS #779 on April 5, 2007. Mr. Plante is employed with Focus Surveys Limited Partnership in Grande Prairie.

Jeffrey Stockdale received his commission as ALS #777 on March 20, 2007. Mr. Stockdale is employed with Millennium Geomatics Ltd. in Calgary.

Dennis Tomkinson: the e-mail address d.tomkinson@swg.ca is no longer in service.

Craig White: direct line (cell) is (403) 477-0030.

Kirk White no longer has the direct line of (403) 828-1696.

RETIRED MEMBERS

George Baerg has moved to 7450 Huron Street, Suite 6, Chilliwack, BC V2R 5K8; E-mail: gwbaerg@shaw.ca.

John Blair has moved to 510, 1689 Duchess Avenue, West Vancouver, BC V7V 1P7. Tel: (604) 925-3366.

Stan Hutchinson new e-mail: stan_hutchinson2007@yahoo.ca.

Doug Krempien is no longer employed with Midwest Surveys Inc. and became a retired member on April 30, 2007.

Don Molesky became a retired member on April 30, 2007.

Jim Van Dam has moved to 131, 612 - 111 Street SW, Edmonton T6W 1R9. (Tel: (780) 453-6938; Fax: (780) 466-8685 and E-mail: jim.vandam@gmail.com.

DECEASED MEMBERS


CORPORATIONS

Alberta Geomatics Inc. postal code is T6E 5K8.

Alberta Surveying Services Ltd. new fax: (780) 466-8885 and e-mail: rachan1@telusplanet.net.

All West Surveys Limited Partnership is now Altus Geomatics Limited Partnership as of May 8, 2007. They have retained their permit #P064.

Capital City Geomatics Ltd. ceased to exist on April 30, 2007.

Focus Surveys Limited Partnership has been approved as a branch office in Fort McMurray effective March 8, 2007 under the direction and control of Tony Brown, ALS.

Global Oilfield Surveys Inc. main e-mail address is admin@gosi.ca; the website address is www.gosi.ca.

McElhanney Land Surveys (Alta.) Ltd. is no longer using the e-mail address info@melhanney.net.

Mission Geospatial Ltd has moved to 2950 Hochwald Avenue SW, Suite 108, Calgary T3E 7H5. The phone and fax numbers have not changed.

Nielsen Land Surveys Ltd. ceased to exist on April 30, 2007.

Sexsmith Surveys Ltd. e-mail is buzzard6@telusplanet.net.

Stewart, Weir & Co. Ltd. has a new branch office in Grande Prairie as of April 11, 2007 under the direction and control of Cheri Berns, ALS. Contact information: 11039 - 78 Avenue, Suite 99, Grande Prairie T8V 4V7. Tel: (780) 814-5880; Fax: (780) 814-5973.

ARTICLED PUPILS

Matthew Bigney articled to Paul Stoliker of Alpine Land Surveys Limited on March 1, 2007.

Kenneth Kitchen terminated his articles as of March 27, 2007.

Pat Lanteigne is no longer employed with Matrix Surveys Ltd. effective March 13, 2007.

Constance Marufu has changed her name to Constance Jangwa.

Drew Suder articled to Mark Kocher of Millennium Geomatics Ltd. of Calgary on April 16, 2007.

Bruce Tattrie articled to Bill Edgerton of HIW Surveys Ltd. in Grande Prairie on November 18, 2006.

Jeffrey Wade articled to Pat Moloney for Crape Geomatics in Calgary on April 24, 2007.

Matt Ward articled to Duane Haub of Midwest Surveys Inc. in Medicine Hat on May 10, 2007.

David Young transferred articles on March 1, 2007 to Dave Higgins of Navland Geomatics Inc. His e-mail address is navland_geomatics@yahoo.ca.

AFFILIATE MEMBERS

Bruce Clark has moved to 27 Flint Crescent, St. Albert T8N 1Y7.

Anthony De Bruyne cancelled his membership on April 30, 2007.
Richard Dunbar cancelled his membership effective April 30, 2007.
Estelle Moisan is no longer an affiliate member effective February 27, 2007.

ASSOCIATE MEMBERS
James Bendza has moved to 3512 - 44 Street, Leduc T9E 6B1.
Janet MacPhee has a new mailing address; 690 Princeton Way SW, Suite 303, Calgary T2P 5J9.
Conrad Swenson cancelled his membership effective April 30, 2007.
Michael White cancelled his membership on April 30, 2007.

A Message from the Executive Director, Land Titles Office

Alberta’s red hot real estate market has been keeping you busy with clients, and it’s brought a flood of property title registrations to Alberta’s Land Titles Office. Since 2001, the number of documents submitted to the office has increased by 57 per cent. This volume is unprecedented. As a result, the turnaround time for processing property title registrations hit an all-time high of twenty-six days in January.

We’ve been working hard to change that, and, I am pleased to announce that we have reduced our wait times to approximately seven days. Here are some improvements we’ve been making:

• **More Staff:** In 2006, we hired fifteen new employees. We’ve recently hired fifteen more. After a six-month training period, we will have more qualified examiners to serve you.

• **More hours:** Examiners are working staggered shifts and a large amount of overtime. Fifteen per cent of all registrations are completed after office hours.

• **Improved Processes:** Support staff have taken over most administrative duties, leaving examiners more time to focus on documents. We’ve also used technology to streamline some processes and we’ve provided examiners with tools they need to work more efficiently.

• **More Client Access:** Clients can go online to view the Land Titles Procedures Manual for assistance in filling out documents and to access commonly used forms. We’re also providing real-time online access to titles, documents and plans, enabling you to see how long your wait time might be.

• **Reduced Rejection Rates:** Thanks to the cooperation of stakeholders, the Land Title Office continues to reduce the number of documents rejected because of errors.

It’s going to be a busy summer. Even as volumes go up, Land Titles will continue working to serve you better. Thank you for your continued cooperation and patience.

DOUG MORRISON, EXECUTIVE DIRECTOR
LAND TITLES AND PERSONAL PROPERTY REGISTRY

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**Professional Exam Results—Spring 2007**

**Practical Surveying**

Thirty-four candidates wrote the Spring 2007 Practical Surveying exam of which only seventeen candidates achieved a 75% passing grade.

The candidates were given the option to answer any nine of the ten questions on the exam. Several of the candidates attempted all ten questions but, only the nine highest marks were counted. Each question was worth ten marks.

Below is a summary of the themes for each question:

1. **Condominiums**

Candidates were asked various questions about building condominiums. Candidates generally did poorly on this question. Those that did well on this question may have had previous experience in Building Condominium projects.

   Marks for this question ranged from 0.5 to 7.5 with an average mark of 5.1. All candidates attempted this question.

2. **Field Notes and Evidence Assessment**

This question dealt with the re-establishment of the E¼ of a section using township plan information. The question called for a simple calculation and for the description of what type of monument was likely to be found at the corners in different years. Some of the candidates had difficulty identifying that the south boundary of this section was a correction line.

   Marks for this question ranged from 2.0 to 9.5 with an average mark of 6.3. Only one candidate did not attempt this question.

3. **Plan Requirements**

This question required candidates to identify and list ten errors or deficiencies on a pipeline right-of-way plan.

   All candidates attempted this question, with marks ranging from 3.0 to 9.0. The average mark was 6.0.

4. **Rural Subdivision**

This question dealt with surveying out a LSD from a partial township plan. Candidates were asked to show the township re-establishments that were required. They were also requested to explain how they would re-establish the required positions and the approximate dimensions of the subdivision.

   All candidates attempted this question, with an average mark of 5.3. The low mark was 2.0, the high mark was 9.5.

5. **Wellsite in Surveyed Territory**

This question dealt with the plan requirements for a wellsite plan in surveyed territory.

   Marks for this question ranged from 5.5 to 10.0, with an average mark of 8.0. Only three of the candidates did not attempt this question.

6. **Calculations in Unsurveyed Territory**

This question dealt with typical calculations for offsets, total coordinates, and range deflections for a wellsite in unsurveyed territory in Alberta.

   Candidates did very well on this question with marks ranging from
4.0 to 10.0. All candidates attempted this question and the average mark was 8.4.

7. Urban Subdivision
This question dealt with a three lot subdivision which would require a road closure. Most candidates did not recognize the requirement for a road closure and bylaw registration timelines.

All candidates attempted this question with marks ranging from 3.0 to 10.0, with an average of 5.4.

8. Natural Boundary
This question dealt with a natural boundary and the resulting ownership of the land. Candidates performed well on this question.

Marks for this question ranged from 8 to 10, with an average mark of 9.1.
All candidates attempted this question.

9. Rural Subdivision
Candidates were asked to identify what monuments were required for the Subdivision and also what new monuments were required to be established.

Candidates did well on this question with marks ranging from 3.0 to 10.0, and an average of 6.9.

10. Railway and River Boundary
Establishing the boundaries of an unposted railway and a river boundary were required to answer this question. Candidates were asked to locate where monumentation was required. Few candidates attempted the entire question. This question demonstrated the lack of knowledge in calculating curve information and the posting requirements for curves and river traverses.

Marks for this question ranged from 1 to 9 with an average of 5.5.

Statute Law
Forty-five candidates wrote the Spring 2007 Statute Law exam and seventeen of those were successful in obtaining the 75% pass mark.
Scores ranged from 24% to 88%, with an average mark of 67%.
Candidates did well on questions that were similar to questions asked on past exams, but were not as successful with the new questions.

For this exam, the marks were dispersed as follows:
- General questions average mark was 85%.
- Oil and Gas Conservation Act and Regulations average mark was 58%.
- Condominium Property Act average mark was 78%.
- Municipal Government Act average mark was 58%.
- Land Titles Act average mark was 61%.
- Surveys Act average mark was 88%.
- Land Surveys Act average mark was 66%.

The Municipal Government Act and the Land Titles Act sections of this exam posed a problem for many of the candidates. When studying for these sections of the exam, candidates would benefit from reviewing some sample plans registered at Land Title and noting each signature and approval shown, and also noting which consents would have been required.

The Surveying Profession
Thirty-five candidates wrote the Spring 2007 Survey Profession exam. The exam consisted of fifteen questions related to topics on professional issues and current affairs of land surveying. Twenty-eight of the thirty-five candidates passed the exam. The average mark was 78%. Candidate scores ranged from a low of 57% to a high of 93%. Here is the general theme of some of the questions.

1. Descriptive Plans—when they can be used, who can give approval for their use and where to find information on what must be shown on the plan.
   Worth 5 marks – average mark was 3.5.

2. TILMA—what does it stand for, what provinces it directly affects, how does it affect the ALSA.
   Worth 6 marks – average mark was 4.2.

3. MSP and Surveys Act—what is difference between the two and where certain topics are found?
   Worth 12 marks – average mark was 8.9.

4. Related to the role of the Director of Surveys.
   Worth 3 marks – average mark was 2.4

5. Related to the role of Director of Systematic Review.
   Worth 3 marks – average mark was 2.6.

6. Define accuracy and precision.
   Worth 4 marks – average mark was 3.8.

7. Bylaws of the Association—where right to make bylaws comes from, what is the process to pass a bylaw, some questions on the AGM, and different forms of membership in the Association.
   Worth 15 marks - average marks was 12.0.

8. Question on the monuments between Saskatchewan and Alberta being 80m east of the 110th Meridian. Students were asked to comment on how this will affect the border.
   Worth 4 marks – average mark was 3.5.

9. Corner Recordation Index—what is it? What types of monuments is it for? Who can access the data were some of the questions.
   Worth 4 marks - average mark was 2.2.

10. Code of Ethics—Students were asked to define five of the nine Articles under the Code. The second part asked who judges whether the Code has been followed.
   Worth 12 marks - average marks was 11.6.

11. Survey Integration—what is it, when is it required, and how the bearing notes is to appear on a plan that is integrated under survey control?
   Worth 6 marks - average mark was 4.4.

12. Define lost monument, disturbed monument, obliterated monument and hierarchy of evidence.
   Worth 8 marks - average mark was 6.9.

13. Mutual Recognition Agreement—what is it, what does it mean?
Ken Allred Receives CIG President’s Citation

Ken Allred was the recipient of the Canadian Institute of Geomatics (CIG) President’s Citation at their annual conference in Toronto on May 24th. Ken received the award in appreciation for his special contribution to the Canadian geomatics profession through his active international role in FIG. He has represented Canada in various capacities in the International Federation of Surveyors (FIG) since 1982 when he was appointed as a delegate to Commission 1—Professional Practice and Standards. Since that time, he has served a four-year term as chair of Commission 1, as head of the Canadian delegation and more recently was elected as one of four vice-presidents of FIG. In presenting the award, CIG President Terry Tarle stated that “Ken has done an outstanding job representing the Institute often with little or no assistance or backup.”

FIG is an international professional organization that serves as a non governmental organization (NGO) with direct involvement in UN Habitat, UN Food and Agriculture Organization, The UN Office of Outer Space Agencies, the World Bank and the International Standards Organization (ISO). FIG just recently held its 129th annual meeting in Hong Kong. The conference attracted over 500 delegates from 62 countries around the world. Several hundred technical papers and keynote sessions were held during the five day conference and working week.

Allred has also been involved in Canadian professional affairs having served on the CIG Editorial Board, president of the Canadian Council of Land Surveyors and more recently as president of the Alberta Land Surveyors’ Association in 2002. He has also been involved in his community having served as an alderman on the Council of the City of St. Albert for 15 years. He remains active on a number of adjudicative boards and tribunals and maintains a small consulting practice.

In the keynote speech to the conference, Ryerson University, President Dr. Sheldon Levy related how a system of GPS (global position systems), GIS (Geographic Information Systems) and cell phone technology could have played a key role in managing the disaster at Virginia Tech a few months ago. Society has changed so much that students using cell phones were relaying the news across campus faster than either the media or the administration. The administration in turn was sending contradictory messages to the student body telling them in one breath to stay put and in the other breath to get out of the way of danger. In Levy’s view, if cell phone messages had been linked to a GPS/GIS system, administration would have been able to send different messages to different location-based cell phone users alerting them of the danger based on their location. He encouraged geomatics professionals to work with educational institutions to assist them in adapting the new technology to prevent or minimize disaster situations.

The Canadian Institute of Geomatics is a technical society that represents the broad field of geomatics professionals and technologists across Canada. President Terry Tarle from Telus Geomatics in Ottawa is stepping down after a two-year term of office. The new president is Robert Parkinson from Agriculture Canada in Calgary. The theme of the CIG conference was entitled Geomatics for Disaster and Risk Management.

Question Time

Use of Designations

- A Retired Member may use the designation ALS (Retired).
- An Honorary Life Member may use the designation ALS (Hon. Life).
- An Associate Member may use the designation “Associate Member/Alberta Land Surveyors’ Association” (Associate Member/ALSA).
- An affiliate member may use the designation “Affiliate Member/Alberta Land Surveyors’ Association.” (Affiliate Member/ALSA).
- A Student Member may use the designation (Pupil/ALSA).
- A member/ALSA).
Introduction
The purpose of this bulletin is to inform surveyors across the country of the importance of keeping proper records and the possible impact of the various provincial and territorial limitation acts on the maintenance of those records.

Records
Records of completed surveys should be archived upon completion of the survey. These are a valuable resource to the surveyor and are important documents either to consult in the future with regard to other projects or in the event of any dispute arising from the completion of the survey. The complete file should include all field notes, final plans, electronic field notebook files, digital files, contracts or job confirmation forms, title search information, engineering and architectural plans, documented conversations and any other communications with the client, whether in the form of letters, faxes or e-mails. In most jurisdictions, field notes can be produced as documentary evidence in the event of a claim. As such, it is important to maintain both written and electronic field notes.

A standardized procedure for keeping records should be used. Mechanisms for storage can vary, however, the information should be preserved in its final form as of the date of completion of the survey. If the file contains hard copies of all the documentation, ensure the documents are not modified after the survey has been completed. Modifications to a final plan make it difficult to determine the plan’s content at the time the survey was completed and, as these documents may need to be produced to other parties in litigation, modifying the plans could make it more difficult to illustrate the original plan in order to resolve a dispute, which could arise years, even decades, after the original plan. If a survey is used as the basis of an update or new survey, create a separate file and maintain the integrity of the original archived file.

When saving to a disk, write-protect the disk and store it in a safe, secure location, preferably separate from your operating premises...

If the file is digital, ensure the file is complete, scan all necessary documents and save it in a secure format so that the data cannot be modified or lost. Be aware of hidden content when using programs such as Microsoft Word. Be sure not to inadvertently change auto-format dates when updating files. When saving to a disk, write-protect the disk and store it in a safe, secure location, preferably separate from your operating premises so that the data can be recovered in the case of a disaster. It may be necessary to update your storage technology and files, as newer forms of data storage become available. For more information on these and other software issues, it is recommended to consult with an information systems expert to address these potential risks.

Why is it important to ensure that a complete electronic file be maintained? All electronic documents are discoverable in litigation. At least one jurisdiction, British Columbia, is also now requiring that all documents be produced in electronic format for any legal case involving three or more parties, more than 1,000 documents or a substantial number of electronic documents.

Limitation Acts and Records
As with other professional groups, a surveyor can be found liable in contract or negligence, or both. In order to fully defend themselves against a claim, it is necessary for surveyors to have a complete documented record of their work. When developing practices for archiving records, a surveyor should also consider the period for which they may be held liable for their work. Accordingly, it is advisable that a surveyor keep their related documents for at least as long as they may be held legally responsible.

The laws of each province and territory limit the time period in which a potential plaintiff may bring an action. They may also define an ultimate period of liability. Unfortunately, these time periods are not consistent across jurisdictions, and the various acts contain language that may affect the interpretation of the relevant limitation period. They are not consistent with regard to the cause of action such as breach of contract or negligence. An action to bring a claim for breach of contract usually must be brought within a specific period from the date of the breach of contract. However, in an action in negligence, the limitation period to bring an action may depend on when the plaintiff became aware of the error, rather than when the error occurred. This is referred to as the “discoverability rule.” The Supreme Court of Canada has stated “a cause of action arises for the purpose of a limitation period when the material facts upon which it is based have been discovered or ought to have been discovered by the plaintiff by the exercise of reasonable diligence.” (Central Trust Co. v. Rafuse, [1986] 2 S.C.R. 147 at 152; MacCulloch v. McInnes, Cooper & Robertson (1995), 140 N.S.R. (2d) 220; 399 A.P.R. 220 (C.A.)) An ultimate limitation period is also defined in the various acts as being the maximum period of time to bring a claim before the court, regardless of when the cause of action was discovered.

Many of Canada’s limitation acts are currently in the process of being
revised or have recently been revised. There have already been several court decisions concerning the new acts that affect how they are being legally interpreted.

The following section of this bulletin provides a summary of the limitation acts currently in effect as of the date of this bulletin, how they are being interpreted in various jurisdictions and their impact on surveyors.

** Provincial and Territorial Limitation Acts—An Overview**

Limitation acts for the various provinces and territories can be characterized into two groups; older, complex limitation acts and newer, revised limitation acts. Many of the older acts contain different limitation periods for different professions as well as multiple or extended periods to initiate a court action or to ultimately bring a claim. Jurisdictions with revised limitation acts include Alberta, Saskatchewan and Ontario. Newfoundland and Labrador’s Limitation Act was revised in 1995 but still contains several different limitation periods which are dependent on the cause of action or type of damage, and it is subject to exceptions relevant to the surveying profession. For example, issues regarding possessory title declarations, foreclosure proceedings, easements and restrictive covenants all have no ultimate limitation period. The remaining jurisdictions have older limitation acts but most are in the process of initiating reforms.

The newer limitation acts contain provisions that have yet to be interpreted by the courts, and there are some areas of ambiguity, including the following:

- The ten-year ultimate limitation period in Alberta yet to be tested. The trigger to establish the starting date is open to interpretation.
- There is a case currently under appeal in Ontario that tests the 15-year ultimate limitation period. In the January 20, 2006 decision of the Ontario Superior Court of Justice, York Condo-

**Records of completed surveys are a valuable resource and could be important in resolving a dispute that could arise as a result of the survey.**

minimum Corp. No. 382 v. Jay-M Holding Ltd. and Toronto (City), the court found the action to be statute barred. The action commenced in 2005, after the implementation of the new act, and the 15-year ultimate limitation period was found to be applicable as the original work causing the action occurred in 1978. This is an example of a very strict interpretation of transition provisions within limitation acts, where under the previous act the action would not have been statute barred. This decision is important because other jurisdictions are considering using the Ontario act as a precedent upon which to base reforms for their own provincial limitation acts.

- New Brunswick is now considering reforms to its limitation act, including a new limitation period of two years to initiate an action either in negligence or contract and an ultimate limitation period of 15 years. This new act would be much like Ontario’s, with one important exception; transition provisions have been suggested where the new ultimate limitation period would not be applicable for cases where the original work pre-dates implementation of the new act. The reason being that an ultimate limitation period denies some claimant’s access to justice. It is important to stress that at this time the discussion leading to reforms of the New Brunswick limitation act are at a very preliminary stage.

A key issue that has yet to be decided by the courts in Alberta and elsewhere, is the trigger that starts the clock running for ultimate limitation periods. For an ultimate limitation period, does the clock start when the original error occurred (as is described in several jurisdictions) or when damages are discovered? A survey error may be made when a survey is completed, but damage may not be identified or discovered by a property owner until they use the survey many years later. For example, the damage could be identified or discovered when a landowner acts on a negligent survey performed years earlier to erect a fence or build a driveway or even to attempt a sale. The result is that it is difficult to know when the limitation period will begin to run and when an action will be barred by statute. Different jurisdictions may also use different wordings in describing conditions applicable to discoverability, and these wordings can be interpreted in different ways.

Jurisdictional differences may be applicable when attempting to use a limitation act defence. In a recent case, a claim was dismissed due to the expiry of a limitation period in one jurisdiction, but it was then successfully appealed by the plaintiff in a different jurisdiction where the limitation period was longer. This was permitted as the surveyor’s client had a legal presence in that alternate jurisdiction, and a choice of jurisdiction clause was present in the surveyor’s contract.

As the previous example shows, it is difficult to predict with any precision whether a claim brought against a surveyor can be successfully defended using a defence based on the limitation provisions in the applicable statutes. In any case, it is easier to defend any claim that may arise if the surveyor has maintained his or her records.

It is also important for the land surveyor to enter into properly worded contracts that define obligations, rights and dispute resolution mechanisms. It is advisable to maintain records at least as long as a surveyor may be held legally responsible. A minimal benchmark for this would be the various limitation periods in each jurisdiction.
Minimum periods for file retention would vary: possibly ten years for Alberta, Newfoundland and Labrador, Yukon Territory, Northwest Territories and Nunavut; possibly 15 years for Ontario and Saskatchewan; thirty years for all other jurisdictions. However, due to the nature of the surveying profession, it may be years, even decades, before a mistake is noticed or damage is caused. Interpretation of the various limitation acts could vary depending on the wordings used and the local precedent established by the courts. Therefore, a minimum record retention period of at least 30 years, preferably longer if possible, is recommended for all jurisdictions. For more detailed information concerning specific limitation acts, please either consult the various government websites or refer to independent counsel.

Proper record keeping is vital for a surveyor.

Conclusion
Proper record keeping is vital for a surveyor. Records of completed surveys are a valuable resource and could be important in resolving a dispute that could arise as a result of the survey. These should be kept as long as a surveyor may be found to be legally responsible for their work. A minimal measure for this would be the applicable limitation period in each jurisdiction. However, due to ambiguity in how these acts are being interpreted, it is suggested that it is in the surveyor’s best interests to maintain their records as long as possible.

This publication has been prepared for general information use. It should not be relied upon as legal advice or legal opinion with respect to any specific factual circumstances.
INTRODUCTION

The land surveyor has long filled the role of data collector, processor and interpreter of data as boundary evidence. In some jurisdictions, the surveyor's role can be considered to extend beyond that of expressing an expert opinion and be considered the field judge.

A long-established principle is that the raw data from field observations and measurements as evidence should be available for inspection, checking and reprocessing long after the original surveyor has passed on. Hence the long-standing rule that observations should not be erased, but crossed out and the new “correct” observation written in next to the crossed out observation. Even if a blunder has been made, the incorrect observation should still be readable in the event of a later, perhaps independent, inspection. If the observations are complete, easily interpretable and unchanged, then a surveyor who did not make the observations can reprocess them and, under cross-examination, probably confidently remark on their quality and on the quality of what was deduced from them by the original surveyor.

Technology has changed the nature of the surveyor’s data now, to the extent that most of it is in electronic format, and it poses problems for the long-established data as evidence rule. It is difficult for a surveyor doing an independent audit of another surveyor’s work to confidently state that the observations are authentic and that there has been no editing of the data. For example, GPS-derived vectors are not measurements. Rather they are reductions of measurements and can be considered calculations. As mentioned above, long-established practice is that one can erase a calculation and recompute the result, but one cannot erase an observation. Thus, GPS and other similarly electronically captured observations should be retained in their original form. Even then, there may be questions as to the data’s authenticity in court as, unlike hand-written observations, it is more difficult to detect tampering or editing in electronic data.

Nowadays, multimedia data such as photographs, audio files and video files may play an important part of the evidence collected relating to various aspects of rights in land, including boundaries.

...multimedia data such as photographs, audio files and video files may play an important part of the evidence collected relating to various aspects of rights in land, including boundaries.

years as if no easement existed over it. The defendant then conceded without proceeding to trial.

The second experience was a video that was used to dispute the author's and another surveyor's adjudication of the position of the high water mark of the ocean at Cape Agulhas at the southern tip of Africa. The other surveyor was unfortunate to be served the subpoena and part of the trial proceedings consisted of watching numerous videos which the plaintiffs had taken contesting our adjudication of the position of the high water mark. In this instance, the case was thrown out of court on a technicality (in essence, the plaintiffs were told they should not call the Supreme Court out of recess merely because they wanted to go fishing!), and the admissibility of the videos did not enter proceedings.

Additionally, Aboriginal case law in Canada has indicated increased acceptability of oral histories as evidence; thus, a greater role for multimedia data can be contemplated in Canadian land law. We discuss the fundamentals of the law of evidence in the context of these changed circumstances, with particular emphasis paid to the sufficiency of videotape evidence in disputes relating to land use and of course capturing boundary evidence using videos.

VIDEO AS AN ACCEPTABLE FORM TO PRESENT EVIDENCE

The use of video as an evidentiary tool is a logical progression from the court’s acceptance of conventional photography to aid triers of fact (judges, juries, dispute resolution
tribunals) in coming to a decision in a dispute. Indeed, as technology becomes more adept in recording human behaviour, the courts have generally responded in an accommodating manner, striving to see how the technological advancement can be integrated into the existing rules of evidence. To this end, the 1996 Supreme Court of Canada case *R. v. Nikolovski* is helpful, as Justice Cory indicates the acceptability of presenting evidence in video format:

The powerful and probative record provided by the videotape should not be excluded when it can provide such valuable assistance in the search for truth. In the course of their deliberations, triers of fact will make their assessment of the weight that should be accorded the evidence of the videotape just as they assess the weight of the evidence given by *viva voce* [spoken] testimony.

Of further instruction from the above statement are the references to the weight accorded the evidence, an indication that a video recording will be subjected to the same evidentiary standards that meet other forms of evidence. Therefore, to understand whether a particular videotape will be accepted in court, a working knowledge of the principles of evidence is required.

**LEGAL PRINCIPLES AFFECTING VIDEO EVIDENCE**

There are a number of factors which have to be considered when contemplating the use of a video recording as evidence. These include whether the evidence is relevant to the issue in question, what type of evidence the court will classify the video to be, whether authentication is required and other admissibility concerns (Is it in its original form or has there been some tampering? How is the opposing side disadvantaged by their inability to cross-examine witnesses in the video?), and the weight accorded a videotape in the scheme of all the evidence presented in a particular case. Hearsay evidence can be admitted if the court considers it reliable and necessary.

*...it is this balancing of the probative value of the evidence vs. the prejudicial effect which is of initial importance to the surveyor.*

**Relevance**

While the *Nikolovski* case indicates the videotape to be an appropriate method of presenting evidence generally, whether the evidence will be admissible as an exhibit in court is a different question altogether. This admissibility question is concerned with what the evidence purports to prove, and it begins with an understanding of the legal concept of relevance.

Generally, evidence is relevant if it has the tendency to make the proposition for which it is tendered more probable (i.e. the evidence is *probative* – it serves to substantiate or test a proposition or inference) and the fact sought to be established concerns a matter in issue between the parties (i.e. the evidence is *material*). In *Anderson v. Maple Ridge*, the Supreme Court of Canada indicated that this is a determination left to the trial judge and deemed to be a matter of her logic and human experience. While this definition is admittedly vague, concerned parties may take solace in the fact that the threshold for proving whether evidence is relevant is very low. Indeed, the rule of general admissibility spelled out in *Morris v. R.* reflects this assertion, indicating that all evidence that is logically probative is admissible, and is only excluded when it is *unduly prejudicial* (i.e. when it would be exaggerated; when it would confuse the jury; or when it is used for an unfair purpose).

As applied to the taking of videotape evidence, it is this balancing of the probative value of the evidence vs. the prejudicial effect which is of initial importance to the surveyor.

While the *Anderson* case indicates that potential prejudicial effects can sometimes be overcome with a caution or warning to the trier of fact to avoid using the evidence in a prejudicial way, a wiser approach would be to adopt filmic techniques that minimize prejudice. In this regard, the writings of Elliot Goldstein are very helpful. In terms of subject matter, Goldstein discourages the use of sympathy-arousing pictures, gruesome pictures, over-emphasis on particular matters, and innuendo of suspicion. It is the video-recorder as the dispassionate observer that will be of most assistance for the trier of fact, and embellishments (or even a discernible perspective) by the filmmaker will only detract from the evidence’s value.

In addition to how content is presented, Goldstein also outlines a number of technical factors that could contribute to the evidence being found to be unfairly prejudicial. These include video editing, audio editing, tape and film speed distortion, colour distortion, optical distortion, as well as various other means of potential distortion that may arise from changes in technology. A person looking to tender a video recording for use as evidence should be cognizant of these potential criticisms, and be prepared to disclose the techniques that have been adopted to ensure the evidence is a true representation of what it purports to be.

As a preliminary standard, the legal concept of *continuity* should be respected for any video that is produced in contemplation of litigation. Continuity refers to the ability to show a chain of custody from retrieval of the exhibit to the courtroom, and operates as a method to prove that the evidence was retrieved from a particular place and has not been tampered with.

**Authentication**

Generally, video evidence is tendered in two different ways; either as real evidence or as demonstrative evidence. Demonstrative evidence consists of charts, models, and re-enactments and serves as a tool to assist the trier of fact in understanding other evidence in the case. In a trial involving land

.....continued on page 30...
Rather than acting as an aid, the videotape is tendered as evidence that the land is in fact used in a particular way.

counts, for example, demonstrative evidence might be a diagram of the lands in dispute, a map of a geographical area, or perhaps aerial photos of the land plot, which contribute to the judge's understanding of particular features at issue in the case. Demonstrative evidence doesn't need authentication, but its worth depends on whether it is an accurate representation of what it purports to show. The judge needs to be satisfied that the demonstration will genuinely assist the trier of fact and not distort the fact-finding process. In essence, the concern remains whether the probative value outweighs the prejudicial effect.6

Alternatively, real evidence is tendered not as some helpful aid but as evidence itself. In contrast to demonstrative evidence, real evidence needs to be authenticated. Again, we can make use of a trial involving land claims as an example. Where customary land use was an issue at trial, videotapes of people actually using the land would be an example of a videotape tendered as real evidence. Rather than acting as an aid, the videotape is tendered as evidence that the land is in fact used in a particular way. Goldstein outlines four different persons who are capable of authenticating real video evidence: the camera operator; a person present when the videotape was recorded (a bystander); a person qualified to state that the representation is accurate (a guard watching a monitor); or an expert witness.7

Following a determination of whether or not authentication is required, the usual steps involved in authentication involve calling a witness with personal knowledge of the object, asking the witness to describe the object before showing it to the witness, allowing the witness to examine and identify it as genuine, and asking that the object be entered as an exhibit, with an appropriate stamp applied by the clerk.

**Weight**

Once a videotape has been accepted as an exhibit at trial, of principle interest to the party tendering it should be the evidentiary weight accorded to it. Rather than involving a legal test, weight is a judicial tool that allows for a more cautious approach to evaluating evidence than admissibility/exclusionary dichotomies permit. While a low threshold for determining relevance may guarantee a videotape's initial admissibility, its ultimate value relies on the judge's determination of weight. A determination of this kind permits a judge to admit a wide array of evidence, and postpone an evaluation of the sufficiency of the evidence until all of submissions have been made.

Goldstein outlines a handful of factors in presenting video evidence that may affect weight: the veracity of the authenticating witness; the kind, form, degree, and nature of any distortion, the quality of reproduction and degree of clarity; and, the length of time the associated parties appear on videotape.8 As can be observed, these considerations are subtler than the evaluation of evidence at the admissibility stage, but otherwise differ very little. As a general guide, while relevance is concerned with the balance of probative evidence vs. prejudicial effect, weight should be construed as an evaluator of both the sufficiency and the bias of the evidence.

While considering how a judge or jury will perceive the videotape, the tendering party should be equally aware that opposing counsel will be afforded an opportunity to make arguments concerning weight (just as they are afforded an opportunity to make arguments on admissibility). Video material that is produced in anticipation of future litigation should therefore appreciate the importance of consistent documentation, neutrality, objectivity, and similar virtues that uphold the purity of the recording, while simultaneously striving to minimize any surrounding factors that may contribute to an apprehension of bias.

Finally, weight accorded to a given piece of evidence may differ from judge to judge, and will be entirely reliant on the facts of the case. There is no predicting what value a piece of evidence will ultimately hold at trial; rather, in the case of videotape evidence, the prudent gatherer should merely be aware of the court's appreciation of intelligent, thorough and unbiased investigation techniques.

**Hearsay & the Ability to Cross-examine**

Hearsay is a statement made out of court which is offered as proof that what is stated is true. Generally, hearsay evidence is inadmissible in court both because it is unsworn testimony (it is not under oath) and also because there is no opportunity for cross-examination on the statements.9 For example, returning to our issue of customary use in a land claim case, a videotape containing community members commenting on how they use their land would be subject to the hearsay rule and possibly deemed inadmissible: the comments are not under oath, neither have the comments been subjected to contemporaneous cross-examination.

Until the 1990 Supreme Court of Canada case *R. v. Khan*10, the hearsay rule was regarded as virtually absolute, subject to various narrow categories of exceptions (such as admissions, dying declarations, declarations against one's own interests and spontaneous declarations.)11 The judgment in *Khan* instead indicates two legal requirements to allow for the introduction of hearsay evidence: reliability and necessity.

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*Video Evidence and the Land Surveyor in a Changing Technological Environment continued from page 27*
1st Requirement for the Inclusion of Hearsay Testimony: Reliability

In determining whether hearsay evidence is to be admitted, Justice McLachlin indicates in Khan that the trier of fact must first ask whether the evidence is reliable. Issues that may be relevant to this determination might include the time when the statement was given, the general demeanor of the party making the statement, and the absence of any reason to expect fabrication. In Khan, a disinterested declaration was found to hold the requisite quality of reliability, in that the statement was not made in favour of the party’s interest.

Following this lead, the judgment in R v. B. (K.G.)¹² provides a structured elaboration on this requirement of reliability, including an outline of the mitigating factors of videotape evidence with respect to hearsay testimony. Importantly, three key factors which contribute to the reliability of hearsay testimony are elucidated: oath, presence, and cross-examination.

In regards to the oath, Justice Lamer in R v B. (K.G.) indicates that “[T]he presence of an oath, solemn affirmation or solemn declaration will increase the evidentiary value of the statement when it is admitted at trial. The witness should be warned by the statement-taker that the statement may be used as evidence at a subsequent trial if the witness recants, and be advised of the specific criminal sanction that will accompany the making of a false statement. ... As does the formal swearing of the witness in the trial process, this warning and the administration of the oath should serve to bring home to the witness the gravity of the situation and his duty to tell the truth.”**

Secondly, Justice Lamer addresses the ability of videotaped testimony to capture the presence of the witness, observing that “in a very real sense, the evidence ceases to be hearsay in this important respect, since the hearsay declarant is brought before the trier of fact” through the use of the video recorder. Presence is indicated as the “witness’s reaction to questions, hesitation, degree of commitment to the statement being made, etc.,” and its value resides in the ability of the trier of fact to “assess the relationship between the interpreter and the witness to observe the extent to which the testimony of the witness is the product of the investigator’s questioning.” For this assessment to be complete, the statement must be videotaped in its entirety.**

Thus, a video recording’s ability to capture both the oath and the presence greatly contributes to a finding of reliability when evaluating whether hearsay testimony should be admitted at trial. Where a video recording remains deficient, however, is in its ability to allow for a contemporaneous cross-examination at the time the statement is made, which Lamer concludes “is the most important of the hearsay dangers.” While his judgment indicates that the inability to contemporaneously cross-examine can be quickly remedied by providing an opportunity to cross-examine at trial, the helpfulness of such a suggestion is questionable when one considers why the hearsay evidence is being offered in the first instance. If the witness is on hand to be cross-examined during the trial, it would be far easier to avoid the legal particularities surrounding the hearsay statement in favour of viva voce testimony. Lamer recognizes this, of course, and in doing so provides great assistance to those looking to introduce videotaped testimony at trial by holding that “the inability to cross-examine should not be a barrier to substantive admissibility,” where other, unnamed, “circumstantial guarantees of reliability may suffice to render such statements substantively admissible.” In light of such guarantees, the absence of cross-examination is to instead inform a determination of weight.

Where a video recording remains deficient, however, is in its ability to allow for a contemporaneous cross-examination at the time the statement is made...

Alleviating the Decrease in Reliability Associated with an Absence of Contemporaneous Cross Examination

When considering video evidence in relation to land, one of the ways Lamer’s suggestion of alternative guarantees of reliability might be heeded is through the testimony (and associated cross-examination) of an expert witness.*** For instance, in a situation where a multitude of statements is required to demonstrate the customary usage of a portion of land, by combining expert testimony with other measurements made by the expert (e.g. a land surveyor’s own measurements, an archaeological record), the expert may be in a better position to be cross-examined on the truth of the testimony than each individual community member who has provided a videotaped statement.

Footnotes

*For Canadian purposes, Lamer indicates that this warning should refer specifically to ss. 137, 139, and 140 of the Criminal Code, and the elements of and sanctions for those offenses should be repeated by the statement-giver. In Alberta, oath taking powers have been granted to the land surveyor by virtue of s.13 of the Surveys Act.

**If the video recording involves questioning, leading questions should be avoided by the examiner. There are two types of leading questions: a question that suggests the answer and a question that assumes a fact in dispute. Stuesser’s “An Advocacy Primer” (note 5 at 191) is instructive: “[I]t is trite law that the party who calls a witness is generally not permitted to ask the witness leading questions...The principle behind the rule is that in direct examination you are presenting witnesses favourable to your case, who are sympathetic towards your client and who are susceptible to your suggestions. Therefore, suggestions on your part are not permitted.” An examination full of leading questions may incur significant objections, and is likely to be given little weight at trial.

***Who, incidentally, may already be on hand for the purposes of Authentication. See heading Legal Requirements Affecting Video Evidence: Authentication, above.
To this suggestion the Canadian case law, while still somewhat unsettled, convincingly indicates that where an expert’s opinion is based in part upon hearsay evidence (the videotaped statements) and in part upon admitted facts (historical measurements, the archaeological record) the matter is purely one of weight. From such a position can be predicted that as sole reliance on the hearsay testimony as the basis for an expert opinion goes down, the weight attributed to the opinion will increase. Such a position serves as validation for J.H. Holloway’s 1952 comments that “a surveyor should never give any consideration to hearsay evidence which is not thoroughly confirmed by other independent evidence.” While the courts have become more flexible, these historical comments remain an instructive guide.

Summarizing the above, it is likely that pre-recorded videotestimony can satisfy the first requirement of the hearsay exception if the testimony is sworn (under oath,) and the video recording is of a sufficient standard to communicate to the trier of fact the presence of the witness. Justice Lamer’s holding in R. v. B. (K.G.) indicates that an inability to contemporaneously cross-examine witnesses on their recorded statements should not be a barrier to substantive admissibility, and instead should be a consideration when making a determination as to the weight accorded the evidence. Furthermore, in an analysis of the law surrounding hearsay and expert opinion, the writers suggest that testimony involving expert opinion based partly on the videotestimony and partly on the expert’s own findings will serve to bolster the reliability (as well as the general weight) accorded the evidence.

2nd Requirement for the Inclusion of Hearsay Testimony: Necessity

The second requirement outlined in Khan to allow for the introduction of hearsay evidence is necessity. Generally, necessity is interpreted as consisting of a determination of whether the reception of the hearsay statement is “reasonably necessary.”

The clearest construal of this concept, cited in both R v. Smith and R. v. B. (K.G.), uses the criteria set out by Professor Wigmore to define the classes which may be found to satisfy the necessity requirement:

1. The person whose assertion is offered may now be dead, or out of the jurisdiction, or insane, or otherwise unavailable for the purpose of testing. This is the commoner and more palpable reason.
2. The assertion may be such that we cannot expect, again, or at this time, to get evidence of the same value from the same or other sources ... The necessity is not so great; perhaps hardly a necessity, only an expediency or convenience, can be predicated. But the principle is the same.

Thus, necessity generally operates to require a sufficient reason to accompany the admission of hearsay evidence into the court. To the consideration of a matter involving video evidence in relation to land, it should be stressed that whether or not necessity were to be determined is entirely fact based. Recognizing this caveat, we suggest that (in addition to the categories in which necessity might normally be determined,) convenience may be a factor capable of satisfying the second class of necessity as set out by Wigmore, above. If a number of statements were recorded testifying as to the customary usage of the land, and the witness statements are more useful in the context of the video displaying the land in question, the requirement of necessity might be established when the impossibility of gathering contemporaneous evidence of similar breadth and quality is considered.

RELEVANCE TO VIDEOS OF BOUNDARY EVIDENCE

Videos cameras are being used increasingly by survey field crews nowadays. The challenge is to develop methods to ensure that the video clips will be considered as valid evidence in court. In fact, the following applies to most forms of electronically captured and stored evidence.

Footnotes

****In Khan, “sound evidence based on psychological assessments” indicating the potentially traumatic or harmful nature of having a child testify in an open court was suggested as a potential satisfier of the necessity requirement. R. v. Smith held that the death of a declarant before trial was also a sufficient scenario for a finding of necessity.
regarded as authentic and will stand up to the evidence criteria mentioned above. It should still be usable as evidence if the person who took the video leaves the firm.

CONCLUSION
The proliferation of digital video technology in recent years has introduced alternate ways for the surveyor to record his or her observations. In contemplation of a legal role for these recordings, this paper has examined the evidentiary hurdles that must be addressed when considering the introduction of video evidence in relation to land to the courtroom. Beginning with the general acceptability of video evidence in Canadian courts, addressed above are the legal concepts of relevance, authentication, weight, hearsay, and the potential concerns created by the inability for opposing counsel to contemporaneously cross-examine the witness testimony. While the relevant statutory provisions of the particular jurisdiction in which the evidence is sought to be used may nuance the common law standards set out above, a working knowledge of the principles of evidence will allow a surveyor to confidently make recordings and observations that attach a legal weight.

REFERENCES

8. Supra note 4.
11. Supra note 9. See Justice McLachlin’s preliminary comments.
SPR Phase 3 Ratings Report

The first Systematic Practice Review (SPR) Phase Three Ratings Report was published in the June 2005 issue of ALS News. Each subsequent year, statistical results for the SPR process have been published; this year’s report is an interim report for the SPR’s third phase, which is 56% conducted. The third phase of the SPR is scheduled for completion by the end of 2009.

The requirement for this statistical report is established by Item 1.6 of the SPR Phase 3 Framework Document, wherein it states: “statistical data from practice reviews will be collected and reported in a format similar to the product and practice ratings developed in Phase 2”.

The following Table 1 depicts the weighted practice ratings since the inception of Phase 3. As of June 1 of 2007, 85 internal Phase Three audits have been conducted, which resulted in a cumulative total of nine follow-up reviews. The statistics tabulated in Table 1 result from Phase 3 reviews completed up to June 1, 2007.

As of June 1, 2007, there were 33 Phase Three reviews dealt with and closed by the Practice Review Board. Presently there are 52 files in progress that are either requiring an external (field) audit, or awaiting a practitioner’s response from our findings, or languishing in a queue as they await typing by secretarial staff. The practitioner’s products selected for review are chosen to be representative of the individual’s day-to-day practice. The selection of products is conducted in a manner such that collectively, the reviewed products will be representative of the overall profession.

<table>
<thead>
<tr>
<th>Categories</th>
<th>Plans</th>
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<th>Field Inspections</th>
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<td>High</td>
<td>Low</td>
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<tr>
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<td>62.51</td>
<td>70.75</td>
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<td>78.78</td>
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<td>75.75</td>
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<td>73.69</td>
<td>75.09</td>
<td>98.91</td>
<td>32.85</td>
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**All Categories**

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<td>84.54</td>
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**Practice Ratings**

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<td></td>
<td>81.48</td>
<td>99.74</td>
<td>70.19</td>
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</table>

Observations

The following are my general observations of the last year’s report:

- Average Phase 3 Weighted Practice Rating to date is at 81.48%. This is lower than last June’s reporting average by 1.05% (last year’s was at 82.53%).
- All averages for plan, field notes, and field inspection are lower than last year’s reporting by 0.77%, 1.10%, and 0.57% respectively.
- Plan Product average score is lower than last year with an overall average of 85.95% which is 0.77% lower than last year’s average (last year’s average was at 86.72%).
- Field Notes average score this year is lower than last year’s overall average by 1.10%. The average score for field notes is significantly lower than previous year’s reporting, last year was at 76.19%. This year’s score is at 75.09%. This may have been attributed to a low score of 32.85% which singly brought the average down by 1.10%.
- Field Inspection average score is lower than last year with an overall average of 84.54% which is 0.57% lower than last year’s average of 85.11% (the average score for field notes is lower than previous year’s reporting partly due to a low score of 28.80%).
- With reference to Table 2, it is noted that the accumulative follow-up reviews have decreased in Phase 3. So far, there are a total of nine follow-up reviews identified in Phase 3.

Table 2: Comparison of Follow-up Reviews Between Phase 2 and Phase 3

<table>
<thead>
<tr>
<th>Phase 2</th>
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<th>Phase 3</th>
<th>Follow-up</th>
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<td>Year</td>
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</tr>
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<td>7</td>
<td>2006</td>
<td>3</td>
</tr>
<tr>
<td>2002</td>
<td>4</td>
<td>2007</td>
<td>2</td>
</tr>
<tr>
<td>2003</td>
<td>6</td>
<td>2008</td>
<td>9*</td>
</tr>
<tr>
<td>2004</td>
<td>1</td>
<td>2009</td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>24</strong></td>
<td><strong>9</strong></td>
<td></td>
</tr>
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</table>

*Note: A total of nine follow-up reviews identified in Phase 3 as of June 1, 2007.
Conclusion
All in all, SPR Phase 3 interim scores for this year look satisfactory, but I am disappointed to observe a decline in the overall average as well as a decline in averages for the plan product, field notes and field inspection scores.

The decrease of 1.05% for overall average scores comparing with last year’s results may be attributed to a couple of anomalies (low scores of 32.85% and 28.80%) for Field Notes and Field Inspection respectively.

On the bright side, there are fewer follow-up reviews in Phase 3 than in Phase 2 within its relative timeframe.

As in Dwight Wiberg's 2006-2007 year-end PRB report as presented at the AGM in Lake Louise, the PRB revealed several deficiencies in member’s general practice this year. The areas identified are: deficiency in field notes recording in general, lack of GPS-RTK redundancy measurements, lack of utilizing of governing evidence, dormant plans, and lack of electronic linear measuring equipment (both EDM and GPS) calibration. I have attempted to address some of these issues by submitting written articles to ALS News in several of these identified areas.

Members who have done well in these areas are commended, and those who need improvement in these areas are recommended to attend specific seminars offered by the Professional Development Committee.

In closing, the SPR program continues to supplement the education of our members, but the above tabulation demonstrates we are a long way from perfection.

Councillor’s Forum
continued from page 7

tion, such as the land surveying profession, whose practices are inconsistent with the terms of the agreement may maintain a practice if they can demonstrate that the scope of practice or occupational standard difference is necessary to achieve a legitimate objective such as the protection of health or the environment. I expect that the land surveying profession will continue to be listed on the transitional list as we will continue to have some differences between the practice of land surveying in Alberta and British Columbia.

Now that I had a better understanding of the agreement itself, I asked myself a third question. What can the Alberta Land Surveyors’ Association do to expedite the registration of British Columbia Land Surveyors in Alberta while, at the same time, still protecting the public interest. The Alberta Land Surveyors’ Association formed a working group consisting of Larry Pals, Rob Scott and myself to look into this issue. The Association of British Columbia Land Surveyors also formed a three-man working group and we agreed to get together to figure out how each other’s system worked and what we could do. We asked ourselves if the written professional exams are necessary. Are we testing British Columbia Land Surveyors on things that they had been previously tested on when they received their BCLS? We agreed that the three written professional exams are still necessary. We propose that British Columbia Land Surveyors who want to obtain their Alberta Land Surveyor commission will still have to write the Surveying Profession, Statute Law and Practical Surveying examinations. We were concerned that making the exams available twice a year would be seen as a barrier and an unnecessary delay. We are proposing that we move to allow TILMA candidates to write the exams on demand. We will need a large number of exams in the database in order to make this work and Council has asked the Registration Committee to look at the possibility of conducting computer-based examinations. The Registration Committee has also been asked to investigate the possibility of articling students preparing a question for the practical surveying examination in lieu of the third project report. These things may or may not happen, I don’t know. It is just too soon to tell yet. However, we are seriously looking at these possibilities.

The ALSA and ABCLS working groups then looked at the project reports. We decided we could get rid of them for TILMA candidates as the candidates would have been required to prepare project reports in the course of getting their original commission in their own province.

The working groups also agreed that TILMA candidates would be required to pass the oral qualifying examination and that we would endeavour to get those qualifying examinations scheduled as quickly as possible. From my own personal perspective, I am beginning to question whether that qualifying examination is necessary if the TILMA candidate went through the qualifying examination when they originally obtained their commission. Our agreement with the ABCLS may end up stating that if a BCLS has passed a sufficiently rigorous qualifying examination, then the candidate will not have to undertake another qualifying examination in Alberta.

These are just some of the issues we are struggling with. We have our own individual opinions and we are moving forward - rapidly.

The final question I asked myself is if the membership has any opinions, comments or observations about TILMA. If you do, please contact me, Larry Pals or Rob Scott now.

We are open to any suggestion as long as it satisfies what the politicians have told us we must do.

Time is of the essence.
Case Study No. 32: Overlooking Governing Survey Evidence—A Recipe for Creating Boundary Uncertainty

Background
Based on my review of land surveying practices since December 2005, too many of our members are not applying the principles of governing evidence correctly.

Former Director of Practice Review, Lyall Pratt, ALS has written on the importance of searching for survey evidence, and the extent of unearthing and sleuthing necessary to locate wooden posts, or traces thereof, for locating governing evidence from pre-1912 surveys. Clayton Bruce, ALS also wrote on a similar topic on “Digging for Pre-1912 Wooden Posts.” [Case Study No. 15 ALS News, March 2003 Issue; and ALS News, June 1999 Issue respectively].

This is one of several articles that I will be writing with respect to the significance of governing evidence in land surveying in Alberta. This article makes reference to an actual registered plan which has undergone a Systematic Practice Review (SPR); the practitioner’s subdivision plan shares common boundaries with adjacent titled lands: a road, a subdivision, patented land, and a railway - all without properly defining the boundaries outlining the extent of his subdivision survey.

The practitioner’s registered subdivision plan contained many fundamental boundary retracement errors, which arose from insufficient evidence searches and incorrect assessment of governing evidence. As a result of the Systematic Practice Review, the practitioner was required to complete a plan correction at the Land Titles Office.

Had this plan been left unexamined by Systematic Practice Review, it would have created and contributed to future boundary uncertainties with negative consequences.

Fundamental Principles
When a land surveyor is surveying a boundary along an affected parcel of land contiguous to or having to intersect an existing surveyed boundary, section 45 of the current Surveys Act [RSA 2000 Chapter S-26] stipulates the definition of boundary, which states:

45(1) If a surveyor does a survey for a plan that is required to be registered at the Land Titles Office or filed at the Metis Settlements Land Registry, the surveyor shall

(a) mark the position of the boundary lines to be established by placing monuments
(i) at every change of direction and the beginning and end of every curve, and
(ii) at every intersection of the boundary lines with every surveyed boundary of the parcels affected by the new survey,

and
(b) make all measurements necessary to show the positions of the monuments placed and the boundary lines to be established, relative to existing surveyed boundary lines of the parcels affected. [emphasis added]

The Project
During the course of a Systematic Practice Review, a practitioner’s registered subdivision was randomly selected for an external review. The flaws in the practitioner’s subdivision were revealed in the process, much like the creases when the paper plan was unfolded. The registered plan revealed that the survey had not followed the provisions of sub-section 45(1)(b) of the Surveys Act.

The practitioner conducted a subdivision survey in rural Alberta and a plan was registered at the Alberta Land Titles Office. Figure One is a copy of the “sanitized” registered subdivision plan prior to SPR.

The external audit portion of the review uncovered additional deficiencies in the practitioner’s survey. In fact, the practitioner had not properly defined the governing boundaries on four sides of his survey, identified herein as, “To the North, To the South, To the East, and To the West.”

The land surveyor was retained by his client to conduct a survey of the subject parcel of land with titles that read as follows. Let us examine the “sanitized” titles for the two quarter sections the subdivision straddles.

FIRST
All that portion of the north west quarter of section thirty (30) Township X, Range Y, West of the Zth Meridian which lies to the south of the road as shown on road plan (plan number)JY and to the south and east of the lands subdivided under plans (plan number)JY and (plan number)EO, (plan number)ET, (plan number)HW, (plan number)HW and (plan number)MC, containing 53.9 hectares more or less excepting thereout:

- a) 0.109 hectares more or less for road as shown on road plan (plan number)RS
- b) 1.71 hectares more or less as shown on subdivision plan 912(plan number)

Exception thereout all mines and minerals

SECOND
All that portion of the south west quarter of section thirty (30) Township X, Range Y, West of the Zth Meridian
which lies to the north of the northerly limit of the right of way of the ABC railway as shown on railway plan (plan number) EO containing 0.890 hectares more or less

Exception thereout all mines and minerals

Now, let us examine which boundaries the surveyor would have to define in accordance with the titles that the subject parcel is referring to on each of the four sides of the parcel:

To the North
The practitioner's subdivision plan is bounded by the south boundary of a road plan. The practitioner has chosen to use survey evidence placed by other surveys rather than using survey posts placed by the road survey.
Thereby, the practitioner has neglected to properly define the north boundary of his subdivision when he ignored or overlooked the evidence defining the road plan as required by said Section 45 of the Surveys Act.

**To the South**
The practitioner’s subdivision plan is bounded by the north boundary of a railway plan. The unposted boundary of the railway became the common boundary between his subdivision and the railway.

The railway boundary is governed by two three-foot offset posts along its southern limit.

The practitioner has chosen to use one of the three-foot offset posts, to the west, and incorrectly accepted a couple of intersecting survey posts placed by subsequent right-of-way surveys, as governing evidence of the railway to the east.

**To the East**
The east boundary of the practitioner’s subdivision is bounded by the north-south quarter line of the section.

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*Figure Two: “Sanitized” copy of registered plan after plan correction.*
The practitioner utilized a N1/4 post to the south, and a survey post placed by a right-of-way plan that was not referenced to the governing evidence at north end of the north-south quarter line.

To the West
The practitioner’s subdivision is bounded by the unposted limit of the government road allowance on the west side. The practitioner neglected to locate and utilize the section corners governing the government road allowance.

The practitioner, instead, used secondary evidence placed by either the railway survey or subsequent subdivision surveys in adjacent areas.

In addition, the practitioner also overlooked the governing evidence required to define the unposted side of the road reserves within current subdivision plans.

The Question
The final SPR report identified the above-mentioned boundary deficiencies and requested the practitioner address them.

The practitioner voluntarily attended the Practice Review Board (PRB) meeting, and the practitioner was questioned on his assessment of the governing evidence on the four sides of his subdivision. The PRB requested the practitioner fulfill the requirements of Section 45 of the Surveys Act.

The practitioner was of the opinion that he had utilized sufficient evidence in his survey, as was depicted on his registered subdivision plan.

The Board heard and considered the practitioner’s opinions; but it was the PRB’s unanimous decision that the practitioner carry out additional surveys, so as to include the necessary governing evidence for all boundaries affected by his subdivision plan.

Remedial Action
As shown in figure two, after performing additional field surveys, the practitioner made plan corrections showing additional information as follows:

To the North
The practitioner provided additional survey measurements along the south boundary of the road plan, where it is a common boundary with the north boundary of his subdivision.

To the South
The practitioner provided additional ties to an additional three-foot offset post along the southern limit of the railway survey, thereby defining its north boundary (the unposted boundary of the railway) which is the subdivision’s south boundary.

To the East
The practitioner included additional field measurements along the blind line thereby defining the north-south quarter line of the section, which incidentally is the east boundary of the practitioner’s subdivision.

To the West
The practitioner performed additional field measurements to the section corners to the north and south, thereby defining the unposted limit of the government road allowance. As such, the practitioner’s west subdivision boundary which is common to the east boundary of the government road allowance was then properly defined.

Conclusion
Although, the practitioner made an effort to rectify his subdivision plan by making the necessary plan corrections, this does not alleviate the practitioner from future potential issues. The Systematic Practice Review process does not carry out a second external review after the plan is corrected, the plan corrections were taken as face value and no further plan examination and field inspections were carried out.

Practitioners are reminded that plan corrections, if made improperly, do not necessarily alleviate them from future liability. Section 79 of the Land Titles Act [RSA 2000 Chapter L-4] states:

79(2) The registration of a plan under this Act does not relieve the Alberta land surveyor who conducted the survey and prepared the plan from any liability for damages suffered by any person as a consequence of the survey of the registration of the plan. [emphasis added]

Errors such as those shown on the practitioner’s original plan, resulting from inadvertent omissions of necessary governing evidence could be depicted in preliminary plan examination stage. Getting it right the first time is definitely achievable.

Governing evidence principles are taught through the articling process, are the subject of surveying textbooks, and are the subject of numerous written articles in land surveying association’s publications. In addition to remaining current with legislation and standards, practitioners are reminded that stringent plan examination processes must be part of their normal business practice to ensure that blunders and omissions of this nature are eliminated prior to plan registration.

Have you registered yet???

ALSA Golf Tournament
August 17, 2007
Lacombe Golf and Country Club
43rd

www.alsa.ab.ca
A guardpost does not lend accuracy or evidence to the actual position of the monument, but it does say “beware and take notice.”

As an Alberta Land Surveyor that has, for the most part, been uninvolved with association activities over the years, I must say that as I approach the end of my first year serving on the Practice Review Board (PRB) my experience to date has been both very rewarding and enjoyable. It did not take me very long to discover that my colleagues on the Board are a group of very diverse, competent and hard-working individuals. It also did not take me very long to discover that if I miss a Board meeting, even if for a good reason, that I will be volunteered in absentia to write the next Guardpost article; hence my ramblings.

It was with nervous trepidation that I walked into my first meeting, introduced myself to everyone and sat down. I started to participate in the meeting by shuffling the agenda papers back and forth pretending that I knew what page we were on, and by nodding my head up and down or sideways mimicking everyone else as if I knew what was going on. I know now in retrospect and in remembering the sly smiles on everyone’s face, that they knew exactly how awkward I felt, and that they all had the same experience at their first meeting. However, with a little help, it didn’t take too long to get familiar with the meeting format and procedures, and to feel that I was in fact contributing. The bottom line is that the business of the PRB is all about surveying, and surveying has essentially been my professional life for the past 35 years.

My second and third meetings involved formal hearings of practitioners which are not a very common occurrence, so as it happened I was thrown in the deep end immediately, and as a consequence my first year has been both full and varied. As a result the conclusions that I have come to in my first year are two-fold; first, I believe the Board is genuinely representative of the membership, and second, the Director of Practice Review and his staff are extremely conscientious, diligent, and fair in fulfilling their mandate to the systematic practice review process. These realizations have given me comfort with the role that I play, and indeed with the role and the need for the review process itself.

In contemplating my Guardpost assignment I was drawn to the metaphor and the idea of the Systematic Practice Review (SPR) indeed being the “guardpost” to our profession, much in the same way that a guardpost in the field will protect and provide notice to other surveyors and the public of an adjacent survey monument. A guardpost does not lend accuracy or evidence to the actual position of the monument, but it does say “beware and take notice.” I feel that the SPR accomplishes the same thing on the same two fronts; first to the public, by providing a vehicle to maintain and monitor the required quality of professional services that we provide, and second, to be the mechanism within our Association that protects the membership from proliferation of unskilled and/or unprofessional practice. Of course, we all know and agree that the primary function of the review process is to be an educational one. However, it doesn’t hurt to have a couple of other bases covered as well.

My year with the PRB has also given me a unique perspective in anticipating the next review of my own practice, and also to offer a few simple suggestions to those of you who may be in the same boat. First of all, none of us have to be the perfect and complete surveyor in all capacities. As individuals, we have to understand our own strengths and weaknesses, and then develop the support systems and procedures within our practices that when applied, delegated properly and supervised properly, will create an end product that is complete and professional. We do not have to calculate every closure, or instruct every party chief, or write every letter leaving the office, but we must provide for care and control of the processes that accomplish these things. Proper care and control is difficult to provide when there’s a looming deadline, an irate client, an indifferent approval authority, or some key personnel on holidays. It is at these times when you should take a deep breath, count to ten, and make sure that you and your team have given the project the attention that it needs. Do not sign a plan or put your product into the public domain until you are certain that you and your team have done their job properly. For those of you with small practices and limited staff and resources, I would suggest keeping your practice simple, manageable, and your scope of work limited to your specific areas of expertise.

I am looking forward to my second year on the Board, if for no other reason than to hopefully volunteer an unsuspecting absent new board member to write a Guardpost article. But all kidding aside, my experience to date has been a most rewarding one, and although I’m getting a little long in the tooth, I have discovered it is never too late to get involved and contribute something back to the profession that has given so much to me over the past 35 years.
Harpen the saw—this is the analogy used by Stephen Covey in his best seller, *The 7 Habits of Highly Effective People*, in explaining the fundamental importance of professional development. If one’s mission in life was to saw wood, optimal productivity could only be seen by sawing predominantly, combined with appropriately-timed breaks to sharpen one’s saw. In any great career, such as land surveying, optimal service to clients, and the public at large, can only be seen through diligent service combined with continuous renewal including professional development.

To that end, the Professional Development Committee (PDC) has eight courses planned for the 2007-2008 year. Tentatively, these include: Getting it Right (to be offered in three locations), Safety, Field Notes, Surveys and Land Titles Acts, Exam Preparation and Loss Prevention. Historically, these courses have been well-attended which is encouraging. On behalf of the Professional Development Committee, I would strongly encourage the membership to volunteer their time to be facilitators for these courses, and/or provide new up-to-date course materials. The ideal facilitator would be an experienced land surveyor who can share their years of knowledge and expertise with the rest of us. What a great way to give back and ensure the future success of our profession? Please don’t think that you need to be part of the PDC to help out in some capacity with any of these courses.

Professional development does not stop at these courses put on by the PDC. This is just the beginning. In today’s rapidly changing world, more than ever there is a need to dedicate time and energy to our professional development. We see changes in government policy, client expectations, law, business competition and technology, to name a few. If we do our best to keep pace with change, and embrace it, we can find new opportunities within that change and find better ways to serve our clients and the public. Failure to embrace change can cause closed doors.

In addition to keeping pace with change, and in my case at least, trying to replace forgotten knowledge, we should endeavour to educate ourselves in our client’s business. In the September 2006 PDC Corner article, Ed Salmon discussed the importance of this from the municipal surveying perspective. In his article, Ed suggests that we can be a greater asset to our clients, and the public, if we become more knowledgeable in areas such as planning law, project estimating, area structure plans and so on. Similarly, within the practice of oil and gas surveying there are many courses, seminars and publications that can be accessed to help us gain a better understanding of what it is our clients do.

The messages that I’m hoping to deliver in the article are two-fold. First, on behalf of the Professional Development Committee I would strongly encourage the membership to volunteer your assistance with the PDC courses. Second, I hope to impress upon the membership, the importance of embracing the spirit of continuous professional development throughout our careers. Each of us will have slightly different areas of interest and many of us have different clients, and along with that different client expectations. Most of us will have a variety of intellectual interests we would like to pursue as well. The interests we choose to develop will vary, but I would encourage our members to think about the importance of making time to pursue that knowledge. Like Stephen Covey suggests, continuous self-renewal or professional development is one of the seven fundamental habits of highly effective people. That includes all of us, correct?
Many of the students who receive the scholarships may never become commissioned Alberta Land Surveyors or even work in Alberta, but the scholarships will benefit the profession of surveying as a whole.

By the time this article is published we will be entering another season of high school graduations and thousands of graduates will be pondering their future. I’m sure that most of us know some of these graduates and will inevitably be asking them, “what are your plans for next year?” I would like to recommend that if we get the common answer of “Uh...I’m not sure,” we ask them if they have considered a career in the land surveying profession. This is a great opportunity to advertise our new scholarships and promote the geomatics schools across the country. Who knows? It may be our suggestion that is the starting point for one of these young people’s rewarding career as a land surveyor.

The Alberta Land Surveyors’ Association recently approved several new scholarships for geomatics technology programs in Canada.

Lethbridge Community College
www.lethbridgecollege.ab.ca/departments/student/awards/

BCIT: www.bcit.ca/finaid/

College of Geographic Sciences:
http://www.cogs.ns.ca/survey/index.html

College of the North Atlantic
www.cna.nl.ca/programs/courses/program-details.asp?cProgCode=795

Red River College: www.rrc.mb.ca/index.php?pid=478

SIAST
www.siast.sk.ca/siast/educationtraining/oncampusprograms/7261/5684/5851/index.shtml
New Federal Commercial Drivers’ Hours of Service Regulation – Does This Affect You?

Until recently, the rules governing commercial drivers and the hours they were permitted to drive were not based upon any sleep or fatigue research. The new federal regulation was the result of the Canadian Council of Motor Transport Administrators (CCMTA) evaluating a seven-year study on fatigue in the trucking industry. It was conclusive that the effects of fatigue were grossly underestimated as a factor in highway accidents.

Effective July 1, 2007, Alberta will begin enforcing the new federal Commercial Drivers’ Hours of Service Regulation (SOR/2005-313), which came into effect on January 1, 2007. Under this legislation, the hours a commercial driver is allowed to work and the breaks they are mandated to take between shifts are clearly defined so as to reduce the number of fatigue-related incidents on federal/provincial highways.

Daily Driving Limits
- No driving after 13 hours driving;
- No driving after 14 hours on-duty;
- No driving after 16 hours elapsed time (includes all time) in a work shift.
- Must have at least ten hours off-duty time before driving again
  — Drivers must have eight consecutive off-duty hours;
  — Two additional off-duty hours (blocks +/- 30 minutes) that are not part of eight consecutive hours.

There are additional clarifications regarding work cycles, the filling out of log books, and working “North of Sixty.” Should you feel this applies to you and would like more information, please consult the links listed at the end of this article.

Gross Vehicle Weights
The Alberta legislation governs companies that operate trucks with a registered gross vehicle weight (GVW) of 11,794 kg or more, entirely within the province of Alberta (deemed an intra-provincial undertaking). These carriers are subject to the current provincial Drivers’ Hours of Service Regulation, AR317/2002, under the Alberta Traffic Safety Act.

Those companies that have operated/or intend to operate across provincial borders (extra-provincial undertakings), driving trucks in excess of 4,500 kg GVW, would be deemed to have “federal operating status,” and would fall under the federal regulation. Once it is determined that a carrier is subject to the federal regulation, it will apply to their entire fleet, even those operating point-to-point within Alberta.

Does This Apply to Surveyors?
In Alberta, a “commercial vehicle” means a vehicle operated on a highway by or on behalf of a person for the purpose of providing transportation but does not include a private passenger vehicle.

Federally, there are three key definitions we have to be aware of:

- A “commercial vehicle” means a vehicle that
  a) is operated by a motor carrier and propelled otherwise than by muscular power; and
  b) is a truck, tractor, trailer or any combination of them that has a gross vehicle weight in excess of 4,500 kg or a bus that is designed and constructed to have a designated seating capacity of more than ten persons, including the driver.

- A “motor carrier” means a person who is engaged in the operation of an extra-provincial bus undertaking or an extra-provincial truck undertaking.
- An “extra-provincial truck undertaking” means a work or undertaking, for the transport of goods by motor vehicle other than a bus, that connects a province with any other or others of the provinces or extends beyond the limits of a province.

The important word of note in the federal interpretation of extra-provincial truck undertaking is, “goods.” Whereas it is presumed that the original intent of the federal regulations was to include all commercial vehicles over 4,500 kg GVW, they seem to have omitted those commercial vehicles that transport “services.” It is my opinion that surveyors provide services as opposed to goods and therefore, the federal legislation could be argued to not apply to the providers of professional services.

Some individual officers interviewed from Transport Canada and Alberta Infrastructure and Transportation have reluctantly agreed with this argument. However, it is critical to note that drivers could still be subject to road-side inspection and possible issuance of an “out of service” declaration.

Commercial Vehicle Enforcement Officers may elect to inspect any commercial vehicle they feel falls under the federal regulations. The only way to verify whether this interpretation is valid would be by contesting an issued citation in the courts. I hope it doesn’t need to go that far.

Current Exemptions for Driving Limits and/or Logs
Situations where motor carriers may be exempt from following the daily driving limits:
• Emergencies;
• Adverse driving conditions;
• Traveling as a passenger;
• Operating a commercial vehicle for personal use:
  — Vehicle is unloaded and trailers are unhitched;
  — Distance traveled does not exceed 75 kilometers in a day (actual distance not radius distance);
  — Using vehicle for personal use/reasons, travel time is off-duty (example: use commercial vehicle as a personal vehicle for weekend).

Situations where motor carriers may be exempt from filling out daily logs:
• Emergency vehicles
  — Specially made oil well service vehicles;
  — Working within 160 km of a “Home Terminal.”

The reader is referred to the actual regulation for details regarding any of the exemptions listed above.

What's Next?
Several other industries have similar concerns as those oilfield surveyors that work extra-provincially and have been approaching government with their concerns. One such group, the Northern Society of Oilfield Contractors & Service Firms, has been very quick to lobby government in hopes of:
1. restoring the former rules for working within 160 km of a home terminal;
2. raising the commercial vehicle GVW threshold to be the same as in Alberta (11,794 kg);
3. broadening the oilfield permit exemption to include more industry activities.

It is not known whether Transport Canada and/or the CCMTA will take any such request from industry seriously. We can only hope that they recognize the inherent differences between the types of service our industry provides from that of transport trucking and passenger buses, which was the impetus for this legislative change in the first place. Otherwise, we better start filling out those log books.

More information on this topic can be found via the Alberta Infrastructure and Transportation – Drivers’ Hours of Service Regulations web page: www.infratrans.gov.ab.ca/INFTRA_Content/docType276/Productionnotice_drivers_hos_regulation.htm.

Additional links:
www.ccmta.ca
(The Canadian Council of Motor transport Administrators)
www.infratrans.gov.ab.ca
(Alberta Infrastructure and Transportation)
www.tc.gc.ca
(Transport Canada)
University of Calgary
Professor Gérard Lachapelle Receives the Alberta Ingenuity Fund Research Excellence Award from APEGGA
Professor Lachapelle, CRC/iCORE Chair in Wireless Location in the Department of Geomatics Engineering, Schulich School of Engineering, received the Alberta Ingenuity Fund Research Excellence Award at the Association of Professional Engineers, Geologists, and Geophysicists of Alberta (APEGGA) Summit Awards Gala. The award recognizes professionals in academia or industry who have conducted innovative research in engineering, geology or geophysics that has been successfully applied to improve economic and social well-being.

Professor Lachapelle was recognized for his pioneering and internationally recognized work related to the development of new technologies and novel applications of GPS and his leadership in the development, dissemination and commercialization of these technologies in Alberta and internationally, in addition to the mentoring, training and education of scores of engineering students, engineers and other professionals in state-of-the-art GPS technology.

ENGO BSc Student is First SSE Graduand of Biomedical Engineering Specialization (BMES)
Mr. Sidney Kwakkel, an undergraduate student in geomatics engineering, became the first graduate of the Biomedical Engineering Specialization (BMES) in the Schulich School of Engineering this Spring.

The Biomedical Engineering Specialization is completed in addition to a department’s curriculum, and was designed to give undergraduate students courses in biomedically relevant topics, as well as a capstone research project.

Sidney’s undergraduate biomedical research thesis was titled “Foot and Ankle Kinematics Using A Foot Mounted Inertial System,” and was successfully defended on April 3.

Sid started his research in the PLAN Group in Summer 2006 under the supervision of Professor Lachapelle and with the help of and technology developed previously by Saurabh Godha, MSc, research engineer in the PLAN Group.

Sidney’s thesis is available on Project #19 of the PLAN Group website.

Sidney will join the PLAN Group this May to begin his graduate studies in geomatics engineering.

Dr. Kyle O’Keefe Wins Professor of the Year Award
The Department of Geomatics Engineering is pleased to announce that Dr. Kyle O’Keefe was named Professor of the Year at the Engineering Graduation Banquet held on Saturday, March 17, 2007. Dr. O’Keefe was selected for the award by the graduating students, and he was noted for his commitment to teaching, for emphasizing fundamental concepts, and for pushing students to apply their knowledge to new problems.

Congratulations Kyle!

Dr. Michael G. Sideris Elected President of the International Association of Geodesy
The Department of Geomatics Engineering (DGE) in the Schulich School of Engineering at the University of Calgary is pleased to announce that Dr. Michael G. Sideris, professor in the DGE and Associate Dean in the Faculty of Graduate Studies, has been elected President of the International Association of Geodesy (IAG) for the period 2007 to 2011. The IAG is a scientific member organization of the International Union of Geodesy and Geophysics, IUGG (itself a member of the International Council for Science, ICSU), which promotes scientific cooperation and research in geodesy on a global scale and contributes to it through its various research bodies. Dr. Sideris is an IAG Fellow and has a long service record as an officer of the IAG, where he has held various positions since 1987. He will assume his duties during the XXIV IUGG General Assembly, which will be held in Perugia, Italy, from July 2nd to July 13th, 2007.

University of New Brunswick
John Hughes Clarke Speaks to Parliamentarians
On April 19, John Hughes Clarke spoke to parliamentarians in Ottawa with a presentation entitled “Ocean Mapping - A New Tool for Exploring and Managing Canada’s Vast Offshore Resources.” Dr. Hughes Clarke’s talk was one of a series of monthly breakfast meetings organized by The Partnership Group for Science and Engineering (PAGSE) (www.pagse.org). PAGSE is a group of science and engineering organizations formed at the invitation of the Royal Society of Canada to represent the Canadian science and engineering community to the Government of Canada. The breakfast meetings, dubbed “Bacon and Eggheads,” are co-sponsored by the Speaker of the Senate, the Speaker of the House of Commons, and the Natural Sciences and Engineering Research Council of Canada.

Abstract:
Powerful new developments in underwater mapping can now offer up stunning high-resolution panoramas of the hitherto inaccessible world of Canada’s ocean shelves. For University of New Brunswick
Professor John Hughes Clarke and colleagues, it's a technological revolution that will provide answers to a host of important questions such as what exactly does the Arctic sea floor look like, where are the important ecological habitats, what are the areas at risk for tsunami-generating landslides, and where do natural hydrocarbons vent and seep from the ocean floor. Dr. Hughes Clarke will discuss the science behind the latest mapping advances and explain why these new technologies will become essential tools for defining and protecting our offshore frontiers and for laying the groundwork for the possible future use of their resources. He will also introduce us to Canadian companies that aim to lead the world in developing instrumentation and integrated systems for sensing and visualizing ocean data.

**Don Kim Leads a Joint GPS Research and Development Project**

Centimetre-level high accuracy GPS positioning in real time for either high-speed racing cars or slow-moving heavy duty cranes at every corner over a region or an entire country is not a dream anymore. The demand for precise and reliable positioning in real time under kinematic conditions is increasing in the industrial as well as in the consumer field. Unfortunately, the current single-baseline RTK (real-time kinematic) positioning technologies are not good enough to satisfy all the needs arising. Industrial and commercial activities could be made more cost-effective and even new services launched if precise and reliable positioning would be possible at all times and in all places. Network-based RTK offers an ideal solution to meeting such a demanding challenge.

Recently, UNB and the Korea Astronomy and Space Science Institute signed a research and license agreement for $270,000 over three years to jointly develop network-based RTK software, which will enable it to achieve centimetre-level high accuracy positioning in real time over the South Korea peninsula. As the principal investigator, Dr. Don Kim will lead this international joint research and development effort. Further opportunities for the commercialization of network-based RTK have been discussed among the groups with interest in the project, including automobile companies, electronics companies, TV/radio broadcasting companies, research institutes, and the South Korean government.
Sale of Land

ABATEMENT OF PRICE—The purchaser of property was granted an abatement of the purchase price where there was an innocent misrepresentation by the vendor of the square footage of the lands being sold.

Appeal by the purchaser from the dismissal of its action for a $100,000 abatement of the purchase price of real property, and from an order granting the vendor’s counterclaim for $58,636 for the delay in closing. The agreement of purchase and sale described the lands as comprising 98,950 square feet when the square footage was only 88,000. Before closing, the description error was discovered and the purchaser attempted to negotiate an abatement of purchase price. It ultimately registered a certificate of pending litigation on title. The transaction closed, and $100,000 was paid into court pending determination of the abatement issue, In dismissing the action, the trial judge held that abatement was not an appropriate remedy. As the land in question was immediately identifiable and quantifiable any loss the purchaser suffered was at best notional, because it acquired exactly the land it sought to acquire for the price it had agreed to pay. No guarantee of square footage was made and the vendor’s misrepresentation of square footage was innocent. The purchaser could have rescinded the offer and avoided the transaction upon learning of the shortfall in land size. However, it chose to register a certificate of pending litigation and delay closing.

HELD: Appeal allowed. The trial judge erred in his application of the law pertaining to the circumstances in which specific performance with an abatement of the purchase price might be ordered. In addition, the judge’s finding that the land in question was immediately identifiable and quantifiable because of its observable and obvious boundaries was contrary to the evidence. The agreement of purchase and sale clearly contemplated that the property to be sold had an area of 98,590 square feet, and the uncontradicted evidence of purchasers was that their offer price was based on the square footage of the land and its intended use as a townhouse development. Where there was a discrepancy between what vendor had agreed to convey and what vendor could convey, a purchaser was generally entitled to specific performance of the contract with an abatement in the purchase price. The purchasers were granted an abatement of the purchase price of $83,848. The vendor could not succeed on its counterclaim.


THIS ARTICLE ORIGINALLY APPEARED IN THE JUNE 1, 2007 ISSUE OF THE LAWYERS WEEKLY PUBLISHED BY LEXISNEXIS CANADA INC.
The Alberta Society of Surveying and Mapping Technologies held its 35th AGM in Kananskis on May 11th and 12th. I would like to recognize the organizers, vendors, presenters, and attendees and thank everyone for their effort. I would also like to acknowledge the newly-elected Council. The event was well received and offered an excellent opportunity for the membership and Council to network and discuss issues past, present, and future.

The past year has seen a significant number of highlights and a couple warrant mention. Our Society has worked hard to foster an even stronger relationship with SAIT, NAIT, Olds College, and Lethbridge College. The reciprocal effort from these institutions benefits the Society, the institutions, and the student members. We look forward to working with the educational institutions in the future and offer any support we might be able to provide through our Education Committee. Our Publication Committee has done a remarkable job producing The Link newsletter to distribute to our membership. Our membership has seen an increase in the last year and a large increase in student members is something we value and would like to see continue. A review of the present state of the Society reflects the hard work and dedication of those involved. We have a healthy membership and have managed to meet many of the objectives set out for the ASSMT. A recent strategic planning session has allowed for focus in areas deemed priority to ensure we continue to grow and meet our mandate.

Now our focus must turn to the future. This is a very relevant topic for the long-term prosperity of any organization. We recognize the need to move forward and move in a direction that meets our goals and ultimately the goals of our members. Our efforts must focus on the vast number of potential members in our industry that are not certified. We must continue to illustrate the importance of certification to employees and employers. Educating these groups about our process of certification and the benefits of having certified employees is something we must continue to dedicate ourselves to. With the ever-increasing responsibilities technicians and technologists are assuming, we must ensure our profession, and our professionals, are protected. We feel this is an area where our Society plays a critical role. We have an obligation to review our education and certification requirements to guarantee that we offer a credible and recognized assurance that our members represent a valuable asset.

To further this objective we need employers to recognize what certification means and value the protection it offers. In an effort to get to another level with this in mind we have asked that we meet with the Council of the ALSA. Although we share many of the same concerns and values, this will be the first time in our history that we have had a Council to Council meeting. We look forward to meeting with Mr. Wallace and the new Council so that we can discuss this topic and perhaps others of common interest. The future of our Society and where we go will depend in large part on the outcome of this meeting. It is a critical juncture for ASSMT and we look forward to the outcome with great anticipation. We have also been asked to provide representation to the Future of the Association Ad Hoc Committee for the ALSA and we look forward to participating in any way we can.

The importance of our committees to continue to meet their terms of reference will also ensure the long-term success of our Society. We have had many successful benchmarks in our history. As is always the case, it is difficult to predict what the future may hold. It will rely on the many individuals that volunteer their efforts to achieve goals that at times appear elusive. The importance of getting involved cannot be overstated. I strongly encourage the membership to take an interest in the future of the ASSMT and get involved. I also encourage employees not certified to explore the process and value of getting certified. Our website at www.assmt.ab.ca is a great resource and offers everyone the ability to stay informed about council meetings and initiatives of the ASSMT. A complete list of new Council members is available as well.

I look forward to serving as the president of ASSMT for the next year and hope that we continue to meet our objectives into the future.
On May 10, 1807 David Thompson along with his wife Charlotte Small, their three small children, three men and ten horses set out from Rocky Mountain House towards the Continental Divide attempting to reach the First Nations people in the Columbia River valley. After weeks of delays in waiting for the snows to melt, Thompson reached the ‘height of land’ now known as Howse Pass on June 24, 1807.

We are virtually on the cusp of the bicentennial of this historic event, and there are lots of celebrations in Alberta and British Columbia. Many of these events are family oriented and can provide a tremendous learning experience of all of us.

In order that you can search out some of these events, I have compiled an abbreviated listing. It does not cover all that is happening, but may entice you to search out and explore more about this important surveyor, fur trader and mapmaker.

- For a whole summer of family questing, you may want to get copies of the “Passport to the Past, from Parks Canada Information Centres. This small booklet is filled with basic Thompson information, and has assigned spaces on its pages for young explorers to get a stamp from various sites, just like a real passport. Some of these sites include Rocky Mountain House Historic Site, Jasper, Banff, Kootenay, Revelstoke, and Waterton National Parks.

- Keep your eyes out to see the travelling display of three quilts commemorating Thompson. The quilt display is entitled, Latitude 50 degrees 32’12”N Longitude 115 degrees 56’15”W, after David Thompson’s positioning of Kootenay House below Mount Nelson in the Columbia valley in 1807. Thompson and his sextant are represented, as is the map of Canada he created over the years of his travels. Quilt blocks represent birds, animals, geographic locations, and events. The three Thompson quilts will have a permanent home in the District of Invermere.

- **Saskatchewan Crossing Exhibit** — New exhibits are being developed in Banff National Park, Alberta to highlight the history of the North Saskatchewan River, Howse Pass and Howse Pass National Historic Site. Howse Pass was used for thousands of years by Aboriginal peoples as a trade and travel route before European fur traders arrived. The exhibits will highlight aboriginal peoples use of the pass, David Thompson, and the Saskatchewan Heritage River. The viewpoint is just south of Saskatchewan Crossing where the David Thompson highway meets the Icefields Parkway. The interpretive panels will be in place by spring of 2007.

- **David Thompson the Maverick** — The Glenbow Museum in Calgary has opened a new permanent exhibit “Mavericks: the History of Alberta.” The exhibit highlights more than forty Albertans who capture the maverick spirit of the province. David Thompson and Charlotte Small are featured in the exhibit. Additional Thompson related projects are being planned.

- **Thompson at the Calgary Airport** — Last year Alberta Attractions placed a series of historical mannequins at the domestic arrivals area of the Calgary Airport. This furry character represents David Thompson. The clothing is historically accurate, however, as no known image of Thompson survives liberty was taken in the representation of the famous trader/surveyor.

- **The Windermere Valley Museum and Archives** — Invermere BC, will feature David Thompson in the Upper Columbia Valley as its theme for this summer. Curator Dorothy Blunden has been gathering display materials and is developing related events.

The museum began its celebration of Thompson in 2003 with the unveiling bronze statues by Rich Roenisch of Thompson and Charlotte Small. The Historical Society is pleased to offer other celebrants of the bicentennial the opportunity to purchase their own miniature (14 inches tall) or maquette (over two feet tall) copy of this beautiful piece of art.

- **Rocky Mountain House National Historic Site Renewal** — Parks Canada has announced a $2.9 million dollar redevelopment of this important Thompson historic site. Thompson used Rocky Mountain House as the base for his trans-mountain explorations. The redevelopment of the historic Site in Rocky Mountain House, Alberta, is currently underway with new external media to be in place for the 2007 operating season. The grand reopening of the visitor centre, is scheduled for 2008 to coincide with a Fur Trade Festival and the Rupertsland Colloquium in Rocky Mountain House. David Thompson is one of the commemorative themes of the site.

Coming in 2008 is the Rupertsland Colloquium and Fur Trade Festival in Rocky Mountain House. Also planned is the Brigade 2008, which will attempt to paddle authentic freight canoes from Rocky Mountain House to Fort William over a period of six weeks. Munroe Kinloch had an informative display at the recent AGM, and some ALS members are planning to be involved!

So there is a lot of excitement and activity to check out. Additional exhibits and programs can be found at www.davidthompson200.ca, and then select the link called “exhibits.”

Allan Main, ALS
The 1931 Annual Meeting at Calgary opened on a sombre note when the President, Mr. Hoar, presented a grim but realistic prediction that the general economic depression which had begun to be severely felt in 1930, would continue for some time to come and that, despite the transfer of the natural resources to the province, surveying activity would remain at a low ebb.

Interest in the controversial proposals which had been in the works during 1929 and 1930 had apparently vanished and except for the Council’s report that the draft of the new Alberta Surveys Act had been studied thoroughly and found satisfactory, nothing new came to the fore during the meeting. The business transacted was of so brief and routine a nature that the members present were able to spend most of the afternoon on a visit to the Glenmore Dam which was then under construction near Calgary.

The Council held no meetings until the day before the 1932 Annual Meeting, when their main item of business consisted of sorting out some confusion that had arisen over Mr. C.A. Magrath’s admission to honorary membership. This was satisfactorily resolved, and Mr. Magrath was officially admitted as an honorary member at the annual meeting the next day. On that occasion the members, apparently in a generous mood, also conferred life membership on Mr. A.P. Patrick, Mr. A.S. Weekes and Mr. J.L. Doupe. Otherwise, routine business was the order of the day, although the President, Mr. R.H. Cautley, suggested in his address that it was about time for land surveyors to hoist themselves out of the doldrums by their own bootstraps and to produce some new ideas for enlargement of the scope of their activities. He directed attention to the need for restoration surveys, proposed that all surveyed blind lines be run and pro-

erly monumented, and noted that current mineral discoveries at Great Slave and Great Bear Lakes in the Northwest Territories presented opportunities for mineral claim surveys which the members ought not to ignore. All of this apparently fell on deaf ears, presumably because it was recognized that these projects would cost money and the supply of that commodity had almost completely dried up.

The same dispirited attitude was in evidence during 1933 and 1934. Hard times continued and the membership of the Association steadily dropped in numbers. During these years, annual meetings were attended by about 15 members, the majority of whom were salaried surveyors employed by governments and the railway companies. Few of the men in private practice were earning more than a bare livelihood as surveyors had turned to other occupations for their main source of income, performing survey work only as an occasional sideline. Both in the business world and in agriculture, the general picture was one of stagnation and gloom. In the urban centres, thousands of people remained unemployed, and much political and social unrest was becoming evident. Many people were convinced that the system had to be changed, and the advocates of communism, technocracy and social credit were beginning to get serious and sympathetic attention from those who had little or nothing to lose and creating fears in the minds of those who disliked these revolutionary ideas. These fears tended to stifle initiative on the part of those who might otherwise have got the economy moving again, and the Depression deepened while the average individual got by as best he could and took no chances while waiting to see what would happen.

What did happen is now history far beyond the range of this record. In Alberta, the U.F.A. government, tarnished with personal scandals and discredited by its administrative failure, was turned out of office in 1935 and replaced by the Social Credit party who were looked upon by many people as saints and saviours but by many others as wild-eyed crackpots who could only lead the province to final ruin. Both these appraisals of the new government turned out to be wrong, and when conditions later did improve, the improvements were mainly activated by causes which lay outside the province and beyond the government’s control.

Charles A. Magrath
The subject of this sketch, business man, surveyor, pioneer, Member of Parliament, war-time administrator, and a great servant of his country, died in Victoria, BC, on October 30th, 1949, after a lengthy illness and at the advanced age of 89.

He was born at North Augusta, Ontario, April 22nd, 1860, and at the age of 18 accompanied one of the earliest DLS parties to the western part of Canada. He was a man of big and strong physique and the wide open spaces of the west caught and held him for many ensuing years. It was not therefore until November 1st, 1907, that he was welcomed into the Association of Ontario Land Surveyors, during which time he had secured other degrees as above noted.

His subsequent years spent in his country’s service may best be focussed synoptically thus:

1885 and year succeeding—Engaged in managing irrigation works at Lethbridge.

1892—Member Legislature North-West Territories.

1898-1901—Cabinet Minister.

1901-1906—Mayor of newly created City of Lethbridge.

1906-1911—Member Parliament for Medicine Hat.
1911—Appointed a member of Canadian Section of International Joint Waterways Commission.
1913—Appointed Chairman of Special Commission to investigate and report on a highway system for Ontario.

1914—Appointed Chairman of the Canadian Section of the said Waterways Commission.
1914—Member War Trade Board.
1914—Member Executive of Patriotic Fund.
1917—Appointed Fuel Controller for Canada.

1922—Appointed Chairman Fuel Advisory Board for Canada.
These are the highlights of a life that was full of service.

SOURCE: ASSOCIATION OFONTARIO LAND SURVEYORS BIOGRAPHY

AGM 2007 - President’s Ball