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MISSION
The Alberta Land Surveyors’ Association is a self-governing professional regulatory association dedicated to providing the highest quality leadership to its members in the best interests of the public and the profession.

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OBJECTIVES
The Alberta Land Surveyors’ Association achieves its mission through:

- Educating the public (including landowners, government and industry) aware of the role of land surveyors and the Alberta Land Surveyors’ Association and the importance of well-defined boundaries
- Attempting to resolve boundary uncertainties and alleged errors in surveys so that the public may rely on their boundaries.
- Ensuring practitioners demonstrate competency while they are licensed.
- Ensuring students demonstrate competence in the practice of land surveying before receiving their license as a land surveyor.
- Maintaining and enhancing the professional practice of Alberta Land Surveyors.
- Providing continuing professional development opportunities to Alberta Land Surveyors on subjects specifically related to the practice of surveying.
- Disciplining practitioners who are found to be unskilled or unprofessional.

ALS NEWS
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Have you ever wondered why one of the oldest professions in the world is one of the least known professions today? Ancient surveying began almost 5,000 years ago with the laying out of pyramids in Egypt and burial mounds in Ireland.

Five thousand years later, the Alberta Land Surveyor remains part of the “unknown profession” even with all of the efforts we’ve made in the past to improve public perception or the knowledge of what we do. I mentioned this issue in my president’s address at our last annual general meeting and my first six months as president has confirmed the fact that we remain an unknown.

After numerous meetings with ministers, deputy ministers, assistant deputy ministers and other individuals within our related industries, it is quite shocking that we have to explain to each what we as Alberta Land Surveyors do in our day-to-day careers. Honestly, it is quite rare when I come across someone (who is not a surveyor or family member) that has any idea what an ALS is, or that we even have a professional association. The most common response is that they worked as a survey assistant 35 years ago for a few months or that they’ve had some sort of issue with an Alberta Land Surveyor’s RPR or fence survey.

After attending five other provinces’ AGMs, I can safely say that each province is in the same “unknown profession” category as we are. Nationally, there are approximately 4,000 land surveyors, a pretty small number when you see that APEGA numbers over 75,000 members in Alberta alone.

My point to all this is that we must continue to push for advocacy not only within our provincial borders but nationally to educate and inform. This brings me to the “hot topic” button that land surveyors across Canada are talking about, this being PSC (Professional Surveyors Canada). PSC’s vision is “that all Canadians come to respect the art and science of the surveyor's role.” Its mission, “will work on behalf of its members to encourage and enable an environment where their work is valued as underpinning the fabric of society for the safety and economic well-being of Canadians.” Why are land surveyors talking about PSC? Most don’t see the tangible value of paying two hundred dollars per year to this entity with results that cannot be quantified. PSC like many of our committees is made up of volunteers. Thus, like our ALSA committees the success of PSC is based on how much volunteering effort we as land surveyors put towards PSC’s mission. At a recent discussion at Council, Hal Janes (Alberta PSC Director) brought a PSC update and mentioned that long term success of PSC is predicated on volunteerism. PSC needs both our financial and manpower support. The success of PSC’s advocacy efforts will ultimately be determined by what type of support all provincial land survey associations are willing to provide it.

Similar to PSC but expanding in scope is GeoAlliance Canada, which “will provide effective leadership and a neutral platform for geospatial business, non-profit, educations and government organizations to work together to increase public awareness of the value of the geospatial information supply chain.”

It will be an umbrella organization to pool energy and resources to create a greater impact when dealing with government and industry. Land surveyors as a group will be represented within GeoAlliance thus allowing another avenue of advocacy and “have the ability to increase business and research opportunities. At our last Council meeting, we approved our first-year membership within GeoAlliance Canada.

Across Canada, land surveyors have struggled in the past with different entities created to advocate on their behalf. Most of these entities have struggled to be successful in their advocacy mission thus clouding our abilities to whole heartedly endorse and financially support their visions and missions.

As the time in my presidency moves on, I become more passionate in the belief that we as Alberta Land Surveyors need successful advocacy and land surveyors across Canada require the same. I understand that many surveyors may not see the need for advocacy. However, when you remain a virtual unknown profession to all level of governments, our industries we work in and to the public we are legislated to protect I believe we must continue all avenues of advocacy in order to become a “known” profession.
AN INCREDIBLE LEAP FORWARD FOR SURVEYORS

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A beta version of Gmail was released to the public in March 2004. It didn’t officially exit beta status until July 7th, 2009. That is over five years in beta. Launching a platform or product, only to remain in an extended beta phase allows developers the opportunity to obtain extended stakeholder review and product updates yet also get the product on the market as soon as possible. Currently the hybrid cadastre pilot project is in "beta" as the standards and guidelines are developed and fine-tuned. At the time of this writing, the Director of Surveys plans to exit this beta phase early in the New Year. Is it an efficient working model of the original vision?

Are we ready to bring a coordinate based cadastre (CBC) to privately-owned lands? Section 47 of the Surveys Act allows for a coordinate to govern for a limited time, under specific guidelines. The challenge is: How do we ensure that the necessary standards are in place to avoid any boundary uncertainties? What are these standards? How are we determining these coordinates and where are they stored? If we require a repeatable, confirmable position, what is the best way to do this if we are not to leave physical evidence on the ground?

Since January 2010, all plans registered (or filed) with Land Titles Office (and AER) have required georeferencing, the process of assigning a coordinate system to a set of data, with some grandfathering exceptions.

For the purpose of a coordinate based cadaster however, this coordinate system must remain consistent for all submissions. As published in “Georeferencing Digital Plan Submissions,” preferred methods for determining the coordinates of the georeferencing point (in order of preference) are as follows:

1. For a survey performed using Global Navigation Satellite System (GNSS) observations, the plan should be georeferenced to the GNSS derived coordinates. It is preferred that the surveyor improve the accuracy of the GNSS derived coordinates by using the Precise Point Positioning (PPP) Service from Natural Resources Canada nrcan.gc.ca . [emphasis added]

2. For a survey tied to one of more Alberta Survey Control Markers (ASCMs), the plan should be georeferenced to the observed ASCM coordinates (i.e. GNSS derived), as they more accurately reflect the true location of the survey. [emphasis added] If georeferencing to the published ASCM coordinates, NAD83 (CSRS) are preferred as they are more accurate.

3. For all other surveys, including descriptive plans, the georeferencing coordinates may be determined from either the Cadastral Mapping Database, the Alberta Township System (ATS) version 4.1 (March 2005) coordinates or an existing integrated plan.


In these scenarios summarized above, the only repeatable, confirmable position would be determined using the first two methods and sufficient GNSS observations. Some may argue that using a published coordinate from an Alberta Survey Control Monument is repeatable and confirmable yet, it may be found that the published values do not agree with the “observed” value. For this reason, a boundary uncertainty may be created if there are inconsistencies between multiple ASCM values, or missing ASCMs.

Page 4, FAQ 12, of the “Georeferencing Frequently Asked Questions” document states:

Published coordinates for survey control markers reflect adjustments (and distortions) that have been applied to the network. Especially through the use of GNSS, modern surveys may be more accurate than the local control network. By using observed coordinates, the true location of the survey is used and any discrepancy with the published coordinates can be investigated and fixed. If you must use published coordinates for the location of the reference point, NAD83(CSRS) coordinates are more accurate, and thus preferable.

The challenge with this statement is the unstated reference frame of the “observed coordinates.” Where is the reference frame based? Is it time for the Director of Surveys office and its delegates to initiate a re-coordination of the current ASCM network? Is that even necessary when PPP truly is a repeatable and acceptable medium?

Beyond reading manuals and data, the inquisitive mind may wish to experiment with PPP to determine its repeatability as well as gain a general comfort with the results.

The following is an excerpt of my tests.

A base is positioned at a fixed location and records static data for 10.5 hours.

As the time of the data submitted is reduced, it can be seen what happens to the error and variance of the coordinates compared to the control value (which for my purpose were the values received after the full 10.5 hour session). It is important to note that when comparing this data to repeated sessions, the differences in the resulting PPP coordinates is only a couple millimetres from the average of all the sessions.
Many tests have been run with controlled data from my office to review the repeatability of a position achieved using NRCan’s PPP service. Of course, as with all surveying it is important that the user engage proper procedures and protocol in order to get consistent results.

Compare this to a survey performed with conventional equipment that requires analysis to identify the quality of the data. Proper field techniques are important. Technical staff may be qualified to review the data from the field, however it is ultimately the responsibility of the professional land surveyor who is authoring the product to be skilled enough with the process involved to identify possible errors and confirm the results.

If you have the opportunity to travel to the Google campus, you may see the Lexus driverless car. The technology exists to allow this to happen but until the necessary controls are in place to adequately protect the public, it is unlikely that we will see them on the road. Just because you can do something, doesn’t mean you should.

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<th>Sigma Ln</th>
<th>Sigma Ht.</th>
<th>Delta N</th>
<th>Delta E</th>
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*All dimensions are in metres*
Dealing with Difficult Times

BRIAN MUNDAY, Executive Director

I am writing this article around Remembrance Day and, if everything goes according to plan, you will have the chance to read it around Christmas.

November 11th is a day to remember and thank all of those soldiers who have given so much under incredibly difficult and stressful circumstances.

Christmas is also a time to think back to days gone by but, hopefully, to a time of joy and laughter.

There has not been a great deal of joy and laughter around Alberta this year. The economic news has been bad with plunging oil prices, massive layoffs and higher taxes. Even those who have managed to keep their jobs are dealing with increased pressures to cut costs and find new work. It is a very difficult time.

It is at times like these that it helps to look for the bright spots, those tiny slivers of hope that things will be better. So, I took some time and wrote down a list of things that should give all of us a little bit of hope and a reason to look forward to what is to come.

1. When this economic slowdown started, the so-called experts said it would not last that long and things would have started to turn the corner by now. They haven’t. But, in any economic downturn, the so-called experts always say it will not last long and it always does last longer than anyone first thought. The point is: this is nothing new.
2. The news reports will still be gloomy even when things do start to recover. Lately, the financial newspapers have reported on how many job losses there were last month and how much house prices dropped last month or last quarter or last year. The thing is that all of this economic data is about stuff that happened in the past. It doesn’t tell you about what is going to happen next.
3. Alberta’s economy goes down. It goes up. It goes down. But it always goes back up eventually.
4. For many Albertans, this is the first time they have seen a real economic downturn. For many others, this is something they have been through before – more than once. The Albertans who have gone through this before survived and, learning from them, will help all of us get through this too.
5. Alberta Land Surveyors and the Alberta Land Surveyors’ Association have gone through this before too but we are still alive and kicking after more than 100 years.
6. The profession survived the collapse of the land boom in 1913 and the war that followed.
7. The profession survived the Great Depression of the 1930s.
8. The profession survived the collapse of oil prices, soaring inflation and the National Energy Program of the 1980s.
9. In each case, the profession survived because it adapted to changing times and took advantage of changes that were taking place in the provincial and global economy. The profession did not just sit back and wait for events to overtake it.
10. In each case, the turnaround in the land surveying profession coincided with a new generation of Alberta Land Surveyors leading the charge.
11. Alberta’s unemployment rate was 6.5% and full employment has typically been thought to be 6%. The good news is that there is still a large number of people working.
12. Alberta has a young population. Alberta Land Surveyors are a young profession. Now is an opportunity for them to carve out a niche for themselves and be the leaders in the profession when the economy does turn around.
13. With any slowdown, there is an opportunity to look at new markets and new ways of doing things. I don’t mean branching out into an existing market (say, start doing real property reports instead of wellsite surveys) but creating new markets and new geospatial products.
14. With the slowdown, now is the time to experiment with these new opportunities before the economy is too hot that it is all you can do to find staff and keep up with clients.
15. There is also an opportunity for the Alberta Land Surveyors’ Association to look at new markets and new opportunities when it comes to how the ALSA regulates its members and the type of regulatory services it provides.
16. When the economy does pick up, it will likely be slow and imperceptible. When an economy falters, it is usually happens quickly. So it was this time last year when there were big declines in oil prices and the stock market generally. When things pick up, it is almost like no one notices because it is slow and gradual. The big firms announced their layoffs in the papers but the little companies that will start to hire never get mentioned in the media.

It is at times like these that it helps to look for the bright spots...
17. Now is perhaps a good time for Alberta Land Surveyors to get back in the field and re-connect with looking for survey evidence.

18. Speaking of the field, every Alberta Land Surveyor has that field story to tell about rolling their quad, freezing on the bald prairie or getting dumped in the river. Alberta Land Surveyors are a pretty resilient group of people not only when it comes to dealing with bad field conditions but also bad economic conditions.

19. Is now the time to spend more time networking and all those other things you said you were going to do when things slowed down? If you are interested in politics, how about running for the local town council or getting involved behind the scenes?

20. The last time that Alberta was in a deep recession was the 1980s and both the Edmonton Oilers and Calgary Flames won Stanley Cups – although one team won a lot more than the other. Let’s plan the parade route now.

I am not the kind of person that thinks the world be a better place if we just think happy thoughts. However, at the same time, I don’t like to be a Chicken Little and get scared that the sky is falling.

A slow economy is difficult and stressful on everyone. There is no reason to deny it. However, Alberta Land Surveyors have a history of fighting through difficult times and coming out stronger on the other end. I am sure this time will be no different.

REGIONAL MEETING DATES

GRANDE PRAIRIE
MARCH 22, 2016

EDMONTON
MARCH 23, 2016

LETHBRIDGE
MARCH 16, 2016

CALGARY
MARCH 17, 2016

AGM RECOMMENDATIONS WILL BE DISCUSSED AT THESE MEETINGS.
NAIT Scholarships
It is with great pleasure that the Scholarships & Bursaries Office at NAIT announces the recipient of the J.H. Holloway Scholarship Foundation Award and the Alberta Land Surveyors’ Association Scholarship as nominated by the Geomatics Engineering Technology program. J.H. Holloway Scholarship Foundation Award: Karla Bergen. Alberta Land Surveyors’ Association Scholarship: Darren Mcdonald.

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

Tina Taylor
Scholarships & Bursaries Coordinator

UNB Scholarship
Please accept my sincere thanks for your recent gift of $2,500 in support of the Alberta Land Surveyors’ Association Academic Achievement Scholarship at the University of New Brunswick.

I would also like to take this opportunity to welcome you once again to the President’s Circle, recognizing those who contribute $1,000 or more annual to UNB.

Nearly 50 percent of undergraduates at UNB are the first members of their families to attend university. They understand that education is the key to unlocking opportunity for themselves and their communities. When you support scholarships at UNB, you are rewarding their hard work and affirming that individual leaves and society can be transformed through learning. Thank you, The difference you make enables our students to help change the world.

E.E.A. Eddy Campbell
President and Vice-Chancellor

Lethbridge College Scholarship
I am very happy to know that I am a recipient of the two academic achievement scholarships from the ALSA and the J.H. Holloway Scholarship Foundation.

I am a second-year student in the Geomatics program at Lethbridge College. I would like to express my sincere gratitude for your generous support towards my study. For me it is a great honour to earn the scholarship from a professional organization that belongs to land surveyors.

Hang (Leo) Hong

BCIT Scholarship
Thank you for supporting BCIT students. I am pleased to advise that the following student has been selected to receive the Alberta Land Surveyors’ Association Award at BCIT’s Awards Ceremony on November 4, 2015: Grady Rowley

Your continued support helps expand student opportunities and ensures BCIT remains at the forefront of education. Each and every gift makes a difference.

Your support helps us recognize the hard work and achievements of the students at BCIT. We sincerely thank you for your continuing contributions and look forward to seeing you at the ceremony.

Shelley Grogan
Coordinator, Awards
BCIT Foundation, Advancement

Surveyors Historical Foundation Acquires Watson Estate Survey Artifacts
Reg Watson, ALS, passed away on October 16, 2014 at the age of 81. Despite the fact that Reg had basically retired from practice, he retained an extensive array of survey equipment including a Wild T2, T1A and T16, as well as a vast assortment of chains – both imperial and metric, Geodimeter, two electronic plotters and numerous other pieces of survey paraphernalia.

In cleaning up Reg’s estate his daughters Megan and Leslie (through Reg’s former wife Donna) contacted the Surveyors Historical Foundation to inquire if we were interested in his equipment. Despite the fact that none of the equipment could be considered antiquities, at least at this point in time, the SHF felt it was important to start collecting instruments and other survey equipment to add to the collection even though they were not of vintage character. Some of the equipment had been moved to Leslie’s garage in Edmonton but most of it had to be recovered from the Watson farm near Sundre.

The SHF went through the process of consolidating all of the equipment, selecting anything that had any potential historical value, assessing the value through various websites and issuing the requisite tax receipt. In total, three theodolites, one Geodimeter, magnetic pin locator, number dies, drafting equipment and numerous tripods, prisms, and chains, were acquired. Unfortunately, the SHF felt that the plotters were just too large and cumbersome to store. The equipment will be made available to the Alberta Land Surveyors’ Association, Alberta museums and other organizations for display purposes.

The SHF wishes to thank Donna, Megan and Leslie Watson for thinking of us and wishing to preserve the memory of Reg through the Surveyors Historical Foundation.

G. K. Allred, ALS (Hon. Life)
The public finds it very helpful to be able to narrow down their search for a land surveyor by picking a particular specialty on the search form. Unfortunately, there are a number of companies that have not taken advantage of the ability to assign specialties to each of their offices (head and branch). Please ensure that your office has indicated which specialty(ies) should be assigned so that contact information will appear when a search is done for that particular specialty.

The specialties to choose from are:

- Fenceline Survey
- Lot Grading
- Pipeline Survey
- Real Property Report (Comm)
- Real Property Report (Res)
- Subdivisions
- Well Site Survey

This list of specialties was chosen to represent the majority of inquiries that the Association office receives. Please provide your selection(s) to Dawn Phelan (phelan@alsa.ab.ca) and she will update the Association’s records accordingly.
New Alberta Land Surveyors

#962 - Amy Grandinetti
October 16, 2015
Amy is currently employed with McElhanney Land Surveys (Alta.) Ltd. in Edmonton. Her experience is in the oil & gas sector.

Articles were served under Lesley Ewoniak, ALS.

She received a Geomatics Engineering Technology diploma from NAIT.

She is married to Shane and they have one child: Sterling (2 years).

Hobbies include sports, travelling and playing outside with Sterling.

#963 - D. Lucas Cairns
October 20, 2015
Lucas started working at McElhanney Land Surveys (Alta.) Ltd. as a summer student in 2006. He has worked in Lloydminster, Fort St. John BC, briefly in Calgary and now in Grande Prairie.

He is a British Columbia Land Surveyor and a Canada Lands Surveyor.

He is married to Alanna and they have two children: Ethan (3 years) and Brooklyn (20 months).

Hobbies include sports, regularly going to the gym and he is a huge Blue Jays fan!

#964 - Trevor Pasika
November 13, 2015
Trevor started with Stantec Geomatics in 2001 and has experience in urban development, hydrographic surveys and 3D laser scanning. He moved into the discipline lead role for Edmonton in 2013 and is responsible for integrating new technology and professional standards.

Articles were served under Kevin MacLeod, ALS.

He has a Geomatics Engineering Technology diploma from NAIT.

He is married to Rona and they have two children: Cassie (9 years) and Brynn (7 years).

Hobbies include coaching his daughter’s ringette teams, spending time at the lake and anything outdoors.

Updates . . . .

For up-to-date contact information, log on to the ALSA website.

ACTIVE

Rheal Bourgouin is employed with Arc Surveys Ltd. in Red Deer.
Doug Cairns was commissioned as ALS #963 on October 20, 2015.
Fred Cheng is now employed with Hagen Surveys (1982) Ltd.

Francois Dion is no longer employed with Can-Am Geomatics Corp.

Tyler Fox is now employed with Vector Geomatics Land Surveying Ltd. (non surveyors’ corporation).

Lianqiu Gao is now listed as a sole practitioner.

Amy Grandinetti was commissioned as ALS #962 on October 16, 2015.

Geoff Hobs is no longer employed with Can-Am Geomatics Corp.

Roberta Holtner is now employed with Baseline Geomatics Group Ltd. in Drayton Valley.

Hart Karasch is now employed with Pasquini & Associates Geomatics Ltd.

Carl Larsen is now employed with Valard Geomatics Ltd.

Doug MacAulay is no longer employed with McElhanney Land Surveys (Alta.) Ltd.

Donnie Mckee is now listed as a sole practitioner.

Irwin Maltais is no longer employed with Altus Geomatics Limited Partnership.

Scott Partridge is no longer employed with IW Survey Canada, ULC.

Trevor Pasika was commissioned as ALS#964 on November 13, 2015.

Desmond Shaw is now employed with Kellam Berg Engineering & Surveys Ltd.

Christy Thompson is no longer with ATCO Electric.

Gerald Whaley is no longer with Baseline Geomatics Ltd.

CORPORATIONS

Arc Surveys Ltd. has opened a branch office in Red Deer. Real Bourgouin is the ALS responsible for this office.

Kiriak Surveys Ltd. was closed as per order by the Discipline Committee.

MPE Geomatics Ltd. has changed its name to Halma Thompson Land Surveys Ltd.

ARTICLED PUPILS

Gerald Andreiuk signed articles with Mark Theuerkauf, ALS on October 16, 2015.

Ivan Moldovanov signed articles with John Broderick, ALS on November 20, 2015.

Samuel Purdy signed articles with Adam Barvir, ALS on October 30, 2015.

Anas-wael Shadid is no longer employed with Vista Geomatics Ltd.

Scott Slen is no longer employed with Can-Am Geomatics Corp.

Willem Smienk is now employed with MMM Geomatics Alberta Limited and has transferred articles to Chris Beaugrand, ALS.

Nicholas Weir signed article with Jeffrey Olsen ALS on October 29, 2015.

Lesley Yorke signed articles with Dennis Clayton, ALS on September 2, 2015.

AFFILIATE

Kathryn Cairns AF058 was approved as an affiliate member on November 18, 2015.

Thomas Hoppe is no longer employed with Eclipse Geomatics & Engineering Ltd.

Terry Simmonds is no longer employed with ATCO Electric.

Sandra Wards AF044 was approved as an affiliate member on November 18, 2015.

ASSOCIATE

Greg Martin is now employed with Bearisto and Associates Engineering Ltd.

Stephen Sharron is now employed with WSP Surveys (AB) Limited Partnership in Calgary.

RETIRED

Terry MacNeill was reinstated as a retired member.

SUSPENDED

Lew Rodney was suspended as per order by the Discipline Committee. See March 2016 issue.
According to an Associated Press report, singer Wayne Newton was involved in a property dispute with the neighbours who live next to his vacation home in Montana. The owners of an adjacent property sued in September 2014 after Newton put up a chain blocking the driveway that leads from a highway to his home.

The neighbours said the chain prevented them from getting to their property, where they had built a garage to store their boat and watercraft trailers. The neighbours had been using the driveway since 1993 and had rights to it, though not explicitly granted, before the Newtons bought their land in 2010, the lawsuit said.

The sides reached a settlement agreement that called for Newton to adjust the boundary line and sell a strip of land the neighbours need to get to their property. The deal hit a snag in August when the sides disagreed on how wide that strip of land should be.

They originally agreed on 10 feet wide, but the neighbours sought 14 feet because of the land’s topography.

Wayne Newton started singing professionally as a child. In his teenage years, he performed with his older brother. Newton became a solo performer in the early 1960s and scored such hits as “Danke Schoen” and “Red Roses for a Blue Lady.” For the next several decades, Newton established himself as one of Las Vegas’s most popular and highest-paid performers.

Newton has often been asked to play himself, the quintessential cabaret performer, on television and in films. Sometimes, however, he has been able to take on a different role. On the big screen, Newton played an evangelist in the 1989 James Bond film License to Kill starring Timothy Dalton. He also appeared in comic Andrew Dice Clay’s The Adventures of Ford Fairlane the following year. Also that year, Newton’s first major hit, “Danke Schoen,” enjoyed some renewed popularity. Actor Matthew Broderick lip-synced the song during a scene in the hit comedy Ferris Bueller.

Ben Stein, who plays the economics teacher in Ferris Bueller, actually graduated from Columbia University in 1966 with honors in economics.

This film takes place on June 5, 1985. To produce the desired drugged-out effect for his role as the drug addict in the police station, Charlie Sheen stayed awake for more than 48 hours before the scene was shot.

The Parade sequence (“Twist and Shout” scene) was filmed during the Von Steuben Day Parade, an annual event in the Chicagoland area.

Von Steuben Day is a holiday traditionally held on a weekend in mid-September (von Steuben was born September 17), celebrating Baron Friedrich von Steuben, who arrived in the United States as a volunteer offering his services to General George Washington, and is generally considered the German-American event of the year. Participants march, dance, and play music.

He served as inspector general and major general of the Continental Army during the American Revolutionary War. He is credited with being one of the fathers of the Continental Army in teaching them the essentials of military drills, tactics, and disciplines.

According to Chapter XX of the Revolutionary War Drill Manual…

The officer the soldiers are under the inspection of their officers the better; for which reason every morning at troop beating they must inspect into the dress of their men; see that their clothes are whole and put on properly; their hands and faces washed clean; their hair combed; their accoutrements properly fixed, and every article about them in the greatest order. Those who are guilty of repeated neglects in these particulars are to be confined and punished. The field officers must pay attention to this object, taking proper notice of those companies where visible neglect appears, and publicly applauding those who are remarkable for their good appearance.

Every Saturday morning the captains are to make a general inspection of their companies, and examine into the state of the men’s necessaries, observing that they agree in quantity with what is specified in the company book; and that every article is the man’s who shews it: For which purpose, and to discover theft, every man’s things should be marked; if any thing is deficient, strict inquiry must be made into the cause of it; and should it appear to be lost, pledged, sold or exchanged, the offender must be severely punished.

That the men may not be improperly burdened and fatigued, the captains are not to suffer them to carry any thing which is either useless or unnecessary.

Every day the commanding officers of companies must examine their men’s arms and ammunition, and see that they are clean and in good order.

That the men may always appear clean on the parade, and as means of preserving their health, the non-commissioned officers are to see that they wash their hands and faces every day, and often when necessary. And when any river is nigh, and the season favorable, the men shall bathe themselves as frequently as possible, the commanding officers of each battalion sending them by small detachments successively, under the care of a non-commissioned officer; but on no account must the men be permitted to bathe when just come off a march, at least till they have reposed long enough to get cool.
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Bathing Secret #4: Atmosphere is key.
Bathing Secret #5: When it comes to bath salts, the more, the better!
Bathing Secret #6: Keep that curtain closed.
Bathing Secret #7: Start the day with a bath!
Bathing Secret #8: Not so fast - keep soaking!

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Usually, at this time, I try to connect the last item with land surveying. Given the state of the economy at the present time, perhaps the best way to deal with the land surveying malaise is to take a nice hot bath. If you use the right ingredients, you will look younger too.

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Should I Show It or Not?

SCOTT WESTLUND, MENV, PENG, ALS
Director of Practice Review and Boundary Panel Manager

On average, the ALSA office handles between 10 and 15 calls per week relating to real property reports. The reason for these calls varies widely. Many people ask about obtaining an update and/or the need for an update while others ask about something that is shown or not shown on a specific RPR. As communicated to me by Brian Munday, "we get very few calls from the public given the number of RPRs that are done in the province." A real property report is an important document and for many homeowners, it represents their only interaction with a professional land surveyor. This is why it is important that we get them right. Based on the number of straightforward queries that the office receives, it seems to me that individual surveyors are doing a very good job of dealing with client inquiries related to RPRs.

In my role as Boundary Panel manager, I personally receive approximately three calls per month related to RPRs and I find them quite challenging to deal with. I am often asked to explain how an improvement could be in compliance on a previous version of an RPR but is somehow not on a current version. It often appears to the landowner that the property line has moved (because the improvement has not). This property line movement is often caused by the use of different survey evidence to establish block corners.

In Phase 2, I have examined 19 RPRs as part of Continuing Competency Reviews and I have noticed a tendency to not identify certain improvements as encroachments even though they straddle a property line. I believe this is being done because the improvement or encroachment is deemed to be 'insignificant' or allowed and there may be a perception that by identifying an encroachment we are causing problems for our client. In my opinion, making a judgement call is inconsistent with our mandate to report the facts at the time of survey and not clearly identifying improvements on or over the property line could lead to future problems for the surveyor. In this article, I’m going to look at encroachments and how they are identified on our RPRs.

DEFINITIONS

Encroach

- To gradually move or go into an area that is beyond the usual or desired limits.
- To gradually take or begin to use or affect something that belongs to someone else or that someone else is using (from the Merriam-Webster dictionary http://www.merriam-webster.com/dictionary/encroach retrieved November 10, 2015).
- To enter or force oneself on another’s property or rights little by little.

Developing a working definition of encroach

The passage of time

In the definition of encroach, the words gradually, little by little, and advance all seem to suggest that in order for something to encroach there must be a period of time that passes and the item that is encroaching may be slowly moving. As surveyors, I don’t believe we are concerned with the time period or continual movement because a survey, especially a RPR survey, normally represents a snapshot in time.

Accepted use

I also believe we have developed a general understanding of what an encroachment is based on how we use it in the Manual of Standard Practice.

Encroach, in the context of a RPR, is used several times in the Manual of Standard Practice:

Part D Section 8.4.6 - Any existing encroachment and the amount of the encroachment (to be shown clearly and prominently).

Part D Section 8.5.4 - Eavestroughs, steps, and landings if they encroach onto the adjacent parcel, street, or lane.

Part D Section 8.5.6 - Retaining walls that appear to define property lines or that encroach onto adjacent parcels, rights-of-way, streets, or lanes.

Part D Section 8.5.10 - … Fences shall not be indicated as encroaching unless the encroachment is onto public lands...

Encroachment is also specifically mentioned in the recommended RPR certification as follows:

2. the improvements are entirely within the boundaries of the Property [except ________(to be used if applicable)];
3. no visible encroachments exist on the Property from any improvements situated on an adjoining property [except ________(to be used if applicable)]; and
4. no visible encroachments exist on registered easements or rights-of-way affecting the extent of the Property [except ________(to be used if applicable)].
Based on the dictionary definition, accepted use, the MSP, and the fact that we can only show improvements that exist on the date of survey, my working definition of encroachment becomes:

Type 1 - Any improvement associated with a property that is entirely or partially located on an adjacent property.

Type 2 - Any improvement associated with a property that is entirely or partially located on a registered easement or right-of-way that specifically prohibits the existence of an improvement.

I choose to acknowledge two types of encroachments because it seems that encroachments between adjacent properties should be easier to identify with very little interpretation involved whereas identifying encroachments onto right-of-ways (for example) involves reviewing legal documentation.

**TYPE 1 ENCROACHMENTS**

As mentioned, I have noticed a trend away from clearly identifying encroachments on RPRs. Specifically, the plan shows the existence of an improvement straddling a property line but does not clearly state that it is an encroachment. I offer the following examples to highlight some of the issues encountered when identifying encroachments on RPRs.

Example 1 is a portion of an RPR prepared for Lot 31 (the lot at the top). As identified in the plan portion of the RPR, there is a sidewalk that seems to belong to Lot 32 that is 0.05 and 0.07 north of the property line. I see this as a sidewalk that is encroaching from Lot 32 into Lot 31. However, this was not clearly identified on this plan or noted in item 3 of the certification on this RPR.

The ALS who prepared this RPR told me that the sidewalk is shown for information purposes only and they did not intend the 0.05 N and 0.07 N notations to serve as notification of encroachment. They also indicated that because the fence is north of the sidewalk, the limits of use are clearly defined. The ALS who prepared this plan seems to believe that because the owner of Lot 31 is not using this portion of their lot because they don’t have access to it, there is no encroachment.

In my opinion, making this judgement goes beyond our mandate to report the facts. It seems to me that the sidewalk is encroaching from Lot 32 into Lot 31 and, as per Part D Section 8.4.6 of the MSP, this should be clearly identified both on the body of the plan and in item 3 of the RPR certification.

I specifically mention that an encroachment should be clearly identified in item 3 of the certification statement because, on many RPRs, ALSs are using a generic ‘unless shown otherwise’ notation in item 2 and 3 (and 4) of the certification statement. I don’t believe this is good practice because it forces the user of the RPR to identify encroachments themselves thereby increasing the risk that an encroachment will be overlooked. Use of a generic statement may also cause confusion when there are no encroachments. A user might wonder if the generic statement means that there is something encroaching but they just can’t see it on the plan. If we are appropriately identifying improvements during our field survey I believe we should be able to clearly and confidently state that there are no encroachments from or into the subject property.

Example 2 is a portion of an RPR prepared for Lot 82 (the lower lot). As shown in the plan portion of the report, the ALS who did the report has noted that the entrance to the basement suite of the house on Lot 81 is 0.09 into Lot 82. Again, this plan seems to indicate that there is an encroachment from Lot 81 into Lot 82 but item 3 in the certification statement only says ‘unless otherwise shown’. This situation seems to be straightforward but actually isn’t. Photo 1 (used with permission from the ALS who took it) shows solid concrete on either side of the property line separated by small concrete blocks that appear to be set up to prevent surface water from overflowing into the basement suite entrance. It is this approximately 0.07 wide and 0.10 high concrete curb that is entirely within Lot 82. Based on the dimensions on the plan, it appears that the basement suite concrete retaining wall could also be 0.02 within Lot 82. Is this an encroachment? It looks like the curb could be easily removed and the retaining wall is essentially on the property line (within survey tolerance).

This is a difficult question to answer and I’m sure the ALS who prepared this RPR considered ignoring the small curb altogether. Indeed they informed me that they don’t normally identify ‘minor improvements’ (they define minor improvements based on type and their assessment of monetary value) that intrude into adjacent lots as encroachments on RPRs. However, I believe because in this case, they chose to clearly report the facts and indicate that the basement entrance is 0.09 within Lot 82 on the body of the plan, they should have also clearly identified the basement entrance as an encroachment in item 3 of the certification.

Example 3 is a portion of an RPR prepared for Lot 25. This happens to be my lot. As you can see in this portion of the plan and in Photo 2, there is a 0.18 wide concrete curb at ground level straddling the property line. Based on my RPR, only 0.06 of this curb is actually within my lot. The curb somewhat ties into my house because the west end lines up with the front of my house and the concrete appears to be about as old as my house, suggesting that it was likely poured when my house was built. However, it also appears to tie into the concrete walkway beside my neighbour’s house a little further down the property line. In different locations this concrete could reasonably belong to either of us but it does seem more likely that it was supposed to be within my lot. This is what is reflected on my RPR.

In this example, the ALS who did my RPR chose to report...
the conditions at the time of survey and has clearly identified the concrete as being associated with my lot and has clearly identified that it is encroaching onto the neighbour’s property. Unfortunately, this encroachment is not specifically identified in item 2 of the RPR certification (they used a generic unless otherwise shown) but they have added an item 10 indicating that the wall on the subject property encroaches into Lot 24 (I might suggest that this could probably be better labeled because this does not really look like a wall to me). Regardless, my RPR appears to be an accurate report of the conditions in the field at the time of the survey and the encroachment is clearly identified.

The surveyor left the interpretation related to the significance or allowableness of this encroachment to me (as the landowner) and my lawyer. Indeed, when finalizing my real estate transaction, my lawyer suggested that I enter into an encroachment agreement with my neighbour to protect my curb. I reviewed the RPR and the curb and made the decision that this improvement is not significant enough to worry about and chose not to enter into an encroachment agreement. The encroachment notation on my RPR did not cause me undue hardship or inconvenience. In fact, it gave me a higher level of confidence in the RPR because if something this minor was identified, I am confident that all of the other improvements that existed at the time of survey are also identified.

**TYPE 2 ENCROACHMENTS**

Encroachments that relate to utility right-of-ways and easements are much more difficult to address. In almost every new community there are concrete driveways and sidewalks built on the 3.5 m utility right-of-way at the front of many of the lots. How else would the owners access their garage and house if they did not build a driveway and sidewalk from the street? Are these encroachments? They seem to be widely accepted as ‘allowable’ encroachments and based on the RPRs I see, driveways and sidewalks are almost never identified as encroachments in item 4 of the RPR certification even though they are clearly built on top of the utility right-of-way.

Identifying Type 2 encroachments involves reading and understanding legal documents. My advice for identifying and depicting this type of encroachments is similar to that for Type 1 encroachments; prepare an accurate report of the conditions in the field at the time of survey, clearly label the improvements on the RPR and read and understand the document registered on title but leave the interpretation of significance or allowableness to the municipality, utility companies, lawyers and landowners.

I’ll close this article with a short story totally unrelated to RPRs but it speaks to the need to continue to educate the public about the role of a professional land surveyor. I recently went for a flu shot and in an effort to help me relax before receiving the needle the nurse asked me what type of work I did. I told her that I am a professional land surveyor to which she replied; “make sure you keep your tetanus shot up to date”. In response to the confused look on my face she added; “because as a land surveyor you must spend a lot of time with your hands in the dirt.”

*Editor’s Note: For a different perspective on showing easements, see Ivo Nedev’s article on page 30.*
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Time to Blow Off the Dust

Your phone rings…. you’re snapped out of your nap and focus your eyes on some files sitting on the back shelf of your office. The oil patch is slow again and it’s time, yes once again, to clean up those dormant plans.

It’s unfortunate that many of us have to wait for slower times to revisit these outstanding files. We have a legislated obligation to get these plans registered within prescribed timelines; but since most times our operations are client driven and if the clients are not pressuring us then these items seem to be put off.

The issue of dormant plans has been brought to the attention of the Association members many times in the past. Recently, the Practice Review Board has recognized that certain government policy changes and changing Association demographics have the potential of increasing the number of dormant plans. In the spring, the PRB via Council recommended that the Standards committee add the following term of reference, “define a dormant plan, including whether an ALS or the surveyor’s corporation is responsible for the dormant plan.” As a PRB member, the following discussion is my take on some areas of concern.

Practitioners who participate in the Continuing Competency Review process are required to complete a questionnaire which asks detailed information regarding dormant plans. Currently, the questionnaire provides a definition of a dormant plan as “a plan of survey that is required to be registered in the Land Titles Office, Alberta Environment and AER, or the Metis Settlements Land Registry that was not registered within the required time.” As a member of the Practice Review Board and after reviewing numerous CCR questionnaires, it has become apparent that some practitioners are interpreting the term “dormant” differently, in particular with respect to the AEP registry definition.

The dual registration of public land surveys policy dealt in part with dormant surveys prior to August 1, 2009 in somewhat of a confusing manner. FAQ 25, somewhat misplaced on page 7 of the document, is an amendment of the initial policy statement on page 1 and states that “construction plans that have not been certified and signed by the surveyor will have to be certified, signed and re-submitted, even when the boundary information on the survey plan of record matches the final plan.” At first glance, practitioners could easily misinterpret the requirements for the final certified plan and presume their initial unsigned filed construction plan is now sufficient. I believe clarity of the policy certification requirements should be addressed.

When the Crown Enhanced Approval Process (EAP) was put in place in September 2010, it was presented to the membership as an opportunity to ensure that there would be checks in place for final pipeline right-of-way plan registrations. Since short-term dispositions only last four years, the Crown would be sending a notification to the applicants six months prior to expiry so that the long-term application and final survey plan could be submitted. Many surveyors looked at this as a way of having the system track itself. Unfortunately, in my latest discussions with AER, these notifications and expiration checks are not being done. Applicants are required prior to construction to submit a “site entry” which should trigger that a longer-term disposition will be forthcoming; but at this point, AER is not following up and cancelling any dispositions that do not meet the prescribed timelines.

Crown long-term disposition plans also share the same problem as LTO registrations in that the surveyors can provide the ALS signed plan to the client but there is no guarantee that the final plan makes it to registration. Some would argue that this is no longer the ALS’s responsibility but, as previously mentioned, with the current AER system, there is no assurance that our final posted survey will make it to registration. I believe we still have a responsibility and need to track our plans to the final registration stage, whether it is continuing to contact the client or proceeding with an LTO Monument plan.

The Standards Committee is also reviewing who takes responsibility for ensuring dormant plans make it to registration. All land surveyors agree they personally have a responsibility to clean up their own plans but once a practitioner leaves a firm the responsibility seems to end there. Some situations are unavoidable but more needs to be done to address these plans prior to leaving. The days of a practitioner staying with the same firm their whole career are very rare. Certainly, liability insurance further complicates the situation. Ultimately, I believe, the final responsibility lies with the corporations.

So how do we get all these dormant plans registered? In many cases, all we have is younger land surveyors at firms with dormant plans in which they were not involved and certainly not ‘personally supervising’ these jobs. If we can agree that corporations take ultimate responsibility then is there a way that the affidavit statements can be altered to allow for those who have not ‘personally supervised’ the survey to sign off on behalf of the corporation of the survey of others? Maybe a two-part affidavit is required; one, for the portion they are certifying through a review of the previous survey under specific dates; and a second part, if necessary, for any remaining additional work under their direction to clean up the survey. This certainly would give firms more flexibility in getting the dormant plans reviewed and signed off. This is one possible idea but I’m sure there are others.

In light of some of the items discussed above, the Practice Review Board is considering recommendations on how the CCR Phase 3 reviews will deal with the issue of dormant plans. I hope the above can instigate some additional discussions and initiate actions within our firms. I’m sure next year’s AGM will lead to some great discussions presuming the Standards Committee recommendations are presented.

So refill the coffee cup and get back to it. The filing cabinets are filling up and the dust is settling!

Roger Ross, ALS

The purpose of this article is purely educational. Opinions expressed herein are those of the author, and not necessarily of the PRB.
Placing Cartographic or Mathematical Evidence at the Top of the Hierarchy of Evidence: Esterhuizen’s Executrix v Vermeulen 1867

Dr Michael Barry
Professor, Chair in Land Tenure and Cadastral Systems
Geomatics Engineering, University of Calgary

Although there is renewed debate about the use of coordinates as boundary markers, rather than physical artifacts, i.e. monuments, the debate is nothing new. It is really about the weight that should be attached to mathematical evidence versus the original position of a physical monument in the case of a contested boundary position. The arguments that I have heard in meetings for coordinates-as-boundary markers tend to focus on cost reduction, rather than what landowners might need and want. My field research suggests that landowners do want a physical artifact. A gap in the recent debate is weighing up the risks of using the position indicated by coordinates or other mathematical evidence as being superior to the most probable position of the original monument when determining a doubtful boundary, and the nature of the injury that can result from this.

In this article, I briefly examine the Esterhuizen’s Executrix case which was heard on appeal in the Cape of Good Hope1 in 1867/8. It is the first case of which I’m aware that deals with the consequences of placing plan data, the mathematical evidence, above the position of an original monument in deciding a doubtful boundary position, and the first South African case which dealt with the hierarchy of evidence in terms of the Land Beacons Consolidation Act 7 of 1865.

Weighing up Evidence in Deciding Doubtful Boundaries

The Land Beacons Consolidation Act established what has become the rules for arbitrators in adjudicating the most probable position of a doubtful boundary, and these have guided both land surveyors and arbitrators since 1865. The rules very closely resemble the hierarchy of evidence in dealing with doubtful boundaries in Canada, and they have been included, in evolved form, in the Land Survey Act 8 of 1997 and its predecessor Act 9 of 1927. The relevant rules are:

(a) The original monuments of farms pointed out at the original measurement thereof were deemed to define the boundaries, notwithstanding that the monuments might not correspond with the original survey plans or with the extent of the land which the original title deeds purported to grant. Thus if the monuments were placed with the intention of showing what was on the plan, then their positions governed the position of the boundary corners.

(b) If for thirty years monuments other than the original monuments had been taken to have been the true monuments by the disputing parties, they were to be regarded as the original monuments (thirty years is the adverse possession / prescription period in South Africa). Nowadays this has been amended to indicate that if these “thirty-year” monuments include land that was clearly not intended to be included in the original grant, then they do not govern. We cannot allow behaviour what might be construed as adverse possession by consent to acquire land instead of the formal route of subdivision and consolidation.

(c) When any land included within the “original monuments” of an older grant was subsequently included in the survey plan or monuments of a later grant the overlap should fall in the older grant unless by (d) and (e) below.

(d) The old monuments had fallen down and the parties interested in the older grant had not attended at the inspection of the later grant.

(e) If for thirty years monuments other than the original monuments had been taken to be the true monuments by rule (b).

(f) If one party relying on his survey plan insisted that the monuments had been shifted and the other party insists that the survey plan is erroneous, a decision had to be made whether the monuments were original and authentic.

Esterhuizen’s Executrix v Vermeulen

The Esterhuizen’s Executrix v Vermeulen case was the first case to be heard under this act in the Cape of Good Hope Appeal Court in 1867 and 1868. Two farms Sillieryfontein and Draairivier were surveyed in 1829 and 1830, by surveyors Stretch and Meiring respectively, for the issuing of a grant. Using the conceptual sketch in figure 1, monuments were placed at F and C to mark the boundary between the two farms. Grants were issued to Kock for both farms in 1838. Kock sold both farms “according to diagram (survey plan)” to Jooste. Jooste died soon afterwards and his estate then sold Sillieryfontein to Vermeulen and Draairivier to Esterhuizen.

In 1843, surveyor Bird checked the boundaries. He found that monuments F and C of Draairivier were out of position “according to diagram.” He substituted monuments D and E for them and destroyed the monument at F.

The major injury for Esterhuizen was that his homestead and his primary water source, Kleinkookfontein, lay within the disputed area FEDC. Acting on legal advice as to the interpretation of “according to diagram,” in 1843, and without proceeding to court, Esterhuizen abandoned his homestead, relinquished rights to use the water source, and built another house within the “diagram” boundaries as shown in Figure 1.

After the Land Beacons Acts 7 of 1865 and act 10/1859 were promulgated, Esterhuizen applied to the Divisional Council to set up a boundary commission (comprising three people) to have his

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1 The Cape of Good Hope was incorporated in the Union of South Africa in 1910. It was a separate colony prior to that.
boundary relocated to monuments F and C. Unfortunately for Esterhuizen, the investigating commission confirmed Bird’s monuments E and D as the true beacons. Esterhuizen then appealed to the Supreme Court which reversed commission’s decision and affirmed the original monuments as placed to mark the boundary line.

At trial, in the majority judgement, Connor, J tendered that the diagram is a figure bounded by lines, which are supposed to represent the positions of the monuments, i.e. the diagram, as with any map, is a representation of reality. The principle underlying the Land Beacons Act was that: "The old diagrams are imperfect; but the great majority of the owners of the farms depend much more upon their visible beacons as to the extent of their farms, than upon deeds and diagrams…much more injustice would be avoided by following beacons rather than diagrams." In a supporting judgement, Bell, J noted that the procedures followed in the original survey and in the drawing up of the two diagrams (survey plans) were not strictly in accordance with the law. Thus, if mathematical evidence and plans are to govern, then the correct procedures must be followed if they are to be legally binding.

Thus, the case established in the Cape of Good Hope that the original monuments govern, even if they do not agree with the positions shown on survey plans. There are some interesting cases which appeared in the courts in the former Transvaal Republic which decided the opposite, and which resulted in some absurd contradictions, which I shall report on in forthcoming articles. It should be noted that it was only after 1850 that there was a concerted effort to improve the quality of surveys in the Cape. Prior to that, many surveyors were poorly trained, survey plans were often only graphical and showed no angles or distances, a standard unit of measure had not been established in the colony as different units had been introduced by the Dutch and then the British colonial authorities, inspectors of land grants were incompetent, and a historian described the first Surveyor-General who was in office until 1848, as ‘an unimaginative plodder ….. whose range of thought was confined.’

Further it was not unusual for land owners to move their boundary monuments; a creative form of an ambulatory boundary!

When I was practising, in the handful of surveys that I did that dealt with old surveys which had parts which had not been resurveyed using modern instruments I placed very little weight on the mathematical or plan evidence if a survey had been completed prior to 1860. I did, however, rely on drawings of the positions of the original monuments relative to physical features, such as streams. I also sought advice from some experienced older surveyors as to the reputation of the surveyors who had done relevant surveys after 1860. Some 19th Century surveyors worked diligently and one could rely on the accuracy of their diagrams. At the other extreme, I encountered surveys where the surveyor could best be described as having a creative approach to the dimensions on survey plans. In part this was due to ensuring that the data describing the figures on the plans were consistent, even if the surveys were inaccurate. In one case I encountered the common boundary between two parcels surveyed by the same surveyor differed by some 200 metres on the respective survey plans.

It is interesting that nearly 150 years later a very similar case,


Morrison v. Van Den Tillaar, came to trial in British Columbia in 2012 (see ALS News June 2013). Based on an erroneous survey plan, a surveyor had determined the line x-y in figure 2 to be the boundary between lots B and C. Within a reasonable zone of uncertainty, the most probable position of the original monuments was at the ends of the line a-b. Morrison, the owner of Lot B, claimed the land up to the line x-y.

The hierarchy of evidence is long established in Canada and the court held that the most probable positions of the original monuments is what governs; i.e. the line a-b was deemed to be the boundary. Had the court decided otherwise, the prospect of the van Den Tillaar’s having to relocate their house would have arisen, as had happened to Vermeulen.

Relying on mathematical evidence in determining a boundary position is nothing new. Following Columbus’s voyage to the Americas, the Treaty of Tordesillas allocated lands to the west of a meridian 370 leagues east of the Cape Verde Islands (approximately 460 30 west of the Greenwich meridian) to Portugal and lands west of it to Spain. There are also systems in Alberta, such as the DLS and some subdivisions surveyed between 1912 and 1988, which assign mathematical positions to certain property corners as they relate to the positions of original monuments. The issue of using coordinates as boundary markers continues to emerge, and it really is a component of the mathematics / survey plan data versus original monuments debate. What I have yet to see in the limited investigation I have done is an analysis of the risks of using coordinates and how to deal with the consequences of gross errors when coordinates are assigned the status of a legal artifact; i.e. the boundary marker. As part of a series of articles on boundary matters which will include descriptions of completed and ongoing research projects, I shall write up a few more cases where mathematical evidence was deemed to be above the positions of the original monuments in the hierarchy of evidence, and describe some of my experiences as a land surveyor in how coordinates can be used in an integrated cadastral survey system.

Articles Referenced
The updated syllabus is available on the ALSA website. Pupils who, as of January 1st, 2016, have passed at least one of the following exams: (1) Surveying Profession exam, (2) Statute Law exam and/or (3) Practical Surveying exam will have the choice of continuing to write the remaining exams or switching to the Principles and Practice of Land Surveying Part 1 and 2 exams. The pupil’s choice will be submitted with the annual articling report no later than January 15th, 2016. The Surveying Profession exam, Statute Law exam and Practical Surveying exam will be offered until April 2017. Articling pupils may write Part 2 before Part 1.

**Principles and Practice of Land Surveying Part 1**  
(offered in April – 4 hour exam)  
Candidates will be examined on their knowledge and ability to apply pertinent acts and regulations as it relates to, but not limited to, land surveying in urban/municipal environments. This examination will include questions on evaluating evidence, measurement science, general business practices, the Alberta Land Surveyors’ Association and a variety of real world problems with an ethical component. Typical survey question that may be included: rights of way, subdivisions, condominiums, real property reports, survey control networks, etc. Emphasis will be placed on situations requiring some degree of discretion and professional judgement.

**Principles and Practice of Land Surveying Part 2**  
(offer in October – 4 hour exam)  
Candidates will be examined on their knowledge and ability to apply pertinent acts and regulations as it relates to, but not limited to, land surveying in oil and gas/rural environments. This examination will include questions on evaluating evidence, measurement science, general business practices, the Alberta Land Surveyors’ Association and a variety of real world problems with an ethical component. Typical survey question that may be included: the DLS township system, unsurveyed territory, wellsites, rights of way, hybrid cadastre, natural boundaries, survey control networks and traverse problems, etc. Emphasis will be placed on situations requiring some degree of discretion and professional judgement.

**QUALIFYING EXAMINATION**  
(effective January 1, 2016)  
The examination shall be approximately three hours in duration and time shall be structured as follows:

1. **Introduction**  
Candidates will give a brief (approximately 5 minutes) biographical sketch of their education and work experience commencing with graduation from high school.

2. **General Question on Project Reports**  
Following the introduction (above), candidates will be asked general questions on what they learned during their project reports. This portion of the examination will be approximately 10 minutes in duration.

3. **Opinion Based Questions**  
The next portion of the examination will be approximately 15 minutes in duration and will consist of opinion based questions. The intent of this portion is for the candidate to demonstrate their opinion on professionalism.

4. **General Questioning**  
The final portion of the examination will consist of general questioning on the surveying profession and practice. For the most part, the questions will address technical and professional matters as they pertain to cadastral surveying in the Province of Alberta. However, other general knowledge questions relating to technical, business, and ethical topics affecting the Alberta Land Surveyors’ Association will be addressed. This portion of the examination will be approximately 2 ½ hours with a 5 to 10 minute break. At the completion of the examination, the candidate will be asked to leave the examination room while the panel reaches its decision. The candidate will then be asked to reconvene with the panel and at this time, will be advised of the panel’s findings.

**AFFIDAVITS OF SERVICE** for 2015 must be submitted to the ALSA office by January 15, 2016. The forms are available on the ALSA website.

**EXAMINATION & TRAINING REGULATION**  
Affidavit of service  
9(1) On or before January 15 of each year, a pupil must provide to the Registrar an affidavit of service that  
(a) is signed by the principal, and  
(b) describes the surveying operations in which the pupil was engaged during the preceding calendar year.
Fall 2015 Exam Results

Practical Surveying
The 29 articling pupils sitting the recent Practical Exam represented the largest field we have seen for a few years. With a resultant 38% pass rate, the results were not as strong as we hoped. The exam markers offer a suggestion to those articling pupils who will be writing exams in the future.

Nearly a quarter of the articling pupils who did not pass, got at least 70%. They would have passed the exam if they were able to score another 4 or 5 marks. On the exam there were several questions that asked the articling pupil to provide the answer as well as being asked to give the governing document or to support their answer with a reason. Many of them did not do so and needlessly missed out on a few marks. It seems that they either did not read the entire question, or forgot to answer the second portion. Regardless, it proved to be a very costly error.

For the returning pupils: Please, PLEASE take time to carefully read the entire question. If you are asked to ‘support your answer’ or ‘explain’ or tell us ‘why’ or provide a ‘rationale,’ you can rest assured that exam marks are available for those ‘reasons.’

For this exam, the highest average mark was attained for the question about measurement and accuracies, and the question regarding an urban subdivision produced the lowest average mark result.

Statute Law
The Statute Law examination was attempted by 16 articling pupils. The examination was well done with 12 of the 16 articling pupils passing the examination. The examination average was 80% with the highest mark being 95.25% and the lowest being 47%.

An overall summary of the examination is as follows:

<table>
<thead>
<tr>
<th>Section</th>
<th>Value</th>
<th>Average Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surveys Act</td>
<td>20</td>
<td>88%</td>
</tr>
<tr>
<td>Condominium Property Act</td>
<td>15</td>
<td>75%</td>
</tr>
<tr>
<td>Land Surveyors Act</td>
<td>20</td>
<td>83%</td>
</tr>
<tr>
<td>Land Title Act</td>
<td>20</td>
<td>74%</td>
</tr>
<tr>
<td>Oil &amp; Gas Conservation Act</td>
<td>10</td>
<td>77%</td>
</tr>
<tr>
<td>Municipal Government Act</td>
<td>15</td>
<td>79%</td>
</tr>
</tbody>
</table>

The code of ethics scores were disappointing, while the business practices scores were exceptional. The Registration Committee encourages all articling pupils to spend additional energies reflecting how the code of ethics applies to real life scenarios.

Surveying Profession
The Surveying Profession examination was attempted by 20 articling pupils. The examination was well done with 15 articling pupils achieving a passing grade. The examination average was 77% with the highest mark being 88% and the lowest being 67%.

An overall summary of the results are as follows:

<table>
<thead>
<tr>
<th>Section</th>
<th>Value</th>
<th>Average Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Code of Ethics</td>
<td>40</td>
<td>64%</td>
</tr>
<tr>
<td>Business Practices</td>
<td>20</td>
<td>95%</td>
</tr>
<tr>
<td>ALSA</td>
<td>40</td>
<td>79.50%</td>
</tr>
</tbody>
</table>

The Registration Committee was pleased with the success rate of this examination.

Upcoming Written Exam Dates

TUESDAY, APRIL 5
Practical Surveying
8:30 am to 12:30 pm

Principles and Practice of Land Surveying Part 1
8:30 am to 12:30 pm

TUESDAY, APRIL 5
Statute Law
1:30 pm to 4:30 pm

WEDNESDAY, APRIL 6
Surveying Profession
8:30 am to 11:30 am
2015 Surveyors Historical Society Rendezvous

The annual rendezvous of the Surveyors Historical Society (not to be confused with our own Surveyors Historical Foundation) held its 2015 event in Bellingham, Washington in early September. Jim Halliday, ALS and Ken Allred, ALS (Hon. Life) were among approximately 150 attendees from across the United States as well as several from British Columbia and good old John Brock from Australia.

This annual conference consisted of five days of historical lectures, tours and impressive displays of survey artifacts. Organized by Denny and Delores DeMeyer of Washington State it was a well organized and enlightening conference. The highlight of the conference was no doubt a boat cruise to San Juan Island and the recounting of the history of the British and American dispute over that island which after the historic ‘pig war’ became part of the USA. The tour concluded with a salmon and crab barbeque and a display of survey instruments at the home of John Thalacker, PLS.

Other tours included a trip to the Peace Arch State Park on the Canada/US boundary which featured talks by Peter Sullivan, and Kyle Hipsley, boundary commissioners for Canada and United States respectively. There was also the dedication of a display that featured the survey of the international boundary. A third optional tour was to Sucia Island and the re-establishment of several original section corner monuments on that island and another dedication of a kiosk featuring historical surveys of the island. All billboards on these displays were immaculately done with colour photos, maps and interesting text.

All of the lectures were well presented with interesting slides and side displays of astronomical and early survey instruments. Topics were all related to historical surveys including the early exploratory surveys by Captains James Cook, George Vancouver and others.

The annual SHS Rendezvous always presents interesting programs emphasizing the history of the surveying profession, featuring relevant tours to historical sites of survey significance. They also feature excellent displays for public consumption, displays that enhance the historical significance of the survey profession and how surveys relate to the development of our respective countries.

Bellingham and the San Juan Islands are a lovely part of the NW Pacific Coast and a great place to visit.

G. K. Allred, ALS (Hon. Life)
As president of the Alberta Society of Surveying and Mapping Technologies I wish all our members as well as those of the Alberta Land Surveyors’ Association a safe and joyous holiday Season.

My sincere thank you goes out to all of you who have so unselfishly offered you precious time and effort in volunteering to help the Society realize our success.

It is amazing where we find ourselves in just over a year and a half. As a generation we saw Alberta flourish during a time of exceptional economic growth primarily due to the price of a barrel of oil. The services of surveyors and mappers were in such huge demand that our labour force struggled to meet client timelines and budgets. It didn’t take long for the demand to deplete the pool of skilled geomatics specialists. And yet today, we see layoffs and contraction at a pace not seen for over thirty years. The winds of change have swept across the prairies while the prospects for the immediate future appear cold and grey.

Needling to be more efficient with less may make the difference in surviving this generational shift. Qualified, certified staff will be a part of this survival and regrowth equation. As we adapt and begin our climb out of this slumping economy the process of training, certifying and registering technical staff will be even more important. I am excited to say that we have a keenly interested group of Alberta Land Surveyors, certified technicians and educators that are stepping forward to help define and guide this very process.

Once again my sincere thank you to all that have helped us along the way, both past and present.

My sincere holiday greetings and best wishes for a prosperous and Happy New Year.

Darryl Larson, CST, P.Mgr.
President, ASSMT

The Alberta Land Surveyors’ Association offers three awards designed to honour Alberta Land Surveyors who have brought distinction to themselves, to the surveying profession, or to society in general through extraordinary service or achievement.

The awards are:
• Professional Recognition Award
• Outstanding Service Award
• Geomatics Award of Excellence

This is your opportunity to participate in recognition of deserving colleagues. Nominations should be forwarded to the Association no later than January 19, 2016 to the attention of the Executive Committee.
Why this topic:

Let's consider another seemingly obvious term – “encroachment.” Encroachments are an everyday topic for discussion for most land surveyors and seem to affect more than a few landowners. Encroachments are very often hotly claimed and even more hotly refuted. It is not surprising then, that it is easy to find several definitions of what an “encroachment” is. Thankfully these definitions are much more consistent than the ones of a “fence.” The land surveyor is seen by most as holding the office (one of only handful competent) that could resolve the resulting uncertainty. However, our authority to dispense the certification that something (or someone) is encroaching is not so clear.

An encroachment is the damning conclusion that something has a detrimental (usually) effect on somebody’s property interests.

In broader terms (Black’s Law Dictionary, 8th.) encroachment is “an infringement of another’s rights; an interference with or intrusion onto another’s property.” To encroach (ibid) is defined as “to enter by gradual steps or stealth into the possessions or rights of another; to trespass or intrude; to gain or intrude unlawfully upon another’s lands, property, or authority.” And to trespass (ibid): “an unlawful act committed against the person or property of another; esp., wrongful entry on another’s real property.”

There are a number of other definitions and the wordsmithing (apparently not a proper verb in and of itself) gets quite elaborate, but they all circle around the fact that someone has done something unlawful and has hurt another’s rights.

And this is where it gets complicated. When we, as Alberta Land Surveyors, deem that something is encroaching then we are in essence making a judgment about the lawfulness of the thing. Going back to the capacity or the role of the ALS, it is clear to me, that we are well educated, trained, licensed and insured to make determinations as to boundaries (so much so that we are granted an exclusive right to practise) and as to measurements in general. I would conceive that our apparent authority to pass judgement as to encroachments is founded in the reality that for most practical purposes our word is accepted as the final decision when it comes to property rights. But can we really say what is lawful?

Some food for thought:

a. Effect of Encroachment Agreements: If a landowner is granted an encroachment agreement (EA), the result is that the encroachment is (usually) allowed to remain. Further, I would say that it is now “lawful” even. It has been permitted to remain, notwithstanding the fact that it is over the property line, and there is paperwork to that effect.

Hopefully this EA would be registered on title, but I had a very recent experience where it was not. I was quite surprised by the city’s agent who confirmed that they have no desire to register the EA and my client could only do it by way of caveat against themselves (which they decided not to do). So, if some other surveyor did a new RPR, unbeknownst to him there could be an EA, effectively removing the encroachment, even though the feature remains in its (incorrect) location.

b. “Public” Fences: Consider this recent survey of our firm (Sketch 1). The vinyl coated chain link fence (CLF) would appear to predate the subdivision by about a year. It is a park fence, it goes all around the park, all other fences are different styles, heights, etc. The CLF was there first. No problems, except it was built about 0.5 metre inside the municipal reserve (MR). Our client had a minor brick retaining wall right up against the CLF, which they removed as it was on public property, and our client wanted everything to be up to snuff. But now they have this park CLF there, which we might be inclined to show as encroaching on Lot 2MR (as per the Manual of Standard Practice).

So, what could one expect of the landowner to reasonably (and actually) do in order to rectify this “encroachment?” Not too many options come to mind: Take down the CLF, chop off the protruding portions of the wooden fences and build a new fence right along the property line? Place a second “spite fence” along the property line, creating a small island of weeds and trash? Negotiate with the municipality (and the other landowners) the re-building of the fences?

None appear as practical solutions. Therefore, after considering all things, I decided not to label this as an encroachment. Our client did not build the CLF, they removed all they could that was over the property line and they had clearly demonstrated to me that they have no desire to encroach anywhere.

But then what? One can’t just say nothing about half a metre strip of land in an urban RPR, so I showed where the fence is with dimensions to the property line (shown in red ink for clarity) and then I showed the area of Lot 2MR that is fenced off. It would be up to the new landowner not to go over a property line that has no physical barrier on it.
c. Fences and driveways crossing URWs and property lines:
I already hinted at this in “On the Fence” - why don’t we go after these encroaching improvements with the same enthusiasm? Why are they not encroaching? Do they have a license or some other unregistered right to be there? Obviously people need driveways, but then again most URW agreements allow for nothing to be placed within the URW area. Further, I am not convinced we have the authority to interpret the URW agreements. I have discussed this with several other professionals and fellow land surveyors, and none have been able to provide a consistent and convincing argument. The municipalities, utility companies, engineers and lawyers also seem to not care about this...

Above are two examples that I saw recently:

Sketch 2, where the concrete pad is encroaching on the lot to the west, but not on the street to the south.

Sketch 3 shows a fence encroaching on the road, but not on the URW (for a variation of this scenario see paragraph (e.)). This fence is clearly in the wrong place, but even if it were only 0.04 (and not 0.46) into the URW it would still be within the URW, however hard to see at this scale.

d. Same owner of several adjacent lots: If all lots are surveyed together, there would be no encroachments noted. It all belongs to the same landowner. Property lines won’t matter, save for the perimeter ones. But then the landowner decides to sell off some of the land and encroachments come to life, and we even have an exact birth time - when the transfer of title is registered. It would be proper to note that such and such item is located across a property line, shining some light to a potential problem in the future.

e. Fences and the MSP: Let’s consider the following Sketch 4. In this case, according to the MSP, we really should not label the fence between Lot 1 and 2 as encroaching (and even the dimensioning is optional), but once the fence is out on the street, it is now an encroachment (with no encroachment area). It would appear that the presumption is that the two landowners are allowing the fence to stay (i.e. it is lawful), but the respective municipality, as a steward of public land, is not so graceful. But are we really certain that the two landowners are in agreement? We are protectors of the peaceful enjoyment of land, and perhaps this is where the above presumption is rooted.

A problem could arise if Lot 1 had put the fence up, but Lot 2 is the one getting the survey and the encroachment charge from the municipality.

We must be objective, accurate and unbiased in doing our duty - this is clearly our mandate.
**f. Blanket easements/URWs:** Wouldn’t it be appropriate to label any and all improvements as encroaching on blanket interests, such as gas coop URWs? I would argue that yes, technically this should indeed be noted, as the entire land would be the subject to the coop interest, even though in most situations the blanket easements/URWs are simply meant as an economical way to protect linear structures. But who knows where the lines are?

Could the ALS be found liable for failing to show an encroachment if a house is lost due to a gas leak from a pipeline that was under the house? After all, when the RPR was done, nothing was out of the norm and there were no encroachments (visible). This is not to say that all pipelines are always within their corresponding URW plan areas, and it does feel like a far-fetched scenario, but still...

**No more encroachments?**

I am of the opinion that we should refrain from labeling improvements as encroaching, and stick to describing the spatial relationship of the objects. There is no way to assert whether the occupation is lawful or not (not with a high degree of certainty at least.) We would be making presumptions, but in the light of the above examples, we could be making the wrong ones. We are all signing RPRs out of a position of apparent authority, but do we really have the authority to decide what is lawful? This seems to be the role of other professionals and perhaps we are encroaching (pun intended) in the realm of the courts and judges?

There is an old (2012) discussion on this topic, to be found at the Boundary Dispute Law Blog – Basics of Quieting Title – Survey Says the Fence Encroaches - Now What? It features both proponents of the encroachment practice (“if not the surveyor, then who?”), and opponents of the practice of labelling encroachments. It is an interesting read, and I tend to side with the opponents.

The public expects us to survey and show all the features that go over and/or cross any boundaries of any interests. For this purpose, we record observations, keep notes, book findings and present facts about the physical world. A parallel can be made with an X-ray radiologist and a physician, and I feel that we are more like the radiologist for the purposes of this article. The radiologist is the one finding out what is wrong with someone. Afterwards the physician determines the diagnosis (or, the encroachment) and the treatment (or, the encroachment fee or the removal of the encroachment), based on the expert report of the radiologist.

We must be objective, accurate and unbiased in doing our duty - *this* is clearly our mandate. ☑

**Ivo Nedev, ALS**

*Editor’s Note: For a different perspective on showing encroachments, see the Director of Practice Review’s article on page 19.*
**Professional Surveyors Canada Special Levy**

Every Alberta Land Surveyor will be required to pay the Professional Surveyors Canada levy on their 2016-2017 ALSA membership dues even if the Alberta Land Surveyor paid a levy to PSC through another professional regulatory survey association. The Alberta Land Surveyor will be refunded the levy by PSC if they have already paid in another jurisdiction.

At the 2014 ALSA AGM, the membership approved a bylaw amendment that “each Alberta Land Surveyor shall pay to the Association, a special annual ‘Professional Surveyors Canada levy’ to be calculated annually and equal the amount of the individual annual membership fee for Professional Surveyors Canada for the existing year, plus tax.”

All dues, fees and levies must be paid in order for the Association to issue an annual certificate to the Alberta Land Surveyor to be able to engage in the practice of land surveying.

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**Corporate Renewals**

In accordance with the provisions of Section 25(2) of the *Land Surveyors Act*, the Association requires that you complete the renewal form and return it to the Alberta Land Surveyors’ Association on or before January 31. No fees are required with the submission of the corporate renewal.

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**Alberta Surveying History Web Address**

www.albertalandsurveyhistory.ca

Surveyors began by looking at the stars. Between the huge clear northern sky and the vast open lands to the west lies in the history of surveying in Alberta.

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**Brochures**

The Association has brochures available to members and the public.

- Real Property Report
- I Just Built a Fence
- Alberta’s Subdivision Process
- Understanding Easements and Rights of Way
- Tips for Fence Builders
- A Career without Boundaries

Order online at www.alsa.ab.ca.
Editor's Note: Legal articles in ALS News are excerpts from recent court cases involving land surveys and land surveyors. Readers are encouraged to read the full decision for complete details.

**Immparck Holdings Two Canadian Properties c. Katz 2015 QCCS 5010 (CanLII)—2015-10-29**

Superior Court—Quebec

title—co-ownership by shares—damages—notary

1. The Plaintiffs, property owners, Immparck Holdings Two Canadian Properties ("Holdings") and Casperdiny IFB Realty Inc. ("Realty") assert that their land surveyors: the Defendant Robert Katz (the "Surveyor") and his firm, T. T. Katz Counsel Group Inc. (collectively the "Surveyors") breached their contract of services by failing to obtain an authorization from the Ministry of Culture (the "Authorization") before registering on title the plan they had prepared of the Plaintiffs’ property. This property was located in an area of cultural protection. [1] The Plaintiffs assert that the premature registration created a title defect that they were required to correct at substantial expense through a Private Member’s Bill in the National Assembly.

2. The Plaintiffs seek over $1.6 M in damages for costs incurred in correcting the alleged defect in title and carrying charges on the property for a five-month period during which it is alleged they were prevented from making a decision on whether to sell part of the property through the creation of a co-ownership by shares for that part of their property.

3. The Surveyors’ work was part of a complex real estate and commercial transaction (the "Project") the purpose of which was to allow Tower C to be converted into a separate co-ownership by shares (known as a "co-op"). To undertake this project, the Plaintiffs’ Toronto agent, Asta Corporation ("Asta") put together a team of real estate professionals including the Surveyors and the Defendant notaries: the Defendant Robert Katz (the "Surveyor") and his firm, T. T. Katz Counsel Group Inc. (collectively the "Surveyors") breached their contract of services by failing to obtain an authorization from the Ministry of Culture (the "Authorization") before registering on title the plan they had prepared of the Plaintiffs’ property. This property was located in an area of cultural protection. [1] The Plaintiffs assert that the premature registration created a title defect that they were required to correct at substantial expense through a Private Member’s Bill in the National Assembly.

4. The Plaintiffs seek over $1.6 M in damages for costs incurred in correcting the alleged defect in title and carrying charges on the property for a five-month period during which it is alleged they were prevented from making a decision on whether to sell part of the property through the creation of a co-ownership by shares for that part of their property.

5. In defence, the Surveyors assert that no such Authorization was required and that they always acted prudently, diligently, and reasonably in undertaking their services to the Plaintiffs. In the alternative, they argue that if any Authorization was required, it was the responsibility of Asta and the defendants in forced intervention.

**Watley v. Livingstone 2015 BCSC 1940 (CanLII)—2015-10-23**

Supreme Court of British Columbia—British Columbia

improvements—easement area drive-way—rock retaining wall—modification

1. By this petition, Ms. Watley seeks modification of an easement over a portion of her property.

2. The easement was granted by a previous owner of Ms. Watley’s property, (Lot 11) in favour of a previous owner of an adjoining property (Lot 12) in May 1972. It grants to the dominant tenement:

   ...free and uninterrupted right of way, ingress and egress for persons, animals and vehicles through, along and over that part of the said Lot 11 lying to the West of a line drawn and parallel to and perpendicularly distant 15 feet from the Westerly boundary of said Lot 11, together with the right to lay, keep up and maintain a water pipeline.

3. The respondent Mr. Livingstone bought Lot 12 some time after the easement was ordered rectified. He has sworn that the driveway over the easement is the only current access to his property, that construction of alternate access would require removal of mature trees, to the detriment of his ambience, and that Ms. Watley’s encroachments have reduced the usable width of his driveway, making it a tight fit for his truck. To some extent, the remaining driveway is a tight fit of trees that have grown up, some of which are on Ms. Watley’s property, that further narrow the usable area of the easement.

4. Mr. Livingstone has not demanded that Ms. Watley remove her improvements, which clearly constitute a disturbance to his easement. Instead, he suggests that the current improvements be permitted to remain, through court order, perhaps by declaration that they do not constitute either a disturbance or a nuisance. In that way, if any of the improvements are later removed, his easement will be restored.

**A & W Ranching Ltd. v. Alkam Holdings Ltd. 2015 BCSC 1906 (CanLII)—2015-10-20**

Supreme Court of British Columbia—British Columbia

ranch—logging—timber—land—survey

1. The plaintiff and defendant companies entered into a contract under which the defendant, a logging contractor, harvested timber on part of the plaintiff’s ranch, with each party to receive roughly half of the proceeds from sale of that wood.

2. Some of the trees were on Crown land that the plaintiff had leased only for grazing purposes. The Ministry of Forests, Lands, and Natural Resource Operations (the “Ministry”) halted logging operations and seized the improperly cut wood. By that time the defendant had also cut trees on land the plaintiff owned outright, for which the plaintiff says it is still owed more than $134,000.

3. The defendant says it was unable to complete what it considered the most profitable part of the project because the plaintiff misrepresented or failed to properly identify the areas that could be logged. It counterclaims for losses of more than $154,000.

4. The contract between the plaintiff and defendant consists of two documents. The first document, a “Log Broker Agreement” dated May 8, 2013, gives the defendant permission to market, log, and haul “private timber” on the plaintiff’s land. It says the plaintiff “is responsible for providing proof of land ownership and signing authority and surveying and identifying property lines where needed.”

5. The second document is an undated “Logging and Trucking Cost Agreement.” It refers to the price to be paid by Interfor and sets out the defendant’s logging, trucking, and administration costs, totalling $40.20 per tonne. That was the amount payable to the defendant, with the balance...
received from Interfor going to the plaintiff. (The document refers to the price from Interfor as $80.16 per tonne, rather than $81.60, but it is common ground that was a typographical error.)

[17] The plaintiff’s lawyer provided the defendant with a list of the legal descriptions of the properties owned by the plaintiff. Although the Log Broker Agreement made the plaintiff responsible for obtaining a survey “if needed,” Mr. Wolf said he was never asked to obtain one. Mr. Durante said he wanted a survey because he knew the ranch was adjacent to Crown land, but when he asked for one Mr. Wolf told him he couldn’t afford it.

[18] In any event, no survey was ever obtained and logging began on May 13, 2013 in the southeast sector. Mr. Durante said he and his crew worked in that area until late July before moving to the more desirable timber in the northwest sector.

[19] On July 31 and again on August 2, Michael Tjader—a natural resource officer with the Ministry—inspected the site in response to a complaint and determined that logging was taking place on Crown land. He made that determination using GPS readings taken on site combined with a mapping system accessed from his office.

Penney v. Pitts
2015 CanLII 65567
(NL SCTD)—2015-10-15
Supreme Court of Newfoundland and Labrador, Trial Division—Newfoundland and Labrador
driveway—land—application for an injunction—trespassing—property

David and Elsie Penney applied for an interim injunction pending the resolution of a proposed Quieting of Titles application to investigate and declare the title of their property. They claimed Murley and Bruce Pitts were trespassing on their property and damaging it and harassing them so they were afraid for their safety and the integrity of their property. The Pitts denied the allegations of trespass and claimed they owned the land. Otherwise, they said no injunction should be granted because the Penneys had neither started the Quieting of Title process nor shown their circumstances were urgent.

The Court allowed the application and granted the injunction. The Penneys have started the Quieting of Titles process now and it shows they have a serious issue to be tried; and the Penneys are at risk of irreparable harm; but the Pitts are not, so the balance of convenience favours the Penneys. The Court converted the Penneys’ Quieting of Title application to a statement of claim and made it returnable for case management on a fixed date. Costs of the injunction application will be costs in the cause of the Quieting of Titles application.

McClatchie v Rideau Lakes (Township)
2014 ONSC 811
(CanLII)—2015-10-08
Superior Court of Justice—Ontario
land—access—right-of-way—title—owners

[106] The conduct by the two law firms explains how the McClatchies now find their title and investment under the cloud and attack of Mr. Churchill. The McClatchies had an honest but mistaken belief as to what they had purchased. The visual appearances of what appeared to be the outlines of the lot were obvious.

[107] The plaintiffs’ agreement of purchase and sale creates an obligation on the vendor to provide a “Boundary survey” before closing.

[108] The letter of requisition asks for “an up-to-date survey of the subject lands”. It states that the vendor’s title omits access over Lot 20-5 and should contain a description which is then described. That access description however is inaccurate. The purchasers requisitioned the amendment of the legal description to include such erroneous access and affidavit evidence to establish a valid prescriptive right-of-way over the subject roadway.

[109] The letter responding to such letter of requisition from Mr. Bird for the vendor, contains no response to the itemized requisitions. It merely encloses draft documents which include a draft declaration of possession which, as to access to Lot 16-198, everyone agrees is inaccurate.

[110] Mr. Bird prepared the declaration of possession and merely inserted the access description from the letter of requisition which describes the access over a series of parts on several reference plans. Mr. Bird had Ms. Banford attend and sign the inaccurate declaration without showing her the reference plans referred to therein. Once again, it appears Ms. Banford was unconcerned with what she was being asked to sign. She simply signed it.

[111] Mr. Stevens did not alert the McClatchies that the requisitioned “up-to-date survey of the subject lands” was not being provided thereby preventing the purchasers the option to order their own survey before closing.

[112] The McClatchies still lived in Northern Ontario at the time of closing. They attended a lawyer’s office in North Bay to sign the necessary documents. Mrs. McClatchie at that meeting asked to see the survey of Lot 16-198. She was led to believe that no survey was available because “surveys are not done in Eastern Ontario”. That was incorrect.

[113] The McClatchies at this meeting were asked to and signed an inaccurate document which states that they had been explained the difference between a lawyer’s opinion on title, and title insurance, and that based on that explanation, they chose to proceed with title insurance. No such explanation was given to them.

Roop v. Hofmeyr
2015 BCSC 1755
(CanLII)—2015-10-05
Supreme Court of British Columbia—British Columbia
easement—vehicular access—necessary for the reasonable enjoyment—laurel hedge—implied

[1] The petitioners seek a declaration of an easement over 7019 Marine Drive (“7019”) in favour of 6993 Marine Drive (“6993”) in respect of the land encroached upon by the (sometimes) shared Driveway (the “Driveway”) between the two properties. Both properties are in West Vancouver.

[2] This case arises out of a dispute between neighbouring property owners regarding the Driveway that, until recently, provided vehicular access to both properties.

[3] In this regard, the petitioners seek a declaration of an implied easement in favour of 6993 over that portion of 7019 encroached upon by the Driveway. Alternatively, the petitioners seek an easement of apparent accommodation over the same parcel of land. The petitioners also seek costs.

[4] The petitioners expressly state that they do not advance the notion of “easement of necessity” as a basis for their claim.
I’ve been looking for this book for years and finally found it at Aquila Books in Calgary. The reason I’ve been so anxious to find this book is because of a quote from the book that former Premier Allan Blakeney of Saskatchewan made in addressing the annual convention of the Canadian Institute of Surveying in 1980 in Regina. Following is the quote:

Surveyors are not heroic figures. They come later than the explorers, they douse with system what was once the incandescent excitement of danger and the unknown. They conquer nothing but ignorance, and if they are surveying a boundary they are so compelled by astronomical and geodetic compulsions that they might as well run on rails. Among the instruments of their profession there is none that lifts the imagination and achieves grace or weight as a symbol. The mystic light in which we have bathed our frontier times, when decision was for the individual will and a man tested himself against wild weathers, wild beasts, or wild men, and so knew himself a man – that light does not shine on the surveyor as it shines on trapper, trader, scout, cowboy, or Indian fighter. Surveyors do not even acquire the more pedestrian glamour of the farming pioneer, though they make him possible, and though their work is basic not merely to his conquering of the frontier, but to some of the mistakes he has made in trying to break it.

Among the chronicles of long Canadian marches, it is the march of Col. Garnet Wolseley from Toronto to Fort Garry in 1870, and that of the Mounted Police from Fort Dufferin to Fort Macleod in 1874, that have become folklore. But when the used-up Mounted Police stopped, 590 miles out of Dufferin, to repair equipment and shoe horses and oxen and to rest men and animals in a burned-over dreary plain within sight of the Cypress Hills, the surveyors were there ahead of them, having made, with practically no fanfare, practically the same march. It was from the survey depot at Willow Bunch, on Wood Mountain, that Assistant Commissioner Macleod begged surplus oats and provisions for his tired command. By that time the surveyors were close to completing a journey that might have been called epic if it had not been so well planned, so successful and so utilitarian.

They may as well all be nameless: there were no heroes among them. And they do not need to be separated by nationality, for it was of the essence of their work that it was international, cooperative, mutual. But they need credit and remembrance for a job finished swiftly and efficiently – a job of immense importance. And though they have never struck anybody as glamorous enough to be written up in western story, a young man in search of excitement in 1872 could have done worse than enlist with them.

Wallace Stegner, an award-winning author grew up in Whitemud, a small community in the southwest corner of Saskatchewan, just east of the Cypress Hills. The family had a homestead right on the Saskatchewan – Montana border - frontier land that they broke with back-breaking labour. The land however broke them with the harsh weather and growing conditions that prompted them to abandon their homestead and move to the United States.

The story is vivid with tales of life in a small prairie town at the turn of the century and growing up in a care-free, adventurous world – a story that we can relive through the tales of our own grandparents who faced similar challenges homesteading in the wild, untamed west.

Stegner’s comments about the land surveyor reminds me of the quote from the Roman Cassidourus which I quoted recently in the review of the Roman Land Surveyors—a classic comment about the surveyor—unique among other professionals—very resourceful and self reliant, he chooses his own way, they conquer nothing but ignorance.

G. K. Allred, ALS (Hon. Life)
1977 Metric Measurements

The Association met with Deputy Premier Dr. Hugh Horner during the Association year. Briefs were presented to Dr. Horner dealing with the degree program for land surveyors, the expansion of the coordinate system throughout the province and the preservation of monuments and the township system.

Mr. Deyholos told the membership that he believed that “as the Association is attempting to firmly establish the degree program concept for entrance into the Association, we should be reviewing the inclusion of all land measurement disciplines.”

During the Annual General Meeting itself, the membership approved changing imperial measurements described in good practice resolutions to metric measurements.

In addition, the Association adopted the current logo of the Association. The logo represents precision, responsibility, professionalism and respectability. The outer square represents the essence of the provincial survey system as manifested by a large segment of the Alberta landscape. The internal subdivisions of the outer square, delineated by the thin crossed lines, and the figures therein symbolize the diversity of the various activities and directions associated with Alberta Land Surveyors. The interior circle represents the eyepiece of a theodolite; the lines cutting across it signify the crosshairs visible therein.

ALS News, the magazine of the Alberta Land Surveyors’ Association, started publishing in a magazine format in 1977; previously it had mimeographed pages stapled together. The first issue in this format was just twenty pages and somewhat questionable but the next issue grew to forty pages and quickly improved.

While the membership approved employing a full-time Secretary-Treasurer, the anticipated response did not materialize and the selection committee went fishing for candidates from within and without the province. By the 1977 Annual General Meeting, a full-time Secretary-Treasurer still had not been hired but a “full-time stenographic staff member” was engaged.

From the 1977 ALS News Vault

PRESIDENT’S MESSAGE

My Fellow Surveyors: This is our experimental issue of the Newsletter in a new format. We are attempting to upgrade the publication in style and material by having the printing done by a private printing firm. Hopefully, the new issues will evolve into a superior product.

Further to my remarks of last month; (1) the “unanimous choice” for the Executive Secretary position was not signed, (2) the Combines people have not set a date for a meeting with our Association, (3) a second Western Canadian Education meeting has been tentatively set for May 9th on the University of Alberta Campus, (4) the new fee structure has been accepted by the membership - at the time of writing, approximately 75% of the active fees had been received.

During my visits to sister Associations, I have noted an intense interest by all surveyors in the concept of continuing education. Our Association in endeavoring to provide the opportunities for your participation, the Planning Committee is working through the University of Calgary to set up a two-year extension course (correspondence and seminars) in site planning. The geometric geodesy course has been held at the two major universities during the past two years and was well supported by members.

This office has received a significant number of complaints (mostly verbal) directed towards the Edmonton “temple” of our venerable land documentation organization. In order for the Association to be able to work towards restoring the harmony that existed prior to several key personnel changes plus a major systems change to the loose-leaf method, it will be necessary to have specific documentation of the substance of the complaints in writing. A copy of the letter forwarded to your own M.L.A. may be useful. Complaints must be well founded indicating jurisdictional abuses, failure to utilize discretionary powers, an uncooperative attitude, incompetence, wasting time by returning “correct” documents for correction, etc., etc., Bear in mind two important details- (a) the volume of land transactions requiring L.T.O. documentations has increased on a higher proportion than your own increases in subdivision, reploting, and pipeline surveys, (b) the L.T.O. published a Practise Manual several years ago that is still functional, except for several legislative amendments (used yours lately?).

Our Annual Convention Programme Committee is getting into high gear preparing for the Banff meeting. The Council is looking forward to meeting with all of you in Banff, we anticipate interesting business sessions and some exciting social events. Mark your calendars for April 27th, 28th, and 29th - now!

John Deyholos, President

ASSOCIATION NOTES

1977 EXAMINATIONS

With the April 1977 examinations quickly drawing near, articled students should take note of the following dates:

1. Applications for the examinations received after the deadline of March 1, 1977 will not be accepted.

2. Examinations in April, 1977 will be held at two centres only. These being the University of Alberta, Edmonton and the University of Calgary, Calgary.

3. Articled pupils who have not paid the annual Article Levy of $25.00 for 1977 will not be eligible to sit for the examinations in April, 1977.

4. The Association office should be notified at least 48 hours in advance of any examination you wish to cancel. Failure to notify the office of the cancellation within the specified time will forfeit the examination fee.

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FULL-TIME SECRETARY
On January 4, 1977, Linda Yarham joined the staff of the Association to assume the role as full-time Secretary. Linda will be on duty from 8:15 a.m. to 4:30 p.m. Monday through Friday to answer the telephones and carry out the day to day operations of the office. The Association’s telephone number is 465-2901.

SECRETARY TREASURER
As of December 31, 1976, Council has not been successful in appointing a member to fill the role of Secretary-Treasurer and Registrar of the Association.

CANADIAN COUNCIL OF LAND SURVEYORS
We sincerely hope that this issue is the first of a continually improving A.L.S. News. It would be great to be able to write this note after this issue is printed. Then we could add comments as to why it didn’t work out too well, but perhaps that will not be necessary.

The Association office has a copy of the Memorandum of Agreement between the C.C.L.S. and the C.L.S. signed on May 20, 1976; a copy of Letters Patent of the C.C.L.S. dated February 11, 1976; and a copy of the bylaws of the C.C.L.S. This material was to be printed in this issue but has been omitted in order to keep the volume to a reasonable size for this first issue. This material may be printed in a future issue. In the meantime, copies may be provided to interested members by the Association Office.
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Professional Development

Hybrid Cadastre Workshop - Edmonton
Date: January 21, 2016 (Deadline to Register: January 17)
Location: Derrick Golf & Winter Club, 3500 119 Street NW
Cost: $250 + GST (including lunch)
Time: 9:00 a.m. to 2:00 p.m.

Hybrid Cadastre Workshop - Calgary
Date: January 27, 2016 (Deadline to Register: January 21)
Location: Calgary Winter Club, 4611 14 Street NW
Cost: $250 + GST (including lunch)
Time: 9:00 a.m. to 2:00 p.m.

Presenter: Stephen Howard, ALS
Overview:
Hybrid cadastre concept, foundation and reasons behind it
Present guidelines, including work in progress
Proposed MSP standards, including work in progress
Field and office work required
Plan submission process
Optional placement of monuments
Discussion and sample plans

Single and multiple registrations can be completed on the ALSA website under Events.