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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.
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As I begin writing my last ALS News article, what I have become keenly aware of is being president is all about teamwork. Like a hockey coach, how effective he or she is will boil down to the effectiveness of the whole team and its administration. While being president does mean many hours, the tireless efforts of the ALSA staff, ALSA Council and volunteer committee members make the different aspects of being president much easier. I cannot say enough about the above-mentioned groups and my heartfelt thank you go out to all of you!

Being president carries with it two primary duties. The first is to lead Executive and Council through many difficult, often frustrating issues with monumental assistance from our executive director and executive assistant. This year, our struggling economy, new government, alternative fundraising models and, of course, our Director of Surveys office dominated Council's time.

Dealing with the Director of Surveys office often feels like attempting to push water uphill with your hands. However, I feel Council had great discussion and debate and believe we both want what is best even though we see things differently. We try to be aware of the political situation the Director of Surveys is dealing with and we try to bring forward those issues and concerns that you, the membership, have asked us to raise with the Director of Surveys office.

Our committees have also stepped up to the plate and done everything they have been asked to do and more with very little fanfare. After travelling across Canada and having the opportunity to see how other associations function, I can confidently say that what makes Alberta stand out is the unheralded efforts of all of our volunteer committee members. Having said this, it is also time we usher in new volunteers onto our committees, particularly the twenty percent of our practitioners who have not yet contributed by volunteering for our Association’s committees.

The second component of being president is the continued professional development and socialization duties of our across-Canada travels. While time consuming and at times quite tiring, Catherine and I have met many truly wonderful, compassionate people who are very committed to their respective associations.

As our tenure comes to an end, it is apparent that many sister associations struggle with the same issues that Alberta does. Some of these issues are CBEPS, provincial government issues, advocacy and, of course, fundraising models for their association. Much can be learned from how other associations are dealing with their respective issues. Within the next few weeks, we will have travelled to eight provinces and attended nine different AGMs. Canada is truly a beautiful and unique country of which we should all be very proud.

Finally, Council has dealt with two critical issues on many occasions over the last ten months. First, of course, continues to be the hybrid cadastre - an issue that Council debated at length, agrees to in principle but disagrees with the implementation timeline, educational process and the lack of clear instructions and directions. We continue to see things differently with the Director of Surveys office. However, we will continue to work with the Director of Surveys office to implement the hybrid cadastre in the best way the ALSA feels is appropriate.

Professional fees and fees abatement were also discussed throughout the year. Council is ultimately proposing two separate steps in dealing with fees this year. Active professional land surveyor fees will be at the same level as last year while attempting to continue to have a balanced budget. Thus, a number of cuts and rollbacks had to be implemented. This may mean that the ALSA may have to dip into our “rainy-day” fund based on where our economy heads in the next year. In addition, Council is recommending a “fees scale back” plan for unemployed land surveyors. I believe, that for the first time in modern history we have the largest number of unemployed land surveyors that we have ever had, approaching nine percent of our membership.

Being president of the ALSA is both a privilege I never expected and a blessing I am glad to have taken part in. I have met and thoroughly enjoyed working with so many people this year. While challenging and occasionally frustrating, it is an experience one will never forget and everyone should consider.

Catherine and I look forward to this year’s 107th Annual AGM in Banff and look hope to see you all there.
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As this is one of my last opportunities to address the membership as secretary-treasurer I’d like to start by thanking you for giving me your trust and support when electing me to the position almost three years ago. I have thoroughly enjoyed my time but it is now time to pass the post along to someone new. And if I’m honest, I’ll also admit that the first couple of years of my term were a lot easier than the next three years will be. I wish the new secretary-treasurer every success in making some of the tough choices that will be required.

I’d like to start by sharing how I saw my role and spend some time speaking of the budget process and finally detail some of the challenges current and future within the budget.

Why? Because I think that it is important that the membership understand a little about the work of running the Association and how your money is managed.

The ALSA policy manual guides the organization of the Association and “directs future discretionary action of Council, Committee and staff.” This policy manual is introduced to all chairs of committees and Council members at the Steering Committee meeting that starts each new council year. The policy manual includes job descriptions for Council members, council liaison and committee chairs but not a specific job description for secretary-treasurer. The secretary-treasurer is a member of Council elected for a three-year term, a member of the Executive Committee but beyond that, the job description is open to some interpretation. I’d like to claim that I’m creative and developed my own role, but in truth I tried to follow fairly closely the lead that my immediate predecessor John Haggerty established (minus the playing of bagpipes).

The policy manual does have extensive details on finances ensuring that the Association “is committed to the sound financial governance of its funds and financial activities through controlling and reviewing actual expenditures of monies.” THAT, in a nutshell is the job of the secretary-treasurer: in conjunction with the executive director, the secretary-treasurer prepares the annual budget estimates to Council for consideration, and on a monthly basis reviews the actual revenues and expenditures of the ALSA for Council through a number of financial reports such as the monthly balance sheet, financial statements, statement of investment holdings and iron post sales. The secretary-treasurer must also sign off on the annual financial statement prepared by the Association’s accountants as the review engagement report.

The finances of the Association come from three revenue streams: fees, operating revenue and investment revenue. The fees revenue is about 20 to 30% of total revenue, is fixed and fairly stable; these are the membership fees, branch office fees, registration fees. Operating revenue comprises around 62.5% of the total revenue of the ALSA, is variable and largely dependent upon post sales. At the height of the boom, operating revenues were as high as 90% of total revenue. Net post income (post revenue minus post expenses) as a percentage of total revenue is currently 19.8% and at the height of the boom was 34%.

The final component of revenue stream is investment revenue. Over $3 million is currently invested in a diversified portfolio of cash, bonds and stocks, managed by Morgan Meighen and Associates. These investments are reviewed with Council on an as monthly basis and the executive director and I participate in quarterly meetings with our management company to discuss our portfolio. The good news is that our investments averaged an 8.7% return for 2014-2015 and have averaged over 5% for last five years. Those investments however are currently under pressure and cannot be counted on to fund the ongoing activities of the association.

On the expenses sides, operating expenses make up the largest chunk, with post expenses being the biggest part: this is the cost to ALSA of purchasing posts.

Administrative expenses are the costs of running our Association: salaries for staff make up 50% of this line item. (By way of comparison ALSA services are run by a full-time staff of seven including Executive Director, Registrar and Director of Practice Review; in a similar-sized organization, the Association of Ontario Land Surveyors has eleven full-time staff and four contract employees). Committee expenses and CCR are the last two expense line items.

A number of reserve funds are also identified annually and realistic monies set aside for specific purposes. I’d like to briefly expand on a couple of specific funds.

The Financial Stabilization Fund funds special projects and overruns of operating budget from surpluses in the operating budget over the years (currently about $2.7m). This is our rainy day fund, if you will. A further subset of this fund was the recent Council decision to set aside $100,000 for Unauthorized Practice Reserve to fund any challenges that may arise to Alberta Land Surveyors exclusive right to practice.

The Discipline Revolving Fund is used to fund expenditures related to discipline hearings and so on.
Council recently approved the ALSA budget for 2016-17. As a reflection of Council’s desire to offer the greatest level of core service to the membership while maintaining fiscal responsibility, this budget discussion was the toughest and most intense I have experienced in my five years on Council. When Brian and I began our budget discussion in December it was already clear that our historically low budget projection for post sales in 2015-16—about 70% of our operating revenue—was going to be well off the mark. The question was how low would they go and what would be a reasonable number to project forward for 2016-17.

The instability of post sales is not a new phenomenon. It has long been recognized by Council that budgeting based on the windfall revenue from post sales was problematic at best. Recent advances in technology, changes in AER rules, and acceptance of hybrid cadastre plans have spurred Council to further investigate a number of revenue generating schemes identified by the Association Finances Ad Hoc Committee. Council is actively pursuing a couple of these initiatives (and there will be more information and discussion at the AGM) but none of these ideas will generate revenue in the immediate future. We are left to deal with the perfect storm of budget responsibility in a time of reducing revenues.

As I noted earlier there are three streams of revenue for the Alberta Land Surveyors’ Association and with investments and post sales being reduced, there is only one other instrument of revenue generation: fees revenue. For the past number of years, Council has struggled to make the membership aware of the fact that they benefit from some of the lowest fees in the country with arguably the highest level of membership services subsidized by our windfall post sales mark up.

That cannot continue indefinitely. Council has ultimately decided that the midst of an economic downturn is not the time to raise membership dues. Through long deliberation we have identified a number of spending cuts that reduce almost $200,000 from 2015-16 levels. This will still leave a significant projected deficit for 2016-17 with funds from the Financial Stabilization Fund required to fill the shortfall.

Whether these cuts and related reduction of services are deep enough, palatable to the membership and sustainable long term will be subject to discussion at the upcoming regional meetings and annual general meeting. And while it will be the next secretary-treasurer that steers the financial direction of the Association, I look forward to being part of that discussion as we move into the future.

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As we wind down on another Association year, the toughest in recent memory, I thought it would be a good time to touch base on a few things that have popped up around the office – not enough to justify a full article on any one of them but things you might want to know.

Sometimes an Alberta Land Surveyor will retire from a company where they have worked for many years. They consider themselves retired and that is what they tell their family and friends. They are not working; they are enjoying the good life. However, in the eyes of the Alberta Land Surveyors’ Association, they are still a licensed land surveyor. They are not retired. In order to become a retired member, a practitioner needs to complete the application form and have it approved by Council. The application form is designed to protect the public by ensuring that there are no outstanding plans or corrections or other matters that need to be addressed.

I recently had an articling pupil ask about when permit numbers first appeared on iron posts. Some members with more experience might be able to add some more detail but here is what I understand. Permit numbers for surveyor’s corporations first came into effect in 1982 when the government approved the Professional Practice Regulation that established legal recognition for surveyor’s corporations. It is my understanding that at that time that land surveyors would imprint their own permit number on the iron posts. In 1987, the ALSA took over the responsibility of selling iron posts and marker posts from the government. It was around this time that the ALSA had its supplier imprint the permit number on the iron posts rather than have land surveyors do it themselves.

Allegations of unauthorized practice are always difficult and frustrating to deal with. Sometimes, someone might be offering some surveying service as part of a Kijiji advertisement. There is only a phone number provided and when we call the number and explain who the ALSA and restrictions on practice, the person on the other end of the line tells us to “%$^&* $%$^.” I can only imagine what his customer service is like and I am afraid that the public is going to think they are speaking with a land surveyor. Thankfully, most of these situations can get resolved fairly easily. Sometimes, a non-land surveyor’s Kijiji advertisement might say something to the effect of “RPR included in the stakeout package.” This can be a tricky situation. A stakeout might not be the practice of land surveying but it also might be depending on how it is done. There is nothing in the advertisement to say that this non-land surveyor will do the RPR himself. He may contract it out. As an Alberta Land Surveyor, be very careful about getting involved in these types of situations. If you do not have any contact with the client, if you do not bill the client directly, if you accept the field work that the non-land surveyor has provided to you, any one of these situations could lead to a complaint and an allegation of assisting unauthorized practice. It may seem like easy money in these difficult economic times and any complaint would be dealt with based on the specifics of the case but there have been other discipline cases dealing with these same sorts of issues.

When surveyor’s corporations came in to being as a regulated entity in 1982, a surveyor’s office was exactly that – an office. It was a physical location, probably with a sign on the front door, a telephone on a desk, a drafting table or two and a location to store equipment and posts and other materials. Today, there is often still an office but the concept of an office has changed as more people can work remotely and access all sorts of files and documents digitally. The other big change with respect to offices is the number of land surveyors who have established strategic relationships with other organizations, typically engineering firms. Sometimes, the engineering firm might have two or three offices but the geomatics firm only has one office as there is only one Alberta Land Surveyor present. In this day of digital communications and websites, the company might advertise that it has three offices (which is true) and it might also advertise on the website that it offers land surveying services (which is also true) but it could lead to the impression that the company has three offices that offer land surveying services (which is not true). As a land surveyor responsible for the permit, it is your responsibility to ensure the information on your corporate website is not misleading.

A few years ago, the membership approved changes to the Professional Practice Regulation dealing with ownership of surveyor’s corporations. There were also some proposed amendments to the Examination & Training Regulation and the Discipline Regulation. The proposed changes were stalled as the former Progressive Conservative government was headed towards the election. As all of us know by now, a New Democrat government was elected and that sent everything back to square one as the new government has tended to be very suspicious of anything started under the previous regime. We thought we were making progress only to have a new minister and deputy minister appointed and the new department renamed from “Jobs Skills Training & Labour” to “Labour.” I do not think we are back at square one again but it has certainly set us back yet again.

The government, under the former minister, announced an agencies boards and commissions review last October. Profession-
al regulatory organizations were to be part of the second phase of the review. No information has been forthcoming about what the review is other than it is a “comprehensive review to ensure that public agencies continue to be accountable, transparent, effective and efficient.” Our re-appointment of public members seems to be stalled again because of this review.

I know it will be difficult for a number of people to be able to attend the AGM this year because of the bad economy. I do want to encourage as many people as possible to attend – even if it is only one day for the business meeting. It will be an opportunity to network, renew acquaintances and make new connections. It will be an opportunity to set the direction for the future of the Association – not only by voting on the recommendations and Council members but also by discussing ways to re-imagine the Association.

Although we are all stung by the economy, the Alberta Land Surveyors’ Association and its members still have the same professional obligation to protect the public when it comes to land surveying and boundaries. It can be more challenging to do that in times like this as the number of issues seem to rise as the economy falls. However, I am confident that we will find a way.
Red River College Scholarship
I am writing to thank you for your generous $500.00 Alberta Land Surveyors’ Association award. I was very happy and appreciative to learn I was the recipient of your scholarship.

I am currently enrolled in the civil engineering technology program majoring in geomatics. I plan on graduating this coming May 2016. Thanks to you, I am one step closer to my goal.

By awarding me this award, you have lightened my financial burden which allows me to focus more on the most important aspect of school, learning.

Sean Thompson

NAIT JHH Scholarship
I would like to express my appreciation for the scholarship I received. The extra funds are making a significant difference in my second year of study and are a great motivator to continue my academic achievement.

Thanks again for your generosity.

Karly Bergen

Professional Liability Insurance Committee
I am e-mailing to inform you that I have replaced Jim Halliday on the Professional Liability Insurance Committee.

Kevin Swabey, ALS

Correction
Please note that Dr. M. Barry’s article further confuses the issue of boundary determination by reversing the terms east and west in the Treaty of Tordesillas.

“lands west of a meridian 370 leagues east of the Cape Verde Islands” should read: “lands east of a meridian 370 leagues west of the Cape Verde Islands”

C.J. (Hans) Nederveen, ALS (Retired)

Response from Dr. Barry:
C.J. (Hans) Nederveen is correct. The way it reads is the lands west of the meridian would be allocated to both Spain and Portugal.

“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.”

It should read should read: “…lands east of a meridian 370 leagues west of the Cape Verde Islands…”

Dr. Michael Barry

Lack of Recognition
I can’t believe that as an Association we are still “Bogged” down in a perceived lack of recognition! This seems to me to have been an issue since I first joined the Association in 1970 and we have squandered several hours of thought, not to mention dollars, in trying to somehow get the world to know we exist.

Well, guess what? We continue to survive as Surveyors and Joe Public always seems to find us when we are really needed, and I always felt that the services we provided were truly appreciated by our clients. So, perhaps it is time to quit worrying that we don’t have the name recognition of engineers, most of us now days are engineers as well, and just get on with doing our jobs.

By the way, life on the West Coast is good, some one of these years I will be back in Alberta at convention time and drop by.

Paul N Ellegood, ALS (Retired)

Encroachments December 2015
ALS News
My congratulations to Ivo Nedev, ALS and Scott Westlund, ALS, Director of Practice Review on two excellent articles on encroachments.

In my opinion, there is no subject that is more important in the practice of cadastral surveying than the issue of encroachments and how the profession deals with them.

As indicated by both authors ‘the surveyor is a fact-finder.’ These words should be emblazoned above every land surveyor’s desk. Our mandate is not to render an opinion as to the effect of an encroachment or in many cases even to identify an improvement that overlaps a boundary line as an encroachment unless it is clear as to what property the improvement belongs to. A fence or retaining wall may appear to be an encroachment or it may have been intentionally erected inside one’s own property. Our mandate is merely, as Ivo Nedev so appropriately opines, ‘stick to describing the spatial relationship of the object.’

In this regard, I do take exception to Scott Westlund’s opinion on Type 2 encroachments. Personally, I do not believe it is the land surveyor’s duty to ‘read and understand legal documents’ or to render an opinion as to their effect. That is the job of the lawyer and/or the benefitee of the legal document. A surveyor’s mandate is again as ‘a finder of fact.’ Show the location or the existence of a utility right-of-way and the location of any visible improvements that happen to encroach upon the URW but let the lawyers, municipality or utility company determine if it is a concern. Most URW documents contain clauses to the effect that if the utility needs to be dug up they have the right to remove any fences, concrete pads or buildings as necessary if they happen to exist on the right of way.

Despite my previous comment on understanding specific legal documents, I do believe that surveyors need to have a general understanding of legal documents and their effect but not to interpret or render an opinion on their effect in specific circumstances.

The real property report has come a long way since it was adopted in 1987 setting a standard to replace the former ‘building location certificates,’ which were totally unregulated. Opinions expressed by members such as Messrs. Westlund and Nedev go a long way since it was adopted in 1987 setting a standard to replace the former ‘building location certificates,’ which were totally unregulated. Opinions expressed by members such as Messrs. Westlund and Nedev go a long way to continually improving the practice and providing a valuable service to the public. Perhaps that is why they call it a ‘practice,’ since we are continually ‘practicing’ to perfect our products. Perhaps now is an opportune time to conduct a major review of real property reports and how they serve the public interest.

G. K. Allred, ALS (Hon. Life)
I am writing in response to the two articles about encroachments in December 2015 ALS News.

When the RPR was designed and created in the 1980s, it was a product of the real estate community wanting more information than was shown on the surveyor's certificate. As bylaws and safety issues have evolved, as well as property values increasing, it became more important to show additional improvements. The house and garage, which were the sole components of the surveyors’ certificate were no longer sufficient.

This resulted in the RPR showing all permanent improvements in relation to the property boundaries. In some cases, these permanent improvements are built into adjoining lands or restricted areas (URWs, ODRW, RCs, etc). Some practitioners denote this as an encroachment where others do not.

An improvement from an adjoining property or built into a URW not only disturbs the peaceful enjoyment of a property owner, it creates a potential liability to rectify, therefore reducing the value of the property.

To merely show a garage 0.12 metres into an adjoining parcel and not call it an encroachment, in my opinion, is shirking our responsibility as professionals. With pictures and the field crew’s information, an ALS can certainly make the call of what is an encroachment. We are the people in the field and have first-hand knowledge of what exists and where it is located and are the best qualified to determine a valid encroachment.

I do not subscribe to the philosophy that we should only show the location of improvements and let someone else determine if it is an encroachment. Are we not capable of making these decisions ourselves? To not show encroachments is taking the easy way out as it does involve addition research and thinking to make such calls.

As professionals who play an important role in the real estate transaction, we should pass along our judgment on issues that may compromise title. Does that not fall under our mandate “to protect the public”?

Of course there are those improvements that fall into the “grey area” where it is difficult to ascertain ownership, such as a retaining wall down the centre of the property line. There are also improvements that are encroachments that were not built by the owner of the property, such as developer-installed posts, walls or pillars. In these cases, my practice would simply show it as “developer’s wall is into the URW by…”.

Of course, one must use common sense in showing encroachments. For instance, driveways that go from the garage to the road in many cases cross a URW. This is an obvious allowable encroachment and my practice is to not show it as an encroachment.

The founders of the RPR designed it to indicate potential issues that affect title and leave it to the lawyers and municipalities will sort out the details.

As professional land surveyors let us step up and play the role that has been bestowed upon us.

Bob Wallace, ALS

As a practitioner who has performed thousands of RPRs over the last twenty years or more I am in disagreement with Scott Westlund’s opinion of what should be shown as an encroachment on a RPR.

I would first like to discuss the genesis of the RPR. The real property report came into being in around 1987 to replace the building location certificate. The building location certificate started as a letter and then became a sketch. Its purpose was to make sure that the address matched the legal description and if there were structures on the property their approximate size and location. This document was strictly for the mortgage company so they would have an independent check that there were buildings on the property for which they were issuing a mortgage.

In the late 80s, the mortgage lenders decided they wanted a true property survey and a letter of compliance from the municipalities determining whether the structures had permits taken out and if they met with the municipalities zoning requirements and thus the RPR was born.

Originally the RPR only showed the principal structures as in the building location certificates and, as time has gone on, the standards have evolved. The ALSA was instrumental in setting the present standards by establishing an RPR Task force (1995-2003) from which we established the Real Estate Transaction Committee which had representatives of all the stakeholders in the RPRs lawyers, realtors, mortgage lender’s and municipalities. From these consultations the standards were formed. The RPR Ad Hoc Committee (2003-2005) later updated them.

I served the full term on the RPR Task Force and was chairman of the RPR Ad Hoc Committee and the gist of all the meetings and consultations was that this first and foremost was a document to facilitate a real estate transaction and not a municipal document to meet all their needs. The idea was to accurately show the locations of all the structures (anything that requires a permit) and if there were any encroachments they would be shown on the front page. Those things that require permits are dwellings, garages and decks. This document would then go to the municipality to determine whether the structures complied with the zoning bylaws and all the proper permits were obtained.

Ground level improvements and landscaping features are items that do not require permits or have zoning or sideway requirements. Ground level improvements such as sidewalks and patios are not even required to be shown as per Section 8.5 of the MSP let alone labeling them as encroaching. During the winter months (six months of the year) the concrete would not be shown, as it would be under snow cover. These items are not required to be shown on the RPR for a reason, the stakeholders did not want them, as they were superfluous to the real estate transaction. As surveyors we like to tie in and show all hard features but these features do not affect municipal compliance. From the examples in Scott Westlund’s article, only the basement entry would be considered a structure. The concrete sidewalk may be north of the property line but that does not make it an encroachment unless we are a party to how and when it was built.

We are losing sight of the purpose and intent of the document which is to facilitate a sale with prescribed improvements shown that were decided in concert with all the stakeholders and passed through and reviewed by years of committee work and votes at the AGM. The showing of extra features makes for a more complete drawing, which is a good thing. But we are mistaken if we think we are doing anyone any favours by showing things that
are not considered structures as encroaching into adjacent properties because they may not be. By showing the locations of these ground-level features we are leaving it up to the landowner as to whether there is an issue or not. As in the case of Scott Westlund’s own RPR, most owners do not have an issue with these minor details.

Some municipalities are already milking these reports as a cash cow and if we start calling minor things as encroachments the people involved in the process will start to use title insurance to avoid the problems caused by nit-pick details. With the lenders themselves selling title insurance and the municipalities taking longer to process them, more people are deciding it is not worth it to have a survey. I have not had one client ever say to me I am so glad you showed that my neighbour’s concrete is five centimetres north because now I want an encroachment agreement from him or I am going to make him jackhammer the concrete. Let’s not lose site of the forest for the trees. What the industry wants to know is does anything that require permits encroach into other properties or over easements and in those cases it is black and white in regards to the rest they should be treated like we do fences and show their location only.

The RPR is a great product because it promotes disclosure, it catches landowners who build structures without permits and are a great value to all parties. However, as municipalities see these as opportunities to generate revenue and come up with more and more excuses to charge fees, generate paper work, the less attractive RPRs are becoming when compared with the alternative. We don’t need to add to the problem but we need to dialogue with the municipalities to streamline their process because if we don’t the RPR is going to go the way of the dodo bird!

David Hagen P. Eng ALS

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2016-2017 Membership Dues

The 2016-2017 ALSA membership dues have been sent out.

Please remember that it is the member’s responsibility to ensure these are paid even if their company is paying on their behalf.

The annual membership fees and levies are due April 1 and are payable on or before April 30. Payment must be received or postmarked by April 30 in order to avoid a $200 late penalty fee.

Dues invoices were sent out via email to all members with an email address on file with the Association. If you require a hardcopy of your invoice, please print it from MyMember—Transaction History (select desired invoice to view/print/pay). You can also renew your dues online from MyMember—Renew Dues. You must be logged into the website to access the MyMember section.

If you have not received your invoice and it is not appearing online, please email Sherry Walsh at walsh@alsa.ab.ca

The Professional Surveyors Canada levy increased to $200 as per the bylaw approved by the membership at the 2014 AGM. All Alberta Land Surveyors are required to pay this levy. Your dues for a Professional Surveyors Canada (PSC) membership will be collected by the Alberta Land Surveyors’ Association and remitted to PSC on your behalf.

If you have multiple commissions, and your dues are collected for PSC by more than one Association, please notify Professional Surveyors Canada by email at info@psc-gpc.ca. They will return the overpayment to you as soon as possible.

Please note that to activate your Professional Surveyors Canada membership you still need to register on the PSC website. It should only take a few minutes to complete. To register please follow this link: http://www.psc-gpc.ca/en/join-now

If you have already registered with Professional Surveyors Canada in a previous year, they will automatically renew your membership. If your contact information has changed, please notify Professional Surveyors Canada directly by email at info@psc-gpc.ca.

Credit Card Payments?
Can be made online by logging onto the ALSA website (select mymember-renewdues) or through www.alsa.ab.ca/mm/ or by phoning the ALSA office.
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New Alberta Land Surveyors

Adam Pluim, ALS

Alex Hanna, ALS

Ramon Pina Avila, ALS

Jeff Lund, ALS

#965 - Adam Pluim - December 8, 2015
Adam is employed with Challenger Geomatics Ltd. in Edmonton.
   Articles were served under Alberta Land Surveyors Stephen Fediow, Greg Illchuk and Tim Harding.
   He received a Geomatics Engineering diploma from NAIT.
   Hobbies include traveling, farming and canoe trips on the river.

#966 - Alex Hanna - December 10, 2015
Alex is employed with Midwest Surveys Inc. in Calgary.
   His surveying specialties lie within the oil & gas sector, including experience in hydrographic surveys.
   Articles were served under Jeffrey Main, ALS.
   He received a Bachelor of Science in Geomatics Engineering from the University of Calgary and is currently an engineer-in-training with APEGA.
   Hobbies include ski touring, hockey, hiking and travelling.
   Alex lives in Calgary with his girlfriend Claudia Potok.

#967 - Ramon Pina Avila - December 11, 2015
Ramon is employed with Explore Surveys Inc. in Edmonton.
   He started surveying in Venezuela and came to Canada in 2007. His surveying experience is in the oil & gas industry.
   Articles were served under Alberta Land Surveyors Ralph Bode, Mark Knott, Byron Laurie and Dwayne Edmundson.
   His education includes a degree in Geomatics Engineering and Surveying from Zulia University.
   Hobbies include traveling, play basketball and working out.
   He is married to Maria Dugand Barros, ALS and they have one child: Mariana Isabel (6 months).

#968 - Jeff Lund - December 14, 2015
Jeff is employed with All-Can Engineering & Surveys (1976) Ltd. in Calgary.
   His surveying experience is in the oil & gas sector.
   Articles were served under Dan Jones, ALS. He received a diploma in Geomatics Engineering from SAIT.
   Hobbies include ski touring, scrambling, canoeing and fishing.
   He is married to Ariane Cantin.

Join Us for the New Members' Lunch
Thursday, April 14
Banff Springs Hotel
Updates . . . . .
For up-to-date contact information, log on to the ALSA website.

ACTIVE

Brian Ball is now employed with Morrison Hershfield Geomatics Ltd. in Edmonton.

Tony Brown is now employed with Challenger Geomatics in Fort McMurray and is the permit holder of this office.

Horatiu Caraba is no longer with Global Raymac Surveys Inc.

Darrin Connatty is no longer employed with WSP Surveys (BC) Limited Partnership.

Anthony deBruyne is no longer with Meridian Surveys (Alta.) Ltd.

Ryan Delaurier is no longer with Midwest Surveys Inc.

Francois Dion is now employed with Western Plains Geomatics Corp.

Reid Egger is no longer with Universal Geomatics Solutions Corp.

Brandon Ellis is now employed with the City of Calgary.

Hugo Engler has moved to the WSP Surveys (AB) Limited Partnership office in Edmonton.

Al Flim is now employed with Alberta Environment and Parks.

W. Cameron Foran is now employed with Eclipse Geomatics & Engineering Ltd.

Rich Gauthier is no longer with Opus Stewart Weir Ltd.

Jeffrey Gibson is no longer with Caltech Surveys Ltd.

Ryan Delaurier is now listed as a sole practitioner and is operating under the trade name Iterstar Geomatics.

Bruce Gudim is no longer with Alus Geomatics Limited Partnership.

Tyler Fox is now with Vector Geomatics Land Surveying (Alberta) Ltd.

Alex Hanna was commissioned as ALS#966 on December 10, 2015.

Paul Hatch is no longer with Global Raymac Surveys Inc.

Geoff Hobbs is now employed with McElhanney Associates Land Surveying Ltd. in Surrey, BC.

Jeremy Howden is now located in the Regina office of Midwest Surveys Inc.

Stephen Hyatt is no longer with WSP Surveys (AB) Limited Partnership.

Leanne James is now listed as a sole practitioner.

Jeff Lund was commissioned as ALS#968 on December 14, 2015.

Ramon Pina Avila was commissioned as ALS#967 on December 11, 2015.

Adam Pluim was commissioned as ALS#965 on December 8, 2015.

Dennis Regan is now employed with Western Plains Geomatics Corp.

Ashley Robertson is no longer with WSP Surveys (AB) Limited Partnership.

Marty Robinson is no longer employed with Alus Geomatics Limited Partnership.

Tyler Robinson is no longer with Universal Geomatics Solutions Corp.

Iain Skinner is no longer employed with WSP Surveys (AB) Limited Partnership.

John Stephens is no longer with WSP Surveys (AB) Limited Partnership.

Mark Sutter is no longer employed with Opus Stewart Weir Ltd.

Metin Timocin is no longer employed with Alus Geomatics Limited Partnership.

CORPORATIONS

Alus Geomatics Limited Partnership has closed its Red Deer office.

Cornerstone Geomatics Ltd. has closed its office.

IBI Geomatics Inc. has changed its name to IBI Group Geomatics (Canada) Inc.

Morrison Hershfield Geomatics Ltd. has opened a branch office in Edmonton. Brian Ball is the ALS responsible for this office.

Vector Geomatics Land Surveying (Alberta) Ltd. is a new surveyor’s corporation. Tyler Fox is the ALS responsible for this office.

Western Plains Geomatics Corp. is a new surveyor’s corporation. Dennis Regan is the ALS responsible for this office.

ARTICLED PUPILS

Tyler Allison transferred articles to Dana Sands, ALS on February 16, 2016.

Jamie Dainton and David Marquardt, ALS mutually terminated articles.

Paul Deering transferred articles to Jeremy Zettel, ALS on February 18, 2016.

Nicholas Dolan signed articles with Chad Finner, ALS on January 6, 2016.

Justin Flemmer and Chris Beaugrand, ALS mutually terminated articles.

Kelsey Fuhr signed articles with Jeffrey Thompson, ALS on January 8, 2016.

Mark Hickaway transferred to Jeff Adair, ALS on February 16, 2016.

Ismael Hop transferred articles to Roger Luard, ALS.

Nicholas Juryn is no longer with Alus Geomatics Limited Partnership.

Firas Kattan signed articles with Joel Corcoran, ALS on January 18, 2016.

Pavlo Karbovnyk is no longer with WSP Surveys (AB) Limited Partnership.

Nathan Mayer and Jason Deschamps, ALS mutually terminated articles.

Michael Metcalfe is no longer with Alus Geomatics Limited Partnership.

Mark Miller signed articles with Roy Devlin, ALS on January 6, 2016.

Malcolm Richmond is no longer with Universal Geomatics Solutions Corp.

Matthew Sakatch is no longer with Global Raymac Surveys Inc.

Anas-wael (Will) Shadid is now employed with Bemoco and transferred articles to Kevin Vennard, ALS.

Mitchell Scheuerman is no longer with Global Raymac Surveys Inc.

Kate Sonier and Jonathan Phillips, ALS mutually terminated articles.

Jesse Vannest signed articles with Michael Lee on January 6, 2016.

AFFILIATE

Doug Bruce was approved as affiliate member (AF059).

Gavin Seaman is no longer with MMM Geomatics Alberta Limited.

ASSOCIATE

Chris Willberg was approved as an associate member.

HONORARY LIFE MEMBER

Lyall Pratt was conferred as an honorary life member on January 26, 2016.

HONORARY MEMBER

Brian Ballantyne was conferred as an honorary member on January 26, 2016.

DECEASED

Doug Barnett passed away on January 9, 2016.

Len Grover passed away on November 26, 2015.
Plan Corrections and Court Orders

The phone rings, the ALS on the other end lets you know about a potential problem with one of your registered plans, what do you do?
Step 1: Investigate, IMMEDIATELY!
Step 2: Confirm what type of problem exists.
Step 3: Respond to the ALS who brought the problem to your attention.
Step 4: Take action!
The action taken will depend on the type of problem you are dealing with.

This article is intended to serve as a general how-to guide for Alberta Land Surveyors when contemplating correcting a plan registered at the Land Titles Office.

It is a drafting error
Under Section 92 of the Land Titles Act, the registrar may correct a plan when there is an omission, clerical error or other defect in a plan. For example, the line work is correct but a dimension recorded on the line is incorrect or missing, a dimension in a detail does not match a dimension shown on the body of the plan or where there is a typographical error in a legal description or in the plan’s title block. It is important to note that survey errors or corrections that may alter property boundaries cannot be made under Section 92.

When making a correction to a registered plan under Section 92, the following information is required to be submitted to the registrar:

1. A letter from the Alberta Land Surveyor who either prepared the plan or was appointed by the Council of the ALSA containing the following information:
   i. A detailed explanation of the nature of the error or defect and the corrections to be made. The corrections can either be in a list form or marked on a copy of the registered plan trimmed to sheets no larger than 11 ½ x 14 inches.
   ii. A statement that no improvements have been made relying on the incorrect information on the plan and that the correction will not create any encroachments or have any other adverse affects.
   iii. Advise as to whether the corrections affect any other registered plans.
   iv. A statement that no monuments have been moved or removed.
   v. A statement that no property boundaries are being altered or moved.
   vi. You may need consent from adversely affected owners or other parties. Note that this is usually required when areas or distances are to be amended.

   It has become apparent to the PRB that more attention is needed when addressing items ii, iii, iv, v and vi in the letter to the registrar. When a landowner or other party could be adversely affected (e.g. a titled area changes, improvements have to be moved/removed, etc.), more work with respect to notifications and consents must be undertaken. Determining if someone is adversely affected is a critical part of the investigation into the error. It may not be easy to determine if someone is adversely affected. It may involve a field inspection and, depending on the circumstances, may result in you seeking a court order to correct your plan. In order to correct a plan under Section 92 you must be completely satisfied that the correction will not adversely affect any person or, where the correction may adversely affect a landowner, you have obtained their consent. This consent must be in writing and should state that the landowner is in agreement with the corrections being made to the plan. This consent can take any form (an email is often acceptable) but many surveyors have modified the wording of the standard consent to register a plan document for this purpose.

   Generally, Section 92 enables us to correct simple drafting errors when no one is adversely affected and/or consents can be obtained. However, it is important to thoroughly investigate the consequences of the correction because a landowner could be adversely affected by a simple drafting error when, for example, the depth of a lot is incorrectly labeled on a registered plan and the incorrect dimension is relied upon to construct improvements. In a plan correction currently being dealt with by the Boundary Panel, survey evidence exists in its original location, there is no boundary uncertainty and no boundaries are being moved; however, the owners are adversely affected by the proposed correction. The owners relied on an incorrect plan dimension instead of survey monuments to build improvements and will require encroachment agreements. One owner did not consent to the correction and, as a result, the plan could not be corrected under Section 92.

A boundary is being altered
Generally speaking, when a monument is moved or added to a registered plan, a boundary will be altered. If, as part of your correction, you determine that you need to alter a boundary on a registered plan you must obtain a court order (often referred to as a judge’s order) as per Section 91 of the Land Titles Act. A court order may also be required in a number of other circumstances. For example, as outlined above, a court order is required when the consent of adversely affected parties cannot be obtained for corrections intended to be made under Section 92.

A monument needs to be moved, added or removed on a registered plan
If the correction to a registered plan involves placing a new monument or moving an existing monument a boundary is being changed and a court order must be obtained under Section 91 of the Land Titles Act (or an order under Section 9 of the Surveys Act). Under certain circumstances, removing a monument may not alter a boundary (e.g. resolving a double posting, fixing an inappropriate re-establishment or restoration, removing an intersection shown on a monument plan, etc.) and the plan can be corrected under Section 92 of the Land Titles Act. Due to the various scenarios possible, the PRB recommends that whenever a monument shown on a registered plan is to be moved or removed, the Director of Surveys should be consulted. To do this, the PRB recommends that a letter be sent to the Director requesting permission to move/remove the monument. This letter should specify the affected monuments, identify other affected registered plans, outline the reasons why the monument needs to be moved or removed and
include a sketch showing a proposed plan correction. Other pertinent details, such as the existence of a double monumentation should also be mentioned. Once the Director reviews the information, the Director will respond with a letter to the land surveyor with specific instructions and indicate whether the correction can be made under Section 92 or if the land surveyor should seek a court order under Section 91. It is important to consult with the Director when moving or removing monuments, as Section 50(3) of the Surveys Act stipulates that it is an offence to move, alter, pull down or deface a monument without the written permission of the Director of Surveys.

How do I obtain a court order?
Although you can do it yourself, the PRB recommends that an Alberta Land Surveyor should retain a lawyer to assist in obtaining a court order.

The following information will be useful for the lawyer seeking to obtain the court order on your behalf (not all of these will apply in every situation):
- Details on your understanding of the reason for the court order.
- Information on your survey process.
- A sketch showing the boundaries being affected and what monuments are being added, moved and/or removed.
- A list of lot areas both old and new (to determine exactly what lots are being changed and by how much).
- A sketch(es) showing all of the necessary corrections to monuments, distances and bearings and areas. These are the sketches that will be submitted to Land Titles to tell them what to correct on the registered plan.
- If no one is adversely affected, your lawyer will want the surveyor to submit an affidavit stating that no one is adversely affected. In lieu of this, consent could be obtained from any owner of an affected parcel or interest. The consent should state that the owner is in agreement with the changes being made to the registered plan, changes to the area, posts being moved or removed and/or the changes being made to their property boundaries.
- A list of parcels that are adversely affected.

As noted earlier, determining who is adversely affected is a critical part of your investigation into an error. There does not seem to be a guideline that will help us determine when someone is adversely affected. An increase in the area of a parcel may be perceived to be a positive development because there will be more land to sell but it could also have negative consequences with respect to taxation. Additionally, if boundaries are being moved, fences may need to be relocated and access to the parcel may become more difficult. It is a good idea to conduct a field inspection to evaluate whether a landowner might be adversely affected. If there is any doubt whether an owner is adversely affected, the judge will want to make sure that the owners have been notified of the correction and its potential effect and that they have had an opportunity to respond to the corrections and provide their comments.

As part of the court order application, any persons who will be adversely affected by a proposed correction must be named as respondents in the matter, must be given notice of the application and must be given an opportunity to make submissions to the court. However, if the parties adversely affected have already consented to the proposed correction, it is not necessary to name them as respondents in the application. Under Section 91, the court may stipulate that the application be served on the persons who are adversely affected, as well as the person who registered the plan, the person who signed the plan, if possible, and the registrar, in any manner that the court directs.

Once the above information has been collected, your lawyer will draft an application, an order and an affidavit. The affidavit will be the factual basis of the application and will outline what the land surveyor has done up to that point and what correction needs to be made that require a court order. The court order will contain the instructions to Land Titles for correcting the plan. After reviewing the affidavit and the court order, ensuring that the facts contained in the affidavit and the instructions in the court order are correct, the land surveyor will swear the affidavit. The lawyer then must apply to the Alberta court of Queen’s Bench under Section 91 of the Land Titles Act.

After hearing an application, a court may make an order for the plan to be corrected, amended, altered or cancelled, in whole or in part. A court may also make any order with respect to the vesting or re-vesting of any land in the registered plan.

The court order will explicitly tell the registrar what corrections are to be made to the registered plan. Only after the order is finalized and signed off by the judge should the posts be moved/removed as required.

Once the court order is obtained, the following information is to be submitted to the registrar to facilitate the plan correction:
1. A letter from the Alberta Land Surveyor who swore the affidavit as outlined above.
2. A completed DRR, as outlined above.
3. The court order.

Conclusion
The PRB has seen several plan corrections that have caused difficulty for surveyors. Plan corrections can be costly, consents may be difficult to obtain and repeated errors can damage your reputation. As such, the PRB believes the best course of action is to make improvements to your plan preparation and checking processes to avoid errors altogether. However, all of us make mistakes.

The Alberta Land Titles Procedures Manual: Surveys - Plan Corrections suggests that because of the range of possible corrections that might need to be made to a registered plan and to avoid any mistakes in the process, the land surveyor should first consult with the Land Titles Office to determine if a court order is required. Furthermore, when monuments are involved, it is important to consult with the Director of Surveys prior to submitting a correction to Land Titles. This consultation is necessary to ensure that both the surveyor and registrar have a complete understanding of the correction necessary to ensure that it is done appropriately under either Section 91 or Section 92 of the Land Titles Act.

Documents referred to in this article:
Land Titles Act, RSA 2000, c L-4
Surveys Act, RSA 2000, c S-26
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2016 slate

For President

Fred Cheng, ALS, CLS, M.Eng, P.Eng

Personal Profile:
• Born in Hong Kong.
• Moved to Edmonton, Alberta in 1975.
• Graduated from the University of Alberta with a Bachelor Degree in Surveying.
• Graduated from the University of New Brunswick with a Master’s Degree in Geomatics Engineering.
• Articled to Kasimir Sawicki, Hans Krajewski, Bill Mintz and Duncan B. Gillmore Sr.
• Received Alberta Land Surveyor commission in 1984.
• Received Canada Lands Surveyor commission in 1985.
• Obtained Professional Engineer designation in 1992.
• Received J.H. Holloway Scholarship from the ALSA.
• Bestowed with GeoStar Award from the Alberta Geomatics Group.
• Volunteered for the U of A SVCC Group as ESL teacher for Indo-Asian immigrants.
• Volunteered for CKER Multi-Cultural Radio Station as newscast in their Cantonese Program.
• Guest lectured for U of C Geomatics Engineering classes in land planning and land boundary & land rights.
• Nominated for the Instructional Excellence Award at NAIT for two academic years.
• Volunteered and presented at Eclipse College's online courses in artificial/natural boundaries.
• Volunteered in community leagues’ hockey and soccer teams in Edmonton.
• Employed with Hagen Surveys (1982) Ltd.
• Hobbies include reading, watching the TV show “Jeopardy,” and traveling.
• Married to May with three grown children; Corinna, Christopher, and Carissa.

Professional Activities:
• Served on Finance Ad Hoc Committee, ALSA as member.
• Served on Public Relations Committee, ALSA as member.
• Served on Standards Committee, ALSA as member.
• Served as ALSA Southern Regional Chair.
• Served on Editorial Board, ALSA as member and vice-chair.
• Served on Registration Committee, ALSA as member and vice-chair.
• Served on Education Committee, as Northern Cadastral Studies Group chair.
• Served on Professional Development Committee, ALSA as member and chair.
• Served on Practice Review Board, ALSA as member and Chair.
• Served on Continuing Professional Development Committee, ACLS as member and chair.
• Served on Geographic Information Technology Committee, ACLS as member and chair.
• Organized and moderated numerous educational seminars for ACLS & ALSA over the years.
• Served as Director of Practice Review, ALSA.
• Served on program advisory committees for SAIT, Lethbridge College, Northern Lakes College.
• Served on Board of Directors, Alberta Geomatics Group (AGG).
• Served on Canadian Board of Examiners for Professional Surveyors as Special Examiner.
• Serving on Convention and Social Committee, ALSA as member.
• Serving on U of C Geomatics Engineering Liaison Committee as member.
• Serving as Vice President, as member of Executive Committee and Council, ALSA.

For Vice-President

W. Bruce Clark ALS, OLS, OLIP

Education and Professional Associations:
• Queen's University, BA History & Geography.
• University of Toronto, Erindale College, BSc Survey Science.
• OLS Commission #1690 in 1991.
• ALS Commission # 823 in 2009.
• Charter Member of Professional Surveyors Canada.
• Webster & Simmonds Surveying Ltd/Stantec Geomatics 2000-2006.
• McElhanney Land Surveys Ltd., Edmonton 2006 to present.
• Assistant Branch Manager McElhanney Land Surveys Ltd. Fort McMurray 2009-2015.
• Assistant Branch Manager McElhanney Land Surveys Ltd. Edmonton 2014 to present.
• Minor Hockey Referee, St Albert Minor Hockey Association.
• Volunteer and Friend of Canadian War Museum.
• Volunteer foster home for Chinook Winds Greyhound Rescue.
• Active hockey player, runner, camper and canoest.
• Married with 3 active children!

Professional Activities
• AOLS Professional Standards Committee 2001 to present.
• ALSA Executive Committee 2013 to present.
• ALSA Ministerial Order Review Ad Hoc Committee 2015.
of candidates

• ALSA Alternate Funding Ad Hoc Committee 2013.
• ALSA Future of the Profession Committee 2008.
• ALSA Professional Development Committee 2007 to 2010.
• ALSA Council 2011 to present.
• Member of Land Surveyors Team, David Thompson Brigade 2008 and 2011.
• Member of Northern Lights College Advisory Committee.
• Professional Surveyors Canada Advocacy Committee, 2011 to 2013.
• Professional Surveyors Canada Public Awareness Committee, 2011 to 2013.

For Secretary-Treasurer

Bruce Drake, ALS
• Born in Cold Lake, Alberta.
• Graduated from the University of Calgary in 1992 with a Bachelor of Science in Surveying Engineering.
• Articles were served under Ken Drake, ALS.
• ALS commission obtained in 1998.
• Professional Engineer in 1998.
• Served on Public Relations Committee, Registration Committee and Legislation Ad Hoc Committee.
• Served on Council from 2010-2012.
• Employed by Urban Systems Surveys Inc. since 2006.
• Married to Sandra for over 26 years.
• Interests include poker (he is a novice, invite him to your game) and scotch. But only if it is an Islay. Or free.

For Council

Sandy Davies, ALS
• Born in Edmonton, raised in Calgary.
• Graduated from University of Calgary with Bachelor of Science in Surveying Engineering, 1991.
• Articles served under Don Tomkinson, ALS, and Wayne Fawcett, ALS.
• ALS commission obtained in 1998.
• CLS commission obtained in 2004.
• Currently employed with Global Raymac Surveys as a Senior Oilfield Project Manager.
• Previous Employment includes: Millennium Geomatics, Altus (Crape) Geomatics, Midwest Surveys, Can-Am Geomatics, and Beta Surveys Inc.
• Currently a member of the Registration Committee.
• Previously volunteered on the Standards Committee, Registration Committee and Convention & Social Committee.
• Resides in Calgary with husband Trevor along with sons Matthew (19), Kyle (17), and Joshua (13).
• Hobbies include biking, hiking, skiing, photography, and travel.

Colin Keir, ALS
• Born and raised in Calgary, Alberta.
• Graduated from Crescent Heights High School in Calgary in 1988.
• BSc. in Surveying Engineering from the University of Calgary in 1995.
• Articles served under John Lovse, ALS and Bill Lovse PEng., ALS.
• Received PEng Designation in 2001.
• Received ALS commission in 2004.
• Member of the Public Relations Committee (2000 to 2004).
• Member of the Professional Development Committee (2007-2010).
• Current member of Registration Committee (2010-present).
• Currently Calgary practice lead with Urban Systems Survey Inc.
• Resides in Chestermere with wife Melissa.
• Interests include travel, hockey, golf and guitar.

John Lohnes, ALS
• Born in Bridgewater, NS in 1970.
• Began survey career at the age of 16.
• Survey Technician Certificate from College of Geographic Sciences in 1990.
• Enrolled in the Survey Engineering program at UNB from 1990 to 1995.
• Moved to Alberta in the April 1995 to work for Loepky Mathyssen & Associates.
• Worked in both the municipal and oil & gas sectors.
• Received his ALS commission in 2008.
• Has worked for several firms including: Universal Surveys, All West Surveys, Global Surveys and Focus.
• Currently employed with Vista Geomatics.
• Member of the Legislative Ad Hoc Committee from 2004-2006.
• Member of the Standards Committee since 2006 and Chairperson in 2011/2012.
• Volunteer on the Millarville Racetrack and Agriculture Society (MRAS) Board of Directors from 2009 to 2014.
• Volunteer on the MRAS Race Committee since 2011. Was the vice-chairperson for two of those years.
• Resides on an acreage near Millarville with wife Lori.
• Hobbies include quadding and horseback riding.
It’s been a while since my last article in ALS News so I guess it was time. I am writing this for a number of reasons...to say some thanks, and to present some perspectives, some views, and some opinions...both on Boundary Panel issues and some coming issues that will both affect the Panel and our Association, in the hopes that it will inspire some ideas and callings at our coming AGM. Maybe even some legislation changes.

First, I want to thank Jerry Rasmuson for his long-time leadership of the Boundary Panel. I have been with the Panel and its various forms and names since its inception in the mid-90s, and it has been a great experience watching and learning from him. I don’t have a problem trying to step in and fill his shoes as the new chairman in that regard, but I would sure like to know who all conspired to nominate me for this!! I suspect he, Brian, and Scott had a part...but I haven’t seen any cheques in the mail as of yet...and it has been eight months.

The appointment as Boundary Panel Chairman gives me the opportunity to work with yet another one of the hardest working people in our Association in the form of Scott Westlund. Aside from being a golf partner when the opportunity presents itself, I quite enjoy his energetic high level of professionalism...so it will be a good match for as long as circumstances will have it. We have shared some interesting thoughts so expect some interesting things to come out of our main meeting in February and at this coming AGM in Banff in mid-April. The first order of business between us was to look at current and past cases in order to determine what sort of success rate we are having. In order to justify the funds we are getting, we thought it would be a good idea to come up with numbers that even the government would understand, that proves that the Boundary Panel is indeed using funds in a very wise and ethical manner and the public and the geomatics community is being served in what we are doing.

In the course of doing so, it became very apparent to me that Scott was doing way more work than he should have been doing, including case write-ups, in order to get cases resolved and reports completed. The lengthy delays for case report write-ups by individual Boundary Panel case groups was beginning to resemble the first stages of our PRB where practitioners were taking a year or more to reply. How can we be of a good public service with delays like that? Keep in mind some of these cases affect practitioners with plans in limbo which in turn reflect badly upon those practitioners and their clients and on us as an Association. We are now being adamant that individuals doing those report write-ups get it back to the Panel and to Scott and I in final form within 90 days.

Now, to get on to things more, Association, and Boundary Panel/legislation related.

Economics and Legislation
Sure is a tough year ...isn’t it?
Still has a ways to go before we reach what it was like in the early 1980s...it’s a comment that doesn’t make things any easier now...but it’s just to let people know...we got through those times...and we will get through these tough times too. This brings this article to the topic of economics.

At this point, the Boundary Panel (in full) and the Association (in part), is funded by percentages of iron post sales. I expect these post sales to drop off dramatically this year and with a slight resurgence in 2017, but to steadily drop in ensuing years. So what plan is in place to replace these funds we have come to rely on? Couple this with the onset of the hybrid cadastre and the possibility of coordinate governing plans in the not too distant future...where will this leave us economically? My thoughts on this are two-fold...we can charge like we have been doing for use of iron posts, only applying this to new plans which have created or re-established governing corners where iron posts would have normally been placed. My second thought is to adopt a plan fee registration cost (LTO, AER, AEP) in a similar way that Alberta Data Partnerships (formerly Spatial Data Warehouse) had done to cover the cost of parcel mapping. Being paid directly or indirectly to the Association, it would make up for the shortfall in iron post sales. I have no doubt this will be a transitioning process over several years. It is something I hope will be brought to the AGM....Any seconders??

Any changes in the funding model as we know now, will affect the operation of the Boundary Panel, and the number and types of cases we want to resolve. Putting the money back into the survey system that we work around makes so much sense, and I hope it can continue, in some form.

Continuing on the topic of economics, yet moving towards some facets of our legislation, some things have come to light with respect to a number of cases over the last couple years which point to some loopholes in our legislation, some possible things that can no longer apply, and interpretation of parts of the act that are not understood by the public, and possibly many of our members as well.

Part 2 Section 9 of the Surveys Act states:
(2) The Director of Surveys shall on receipt of a written notice from a land owner, the council of a municipality, the Council of the Alberta Land Surveyors’ Association or a Registrar stating that the position of a corner or boundary is in question as the result of an alleged error in a survey or map, for any reason the Director considers sufficient, conduct an investigation and report the Director’s findings to the Minister.

The section is very specific in its intent and very powerful in its wording (lawyers, courts, subpoenas, powers, justice of the peace, arbitrator, investigation and orders etc.) and if you read the rationale document, it was designed to solve boundary issues with full court authority and judicial process for the most part without a full involvement of an actual court as we would normally see in a criminal or lawsuit case. The only individuals or groups that can initiate this are those listed in the above sub-section. One land surveyor cannot...two opposing land surveyors cannot...I am not even sure the two land surveyors could do this through our own Association, namely for two reasons;
1. First the public has to be involved
2. Second if you are a land surveyor, read up on Part 1 and Part 2 of the Code of Ethics and the detailed commentary in the Manual of Standard Practice. I will speak more on this later,
but the short message here is each and every land surveyor has a responsibility to help maintain the integrity and competence of the survey system...The Director of Surveys is the office whose MAIN responsibility that falls under.

With only one known case being resolved by Section 9, and that taking five years (1988–1993), a dozen or more plan corrections and at a cost of around $80,000 (those are early 1990s bucks by the way), you can see why this is not a tool that the Director of Surveys Office wants to use regularly, or at all anymore. For the panel cases that we have for the most part...they can be resolved more efficiently by the Boundary Panel process we have in place at the moment. It is, however, possible that Section 9 could still be used for the resolution of some high profile land boundary issues, much more economically than going through a full court process.

The other piece of high-end legislation that seems to be misunderstood, and is confusing in its wording, concerns Section 39 of the Surveys Act, regarding the re-survey of land. This part of the Act concerns only Sec.29 (public/Crown land) and Sec.32, (Métis/settlement Land). It does not pertain to “patented” land... yet we somehow seem to think that this section on resurvey applies to patented land as well. The correct section for resurvey of patented land is section 48...which covers all surveys undertaken in Section 45. It states as follows;

48(1) The council of a municipality may, on the application of 50% of the registered owners of the land to be affected, or without an application, pass a resolution that it is desirable to re-survey and place monuments at the corners of parcels the boundary lines of which were established pursuant to section 45.

48(2) States in legal-ese the cost for that re-survey is borne by the individuals or the municipality who have initiated that re-survey.

If you are following this, at least I hope you are re-reading these sections as a refresher and not falling asleep. But here is my point...who as a landowner, (economic recession or not), or as a municipality (cash poor and tight budgeted as most of them are at most times), would want to pay for a re-survey, when it is a double posting caused by land surveyors?

If you answered nobody, nada, nyet, zero...go grab a beer...you are correct. Nor should they have to...it's a survey problem caused by subsequent surveys or by lack of any landowner or public challenge after a certain period of time, will be viewed as the official corner of record by the courts, regardless if an original corner is found at some point in time later. This has a huge virtue, so open your mind and hear me out for a bit. I myself have a ways to go to get my head around this too, but I will admit that it would omit a lot of “petty” boundary issues that the panel has dealt with over the years. Could something like this work in our system? Maybe even in an amended form?

There are no easy answers here but let me give you some examples.

In the south-western part of the province there is a ¼ section post that was re-established in the 1970s by proportion as a result of the first major pipeline going through the area. What appears to be the original wooden post was unearthed by the landowner while erecting for sale signage. The original wood post was several feet away from the proportioned iron post. Since that 1970s iron post was placed, there have been fences built to it north-south and east-west, the road allowance has been developed and no less than four subdivisions of 16 high-value country lots have been developed along with water and electrical lines in place based on the 1970s proportioned post which is now 45 years old. Throw in a couple reserve easements as well. First, as a surveyor you know that original monuments govern by the law in the book. Yet, on the other hand, the economics to correct this would be in the hundreds of thousands of dollars, not to mention any civil action current landowners will want to take. And they have the right to peaceful enjoyment of their land. The surveyor has long passed but the Association would not be doing the public any service whatsoever, in attempting corrections here. That old wood post?...it is on display in the landowners’ garage.

This is very similar to the Okotoks Boundary case 2009-05. In the course of that case while investigating a triple posting we uncovered a one chain error in the original township survey that had an effect on how we resolved the case, but that one chain error was left alone. Multi-lot country subdivisions, no complaints from any landowners, and potential cost, ruled this out as a correction possibility. Whether it is legislated or not, acceptance happens naturally over time when people live in peace with the boundaries of their lands.

Scott and I have yet another potential case involving a double posting at the N1/4 on a blind line.

In most townships, blind lines were never surveyed till around and after 1915 when the N1/4 post was actually posted, and has Part 2 status. As well, in many places in the province, these blind lines were surveyed shortly after the original township survey, as a result of the railway coming through and the N1/4 posi-
In 2010, M.D. Surveyor (Modern-Day Surveyor), picks up the best evidence from a second road widening plan to the west to establish the position of the westerly section corner. The original is not there anymore and neither of the road widening plans found the original NE-25, so the position of that corner is somewhat suspect. Figure 3. The section corner to the east, the (NE-30) ironically was re-established in the late 1960s by the predecessor of Modern-Day Surveyor’s company using the same 1920s N1/4 that is in dispute. And he proceeds to establish that same N1/4 position, (in the same manner as O.T Surveyor), by placing a new post within 0.4m of the old one, and the new plan is registered at Land Titles. The old post was likely within the tolerance of the day. It was accepted in the 1970s and 1980s on plans approved by the Director of Surveys Office at those times. Yet according to our legislation neither post will govern at the N1/4 position.

1. Here are my comments for consideration: there is no legislation of ours for length or validity or acceptance of an old survey, specifically a Part 3 monument in a Part 2 position, (and this is where our legislation falls short or is non-existent)... but there is room for a more detailed evidence assessment. The courts however will look at longevity and public acceptance and will factor that into their decision. Our survey system is inherently not mathematically perfect...we tried our best in the original survey, and we continue to try today with subsequent work we do, but we must have flexibility to allow for old surveys which may not be quite as perfect as we would like. That is a big part of any land surveyor's evidence assessment. Does this specific situation meet the accuracy of the day? There is a high probability that it does. That has to be established accepting that N1/4 post. Thus with this as fact, that post was accepted by the public at large and the survey community.

Yet by our current legislation, that post does not govern the N1/4. The legislation pertains to a mathematical position only... that does govern, and thus. I believe our current legislation fails us here. Add to this scenario that over the years, two critical plans of the ensuing dozen or so that were registered at Land Titles, were done so with the Director of Surveys’ approval stamp. These were plans that were thoroughly checked by the regulating office at the time. Does that not mean anything anymore?

In 2010, M.D. Surveyor (Modern-Day Surveyor), picks up the best evidence from a second road widening plan to the west to establish the position of the westerly section corner. The original is not there anymore and neither of the road widening plans found the original NE-25, so the position of that corner is somewhat suspect. Figure 3. The section corner to the east, the (NE-30) ironically was re-established in the late 1960s by the predecessor of Modern-Day Surveyor’s company using the same 1920s N1/4 that is in dispute. And he proceeds to establish that same N1/4 position, (in the same manner as O.T Surveyor), by placing a new post within 0.4m of the old one, and the new plan is registered at Land Titles. The old post was likely within the tolerance of the day. It was accepted in the 1970s and 1980s on plans approved by the Director of Surveys Office at those times. Yet according to our legislation neither post will govern at the N1/4 position.

2. Placing a second post in the ground at the near same location as the first one... no matter how mathematically or ethically correct you are, is creating a boundary uncertainty in the eyes of anyone wishing to look there. If you are laying the seeds for correcting a boundary uncertainty by placing a second post, then as a land surveyor you have an obligation to follow through...COMPLETELY. See code of ethics and the detailed commentary in our Manual of Standard Practice. That means working with colleagues, others, the Director of Surveys Office and, now, yes the Boundary Panel if needed, to resolve the boundary issue...correcting and removing posts as required or as directed. Leaving the incorrect monument in place for others to find and use, is creating a problem and not fully solving one. For a land surveyor not...
3. Is the public being served by having two monuments in the ground for the same corner? **NEVER.** Go back to comment #2. And lastly at least for this article, here follows is a situation that Scott Westlund and I are now seeing far too much, and newer land surveyors need to take significant notice.

In the early 1990s, Surveyor A, surveyed and registered his subdivision on the north side of an east-west ¼ section line. Original evidence was found at the ¼ section corners, as well as the centre of the section from a previous subdivision, and all was confirmed to be in good order. Several corners had been placed on the eastery ½ mile of the ¼ section line. The survey was done conventionally with a total station. Surveyor B is surveying a new subdivision in the southeast ¼ of that section. He finds the centre of the section and the original E1/4 monuments, and all corresponding lot corners from Surveyor A’s plan. Many of those lot corners found, more than half, he indicates on his plan as “Found I Post offline” by any where’s from 0.01 to 0.09m. His survey was done by RTK GPS.

Here are my comments for consideration in what I believe to be another case of a lack of complete evidence assessment;

1. Methodology – RTK is a differential positioning system. The results are at the whim of the raw numbers generated. With the total station you can “see” that you are on line…you have “visual” checks to confirm that… from what should be “stable” set ups with the instrument and backsight. With an RTK unit there is movement…the satellites, the wiggle of the rover pole…you can certainly see the numbers but you can’t “see” the line. I get calls from time to time from contractor friends who are witnessing their site surveyors using RTK GPS on large and small pile layouts. Of course you can guess that those piles are out compared to results using total station and steel tape. RTK methodology cannot meet the scope of accuracy like a robotic and conventional total station and prism can over say 100-200m.

2. Surface activity, and the ground in Alberta has a tendency to move iron posts. Countersunk posts are most stable but not immune to movement. Posts placed flush to the ground are susceptible to surface activity…trucks, construction, fencing and earthmoving, and are more susceptible to frost and thaw movement over time. That alone could easily account for these perceived positional differences, even if the methodology used to survey them, was the same. In the north country frost and thaw action can move a post 0.15m in a year, and as we have seen with original monuments (80-90yrs or more), over time…forces of nature can pop them completely out of the ground. Water and drainage is also a major mover of posts and even larger sections of land, through horizontal sliding and subsidence. There are ¼ section distances on the banks/slopes of the Peace River that measure as much as 6m LONGER than originally surveyed in the 1920s due to whole masses of land sliding towards the river over time.

3. When you indicate a post is off-line on your plan, you are also indicating the possibility of a boundary uncertainty. In the section above, I have made it pretty clear what a land surveyor’s responsibility is regarding encountering a boundary. Do you really want to go through that scenario for anything less than 0.10m? and knowing that posts can move as I indicated above? Personally, I would just tap them back online and be done with it. We are allowed to restore posts to original positions, many of us do this all the time. “Fd. I (Bent) Restored” is a common annotation on plans where the meaning could entail the field surveyor to physically remove the entire post from the ground, straighten it, place it back in the original I-hole, and reset and confirm its location to other evidence nearby. Many wise surveyors do and have done that in the past. We should not be seeing the minor “off-line” annotations on survey plans. **If there is a valid man-made reason to call a post off-line, Fd. I Disturbed-(Fencepost)...then state it on your plan so that others can more readily know the depth of your evidence assessment.** (Read Hugo Engler’s article on Survey Evidence **ALS News** June 1993). You rarely saw these minor offline annotations on plans prior to GPS surveys. Did O.T. Surveyors have a higher tolerance level, or better evidence assessment techniques knowing factors in #2 above? It would seem like the answer is yes to both…with an added principle that the field survey as we know it is never mathematically perfect, our closure checks always indicate.

Between Scott and I viewing plans for boundary issues and reviewing plans for Continuing Competency Review checks, we both agree that it would serve our industry better to see much less of these minor “offline” annotations on plans and a more thorough application of principles of evidence assessment I have indicated above. A higher tolerance factor would be nice, or barring that, go for a walk and tap those posts back on line….and survey life should be a little simpler.

**If there is a valid man made reason to call a post off-line, ...then state it on your plan so that others can more readily know the depth of your evidence assessment.**

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David Marquardt, ALS
Boundary Panel Chairman

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I. INTRODUCTION

1. Pursuant to Section 45(4) of the Land Surveyors Act, a Hearing of the Discipline Committee of the Alberta Land Surveyors’ Association was held February 9th, 2015 in the Alberta Land Surveyors’ Association (hereafter “ALSA”) Boardroom in Edmonton, Alberta.

The members of the Discipline Committee were:

Mr. Dirk VandenBrink, ALS, (Chair)
Mr. Chad Finner, ALS
Mr. Blaine Benson, ALS

In attendance at the hearing were:

Mr. D.R. McWilliam, ALS, Registrar
Ms. R. Broderick, Observing Registrar
Mr. L. Rodney, ALS
Mr. D. Jardine, Esq., Legal Counsel for the Association
Mr. F.S. Kozak, QC, Independent Legal Counsel for the Discipline Committee

II. ALLEGATIONS

2. The hearing was convened to address allegations set out in a letter of complaint from the Practice Review Board (“PRB”) to Mr. McWilliam, dated February 12, 2014. The letter (set out below – appendices not reproduced) alleges the following:

The Practice Review Board, at its meeting of February 12, 2014, passed a motion to close CCR file 224.1 and file a complaint with the ALSA registrar.

The Practice Review Board alleges that Mr. Lewis Rodney is guilty of unskilled practice and unprofessional conduct.

Background information

Mr. Rodney is the sole ALS at Kiriak Surveys Ltd. He is heavily involved in all aspects of the work done by this firm. He currently employs one staff member but, in the past, he has occasionally used a contract party chief and draftsperson. Throughout this review he indicated several times that he does everything. At the PRB’s hearing on January 15, 2014, he told the Practice Review Board (PRB) that he is the party chief, chainman, the draftsman and the plan checker (see Appendix D Page 73 - lines 4 to 8).

CCR file 224.1 was opened on November 16, 2011. Two comprehensive reviews were completed and Mr. Rodney attended a formal hearing with the PRB on January 15, 2014. As part of the initial and comprehensive reviews, three subdivision plans were examined; two of these were field inspected.

All three plans required plan corrections because they contained many drafting errors and misclosures. It also appears that the governing evidence may not have been used on two of the plans and one of the plans does not appear to accurately reflect the field survey. Through the course of the product examinations and field inspections and after reviewing the ALS’s responses to the Director of Practice Review’s reports and the ALS’s testimony at the PRB hearing, the PRB has uncovered possible shortcomings relating to the ALS’s field procedures, knowledge of Acts and Regulations, direction and control of the practice, and the plan preparation and checking processes. The PRB believes these shortcomings may not be limited to the products examined and the products examined are typical for this ALS. As such, the PRB has closed the file and is filing a complaint alleging unskilled practice and unprofessional conduct.

The specifics of our complaint are as follows:

Examples of alleged unskilled practice

The PRB noted the following possible instances of unskilled practice during the review of Plan 112 1597. A copy of the plan reviewed, the corrected plan, and other supporting information is included in Appendix A. A copy of the hearing transcript is provided in Appendix D. The pertinent portions of the documents in the appendices have been highlighted and the reference number corresponds to the items in the following list.

1. Lot 1 Block 1 Plan 112 1597 was not posted in accordance with Section 45 of the Surveys Act.

Plan 112 1597 created a boundary uncertainty between Lot 1 Block 1 and the NE 27 because the easterly portion of Lot 1 Block 1 was not posted on both sides and dimensioned accordingly (see Appendix A Page 12– Plan reviewed for CCR 224.1). Although Mr. Rodney indicated that he supervised the field work and checked the plan himself (see Appendix D Page 74 lines 18 to 20, and Page 75 lines 10 & 11), based on his response to the DPR’s questions during the initial review (see Appendix A Page 14), Mr. Rodney was unaware that this lot was not posted in accordance with the Act until it was pointed out to him by the DPR. It is also interesting to note that the plan examined for the initial review had been corrected prior to the plan being submitted for this review but the major posting deficiency was not addressed.

Mr. Rodney’s explanation for the error doesn’t seem plausible. According to his response to the DPR and
his testimony at the hearing (see Appendix D Page 75 lines 13 to 22) the easterly portion of Lot 1 Block 1 was initially intended to be an access easement for a driveway. Mr. Rodney indicated that “I didn’t get that information (that it was to be part of the lot) until it was already in the process of being registered.” Based on this, we would have expected to see an easement plan or a width for the access portion at the very least. Mr. Rodney drafted the plan himself and must have been aware of the change from an easement to a portion of the lot before it was submitted to Land Titles. He attempted to revise the plan but did not properly make the change. The explanation offered, “but the client expected it to be done two weeks ago” (see Appendix D Page 75 lines 5 to 7) suggests that further investigation into the cause of the errors made on this plan is necessary. Mr. Rodney’s failure to notice that this plan was not posted in accordance with the Act even though he drafted the plan himself is a possible example of unskilled practice.

Mr. Rodney used a Judge’s Order to correct plan 112 1597 on January 8, 2014. A copy of the most recent version of the plan is included in Appendix A Page 17.

2. Lot 1 Block 1 Plan 112 1597 did not close.

Although Mr. Rodney indicated that he did a closure on this plan (see Appendix D Page 75, line 10) and compares distances to other registered plans as part of his plan checking process, the lot created on this plan did not close by up to 75 m when it was initially submitted to Land Titles. A correction to change a dimension from 142.19 to 66.60 was made prior to submitting the plan for examination by the DPR as part of CCR 224.1 (see the initial plan reviewed in Appendix A Page 12).

During the plan examination, the DPR noted that the lot on the corrected version of the plan still did not close by 0.5 m (see Appendix A Page 12 and 14). Mr. Rodney’s seeming inability to detect dimension errors on plans even though he claims to be checking them is a possible example of unskilled practice.

As noted above, a new version of the plan was registered using a Judge’s Order. As can be seen on the corrected version (see Appendix A Page 17), 12 of the 19 dimensions drafted on the initial version of the plan were revised, some have been changed several times. Additionally, a post south of the NE 27 is now 0.04 W of the quarter line. These changes further exemplify his plan checking shortcomings.

3. The tie to ASCM 105379 was revised multiple times (see the two versions of registered Plan 112 1597 provided in Appendix A Page 12 and 17).

According to Mr. Rodney’s testimony at the PRB’s hearing, the distance value to this ASCM was initially changed as requested by the Land Titles plan examination staff (see Appendix D Page 77 lines 10 to 14). The ASCM tie is shown to a new post placed by Mr. Rodney. It is difficult to understand how Land Titles would know what this value should be since it has not been shown or reported on any other plans. It seems that Mr. Rodney did not check the true distance or sufficiently review his field observations before making a change requested by Land Titles. The ASCM tie was later changed back to its original value. Mr. Rodney’s seeming inability to determine the correct value for the ASCM tie is possibly an example of unskilled practice.

4. When questioned by the DPR and PRB about the multiple dimension errors, Mr. Rodney claimed that the problems with the distances on this plan were a result of the requirement to georeference the plan (see Appendix A page 15 and Appendix D pages 74 lines 24 to 27 and 75 lines 1 to 4).

According to Mr. Rodney’s testimony at the PRB’s hearing, when this plan was initially submitted to Land Titles it was rejected because it was not georeferenced. At the time, Mr. Rodney was unaware of the requirement to georeference the plan. He claimed that he was under pressure to register the plan and rotated it incorrectly resulting in multiple errors throughout the plan. Based on his response to a question posed at the hearing, Mr. Rodney does not appear to fully understand rotation, georeferencing or plan bearings (see Appendix D Page 81 lines 10 to 26, Page 82 to 83). Mr. Rodney’s apparent lack of knowledge of plan requirements, standards, and the fundamentals of surveying is possibly an example of unskilled practice.

5. Mr. Rodney is unsure if there is a gap or overlap between the NW portion of Lot 1 Block 1 and the parcel to the north described on a certificate of title.

The governing evidence may not have been tied in for this survey and the methodology used to determine the north boundary is not 100% correct. Mr. Rodney has no record or cannot recall if he tied in the N 1/4 27 to confirm the certificate of title boundary (see Appendix D page 76 lines 2 to 23). Based on the methodology used to define the south limit of the certificate of title, there may be an overlap or gap between the plan and certificate of title boundary (see Appendix D page 80 lines 10 to 27). Additional Survey evidence may be required to determine the exact limits of the titled parcel to the north and whether or not there is a boundary uncertainty here. Mr. Rodney seems to have not adequately assessed the survey evidence and this may be another example of unskilled practice and requires further investigation.

The PRB noted the following possible instances of unskilled practice during the review of Plan 122 0231. A copy of the plan reviewed, the corrected plan, and other
supporting information is included in Appendix B. A copy of the hearing transcript is provided in Appendix D.

6. Lot 1 Block 1 and Lot 2 Block 1 created on Plan 122 0231 did not close.

The dimension on the central boundary between lot 1 and lot 2 is incorrect by 0.08 (see Appendix B Page 21 and 22). In his response to the DPR’s report (see Appendix B Page 30 and 31) Mr. Rodney indicated that he did a closure on the lots on this plan. Despite this the dimension was incorrect when the plan was registered. At the hearing, Mr. Rodney’s explanation for the error was that he selected the wrong end of the line while drafting the plan and that he did not do lot closures (see Appendix D Page 85 lines 1 to 12). Mr. Rodney’s inability to detect dimension errors and the shortcomings in his plan checking process is possibly an example of unskilled practice.

In his explanation for the error, Mr. Rodney went further to suggest that the misclosure was insignificant. On the plan that was registered at Land Titles the misclosure in lot 1 was approximately 1:3800, well below the accuracy guidelines outlined in the Manual of Standard Practice. The DPR also noted several other dimensions on the plan that didn’t match what was shown on other registered plans. At the hearing, when questioned about comparing dimensions to dimensions on other plans, Mr. Rodney indicated that he doesn’t consider the discrepancies he found between monuments to be significant (see Appendix D Page 94 lines 24 to 27 and Page 95 lines 1 to 15). However, all of the differences noted by the DPR are well beyond acceptable tolerances as outlined in the MSP. Mr. Rodney’s seeming lack of understanding of acceptable accuracy tolerance is possibly an example of unskilled practice.

7. There are unanswered questions about Mr. Rodney’s redundancy checks.

The DPR questioned Mr. Rodney about his redundancy policy (see Appendix B Page 23) and in his September 23, 2012, response to the report prepared by the Director of Practice Review he wrote the following (see Appendix B Page 28): “By this time it was quite late and, since it was early November, had gotten quite dark. Although we had intended to change the base position and retie our work, we did not have enough light. Since the calculations had proved the survey essentially correct, I decided to call it a day. I thought at the time that if there proved to be significant problems with the collected data I could return, although the checks we carried out by calculation indicated the survey was adequate.” Furthermore, when addressing the DPR’s question he stated “my decision was to omit the redundancy checks unless the plan showed significant deficiencies post-survey” (see Appendix B Page 29).

At the hearing, when asked about the redundancy checks Mr. Rodney suggested that the redundancy check were made but not recorded but he seemed to be unsure as to how his field assistant actually did the redundancy checks (see Appendix D Page 87 lines 24 to 27 and Page 88).

Based on results from the PRB’s field inspection and the ALS’s subsequent plan correction it is apparent that the additional check ties were necessary. If the redundancy checks were made, they were not reviewed and significant errors were overlooked.

When asked at the hearing if he noted any discrepancies on the plan (see Appendix D Page 89 lines 9 to 20) Mr. Rodney indicated that he did not until they were pointed out to him by the DPR.

Mr. Rodney seems to be unsure as to how to obtain redundancy, seems unable to identify poor observations, and seems to regularly omit redundancy checks. These are possible examples of unskilled practice.

8. Mr. Rodney does not appear to have a good understanding of how to handle posts that are offline.

Both the DPR and Mr. Rodney noted that plan 122 0231 does not accurately represent the field survey (see Appendix B page 21 and 30). This seems to be due to monuments that are offline by a few centimetres.

In his response to the DPR’s report (see Appendix B Page 30) and his response to a question at the hearing (see Appendix D Page 87 lines 8 to 14) Mr. Rodney expressed confusion as to how to handle posts that are offline. At the hearing Mr. Rodney also spoke about a true and an actual corner (see Appendix D Page 86 lines 4 to 15 and Page 95 lines 18 to 27 and Page 96 lines 1 & 2). Mr. Rodney’s terminology was very confusing and his train of thought was very difficult to follow. He seemed to suggest that posts govern while simultaneously suggesting that they don’t (see Appendix D Page 87 lines 6 & 7). Additionally, in his response to the DPR’s report (see Appendix B Pages 24 to 28) Mr. Rodney’s description of the survey conducted for Plan 122 0231 is very difficult to understand and it seems that, for this survey, Mr. Rodney was distracted by non-governing monuments that were found in the area.

Through the course of this review it has become apparent to the board that Mr. Rodney may not understand the basic principles of governing evidence and does not understand how to show small discrepancies on a plan. This appears to be a possible example of unskilled practice and may require further investigation.

The PRB noted the following possible instances of unskilled practice during the review of Plan 132 0184. A copy of the plan reviewed and other supporting information is included.
in Appendix C. A copy of the hearing transcript is provided in Appendix D.

9. The areas listed for Lots 18A and 18B are incorrect and the found no mark notation drafted on the NE corner of Lot 2 is unnecessary (see Appendix C Page 46).

This is the third plan that contains obvious drafting errors further highlighting the shortcomings in the plan preparation and checking process. At the hearing Mr. Rodney told the PRB that his plans are checked up to four times (see Appendix D Page 102 lines 15 to 21). The PRB wouldn’t expect to see a pattern of plans with obvious drafting errors if they are truly checked four times. If they are checked four times, Mr. Rodney does not seem to have the skills necessary to adequately check a plan and this is possibly an example of unskilled practice.

Furthermore, at the hearing, Mr. Rodney was asked if the lot areas are required to be shown on a plan. Mr. Rodney responded that they are (see Appendix D Page 107 lines 1 to 8). The lots on this plan are well below 0.5 ha and according to the Land Titles Procedures manual the areas are actually not required to be shown. The board believes that this is another example of Mr. Rodney’s lack of knowledge relating to plan requirements and further investigation may be required.

10. According to the dimensions on Plan 132 0184 there is an approximately 0.4 m shortage in the south boundary of this block.

This discrepancy is over about 75 m and works out to be much less than the 1:5000 accuracy requirement outlined in the MSP but there is no acknowledgement of this on the plan (i.e. check measured). When responding to a question from the DPR about the discrepancy, no real answer was provided (see Appendix C Page 62). At the hearing, the ALS suggested that additional evidence assessment would have only further confused the issue (see Appendix D page 100 lines 3 to 9). It appears that more evidence assessment could have been done to fully investigate the discrepancy.

Furthermore, when questioned about another 0.06 m discrepancy between field measurements and plan dimensions, Mr. Rodney suggested that a 0.06 discrepancy isn’t a lot (see Appendix D Page 100 lines 10 to 24). However, this discrepancy is over 30 m and is again well below the acceptable tolerance requirements outlined in the MSP.

Mr. Rodney seems to continually demonstrate a lack of understanding of the accuracy requirements outlined in the MSP. This is possibly an example of unskilled practice.

11. There may be a boundary uncertainty in this block.

Mr. Rodney was asked at the hearing if there is a boundary uncertainty here (see Appendix D Page 99 lines 22 to 27 and Page 100 lines 1 to 9). He indicated that there is, however, he seems to be unwilling to do anything to address it. As noted earlier, there was, and is possibly still, an uninvestigated uncertainty caused by Plan 112 1597. This unwillingness to address boundary uncertainties is possibly an example of unskilled practice and may require further investigation.

Examples of alleged unprofessional conduct

The board uncovered possible unprofessional conduct during the review of Plan 122 0231. Supporting information is included in Appendix B and D.

12. Mr. Rodney may be ‘cutting corners’ to save time.

When asked by the DPR about possible changes to his plan checking process, Mr. Rodney responded in his September 23, 2012 letter with the following comment (see Appendix B Page 31): “The only realistic change required would be as Director Pratt said to me “Do every closure on every lot or figure that can be closed. No matter how insignificant it may seem.” I am afraid that cutting corners to save time has proven him to be correct. My recollection is that I did closures on those lots but the evidence would suggest otherwise” (emphasis added).

Additionally, at the hearing, Mr. Rodney suggested that the redundancy checks were not made on Plan 122 0231 because he didn’t have the budget to do them (see Appendix D Page 89 lines 2 to 8).

Mr. Rodney seems to be more concerned with his costs than protecting the public and producing plans that are correct and adequately checked. These may be examples of unprofessional conduct and further investigation is warranted.

Examples of alleged unskilled practice and unprofessional conduct

The board uncovered several issues relating to the plan corrections made to Plan 122 0231. These allegations are difficult to classify and may be either unskilled practice or unprofessional conduct. Supporting information is included in Appendix B and D.

13. Mr. Rodney either misinformed or attempted to mislead the PRB regarding the plan corrections made to Plan 122 0231.

In his September 23, 2012 response to the DPR’s report, Mr. Rodney self-identified the following four corrections that are necessary on Plan 122 0231 (see Appendix B Page 32):
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The corrected version of Plan 122 0231 (see Appendix B Page 42) reviewed on January 15, 2014, only contains one of those four proposed corrections.

At the PRB’s hearing on January 15, 2014, Mr. Rodney suggested that Land Titles was to blame for the corrections not showing up on the current version of the plan (see Appendix D Page 91 lines 2 to 16).

Based on his plan correction, registered as instrument number 132 155 819 (see Appendix B Pages 33 to 41), Mr. Rodney’s claim that Land Titles did not see fit to make the correction appears to only be partially true. Mr. Rodney did correct item i). He also appears to have intended to indicate ‘0.07 west’ at R1 as noted in item iii). However, as can be seen in the portion of the plan submitted with instrument number 132 155 819, this correction was not clearly identified by a circle and was not picked up by Land Titles as a necessary correction to the plan.

Based on instrument number 132 155 819, it also appears that Mr. Rodney intended to correct the bearing to the north of R2. This correction was also overlooked by Land Titles because it was not clearly identified by a circle on his submission.

According to instrument number 132 155 819 Mr. Rodney did not actually submit a correction relating to item ii), the SE corner of Lot 2 or item iv).

The board is concerned that Mr. Rodney intentionally attempted to mislead the board and blamed Land Titles for not undertaking the correction correctly. If his intent was to mislead the board, this is possibly an example of unprofessional conduct that requires further investigation. The inadequately prepared correction (not appropriately highlighting proposed correction for Land Titles) is possibly an example of unskilled practice.

At the hearing, Mr. Rodney also indicated that he has not seen the plan since submitting it to Land Titles (see Appendix D Page 91 lines 4 & 5). Based on this we concluded that Mr. Rodney did not review the corrected plan to ensure the correction was done appropriately and seems unwilling to do so unless he is instructed to do so.

14. Mr. Rodney may not have exercised adequate direction and control with respect to the correction to Plan 122 0231.

Instrument number 132 155 819 (see Appendix B Page 33) is a copy of the plan correction submitted to Land Titles. The letter sent to Land Titles to initiate the correction, as well as all of the consents, etc. were signed by Janice Penner not Mr. Rodney. Based on the general lack of knowledge of the correction he demonstrated by his responses to questions at the hearing, the errors noted in the correction document, and his lack of follow up on this correction makes it seem like the correction was not actually prepared or reviewed by Mr. Rodney. This seeming lack of supervision and control, and his apparent unwillingness to review and confirm the correction was made appropriately is a possible example of unskilled practice and unprofessional conduct and further investigation is required.

15. Mr. Rodney’s plan corrections cause other problems.

Mr. Rodney’s correction to the line between Lot 1 and Lot 2 fixed the mis-closure on Lot 1. However, the corrected values introduced a new 0.07 m mis-closure into Lot 2 (see Appendix B Page 42). According to his testimony at the hearing, Mr. Rodney was unaware that there is now an unacceptable mis-closure in Lot 2 (see Appendix D Page 91 lines 21 to 26).

The possibility that the dimension on the north boundary of Lot 2 was incorrect by 0.06 m was identified during the PRB’s field inspection and Mr. Rodney was notified by the DPR in a report sent to the ALS on August 20, 2012 (see Appendix B Page 22).

Despite his insistence that he checks his plans and does lot closures on every lot, Mr. Rodney does not appear to take sufficient care and attention when completing plan corrections. This is also another example of Mr. Rodney’s inability to identify measurements that don’t meet the tolerances outlined in the MSP (the error is this lot is now 1:4700). Mr. Rodney’s seeming inability to identify errors despite a thorough plan check and his lack of care and attention to these matters is a possible example of unskilled practice.

Conclusion
The PRB believes these allegations are of the utmost importance and filing this complaint is necessary to protect the public. The products examined are significantly and consistently below acceptable standards. The board has reviewed 454 CCR Phase 1 files and we consider this to be the file with the most numerous, and most significant problems. We are concerned that the products examined are typical of
the practice and believe the issues noted cannot be rectified through the educational tools available to us.

Mr. Rodney has demonstrated that he is unable to find deficiencies in his work on his own. These errors would not have been discovered had these plans not been examined as part of Mr. Rodney's CCR. According to his responses to the DPR's reports and some of his responses at the hearing, Mr. Rodney seems to have a plan checking process that is comparable to other ALs. Despite this, substantial errors and boundary uncertainties have been identified on every product examined. Furthermore, when he corrects an error, other errors are either introduced or overlooked. The board believes there may be a lack of knowledge with respect to plan requirements, standards, survey methodology, and governing evidence. The board is also concerned that Mr. Rodney has acted unprofessionally in his dealings with the board and has not adequately supervised the submission of plan corrections.

We trust you will find the documentation in order but if you have any questions, concerns or comments, do not hesitate to contact us via Kerry Barrett. Additional material from the PRB file, such as the plan checklists and the board letters sent to Mr. Rodney are also available to you at your request.

III. PRELIMINARY MATTERS
3. Mr. Rodney acknowledged that he was entitled to be represented by counsel, but confirmed that he wished to represent himself. When asked by the Chair, Mr. Rodney initially indicated that he objected to Mr. Finner's participation in the hearing. Mr. Finner pointed out that the objection was not timely, and that Mr. Rodney had been served with the Notice of Hearing within the time prescribed by the Land Surveyors Act ("the Act"), and also confirmed that he had no jurisdictional issues, or other preliminary objections or matters to raise.

4. Mr. Rodney confirmed that he had been served with the Notice of Hearing within the time prescribed by the Land Surveyors Act ("the Act"), and also confirmed that he had no jurisdictional issues, or other preliminary objections or matters to raise.

IV. EVIDENCE
5. The parties tendered the following documents, which were admitted as evidence and marked as exhibits:

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit 1</td>
<td>Notices of Hearing and Notices to Attend addressed to Mr. Lewis Rodney, ALS</td>
</tr>
<tr>
<td>Exhibit 2</td>
<td>Initial letter of complaint dated February 12, 2014, and supporting material</td>
</tr>
<tr>
<td>Exhibit 3</td>
<td>Typewritten statement from Mr. Lewis Rodney dated February 7, 2015</td>
</tr>
<tr>
<td>Exhibit 4</td>
<td>Procedural documents including correspondence between the ALSA, the PRB, and Mr. L. Rodney, ALS</td>
</tr>
<tr>
<td>Exhibit 5</td>
<td>CCR phase 1, framework, procedure, flowchart</td>
</tr>
<tr>
<td>Exhibit 6</td>
<td>Full-sized version of Plan 112 1597 and a larger version of the corrected version of Plan 112 1597</td>
</tr>
<tr>
<td>Exhibit 7</td>
<td>Documents regarding CCR file #224.1</td>
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<tr>
<td>Exhibit 8</td>
<td>Documents regarding CCR File #224.1C</td>
</tr>
<tr>
<td>Exhibit 9</td>
<td>Documents regarding CCR file #224.1C2</td>
</tr>
<tr>
<td>Exhibit 10</td>
<td>Minutes of the Practice Review Board dated February 12, 2014</td>
</tr>
<tr>
<td>Exhibit 11</td>
<td>The updated version of Mr. Rodney’s typed statement that he prepared for the hearing</td>
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</table>

6. The Association proposed to call three witnesses: Mr. David McWilliam, Mr. Scott Westlund and Mr. Andrew Cammaert. Mr. Jardine indicated that the Association would cross-examine Mr. Rodney after he gave his evidence in chief. Mr. Jardine expressed a strong preference to be absent during the testimony of other witnesses. After some discussion, Mr. Jardine indicated that while he urged Mr. Rodney to remain present, if he chose to leave, Mr. Jardine would attempt to adduce the Association's evidence entirely through the Exhibits, Mr. Westlund's testimony, and his cross-examination of Mr. Rodney, in an effort to shorten the proceedings. Mr. Jardine again expressed the Association's strong preference that Mr. Rodney be present during the hearing. Mr. Rodney, however, elected not to be present in the hearing room during Mr. Westlund's testimony.

Scott Westlund
7. Mr. Westlund testified that he has been a member of the ALSA since October, 2000 and that his current position is Director of Practice Review. He was first appointed to that position in January, 2011. As Director of Practice Review, he oversees the Continuing Competency Review Program, which reviews products of all Alberta Land Surveyors at least once every 4 years. During phase 1 of that process, Mr. Westlund requests field notes and copies of plans and other supporting information that allows him to check or examine the product submitted. He then summarizes his findings for the PRB, which can include recommendations. The PRB can either close the file with recommendations, or decide to do a Comprehensive Review.

8. Mr. Westlund indicated that in general terms in a Comprehensive Review, he arranges a face-to-face meeting with the land surveyor. He uses a Comprehensive Review template which includes standard questions, and other questions specifically related to the product being reviewed. The standard questions are all about plan checking processes, redundancy, the number of field crews supervised, etc. Comprehensive Reviews also frequently involve field inspections on a new product, which is a task often contracted to 3rd party. Finally, Mr. Westlund would summarize findings of the field inspection and his plan examination in a letter to the land surveyor, requesting that they respond to the questions and issues identified in the letter. The questions and answers are captured in a document for further

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10. The assessment document went to the PRB assessor on February 19, 2011. Mr. Rodney was asked to complete the questionnaire and submit 10 products for inspection. Mr. Westlund chose plan 112 1597 on December 12, 2011. He requested field notes and receive them in January 2012. He checked the plan on February 13, 2012. Mr. Westlund testified that he found many errors in the plan. He thought the evidence used to define the North boundary of a certificate of title was not correct, and the plan did not close by half a meter, so the dimensions on some of the lines did not match calculations using the coordinates in Mr. Rodney’s ASCII file. Furthermore, Mr. Westlund testified that the dimension on the North boundary didn’t match the dimension on the subdivision plan to the north, and the lot wasn’t posted in accordance with section 45 of the Act. Mr. Westlund contacted Mr. Rodney on February 13, 2015 with several questions about the posting and apparent dimension errors. He was concerned about the level of oversight in the preparation of the plan. Mr. Westlund made notes of the issues identified as well as Mr. Rodney’s answers to those questions all of which were put into Mr. Westlund’s assessment document.

9. In Mr. Rodney’s case, the initial file was opened on November 16, 2011. Mr. Rodney was asked to complete the questionnaire and submit 10 products for inspection. Mr. Westlund chose plan 112 1597 on December 12, 2011. He requested field notes and receive them in January 2012. He checked the plan on February 13, 2012. Mr. Westlund testified that he found many errors in the plan. He thought the evidence used to define the South boundary of a certificate of title was not correct, and the plan did not close by half a meter, so the dimensions on some of the lines did not match calculations using the coordinates in Mr. Rodney’s ASCII file. Furthermore, Mr. Westlund testified that the dimension on the North boundary didn’t match the dimension on the subdivision plan to the north, and the lot wasn’t posted in accordance with section 45 of the Act. Mr. Westlund contacted Mr. Rodney on February 13, 2013 with several questions about the posting and apparent dimension errors. He was concerned about the level of oversight in the preparation of the plan. Mr. Westlund made notes of the issues identified as well as Mr. Rodney’s answers to those questions all of which were put into Mr. Westlund’s assessment document.

11. Mr. Westlund summarized his findings and concerns in a document which was presented to the PRB on October 17, 2012. After noting that the same issues had surfaced in product 1 and product 2, and that the first plan correction had not yet been done, and the 2nd plan needed corrections, and the same concerns surfaced with respect to redundancy checks, Mr. Westlund recommended another Comprehensive Review. In its letter of November 2, 2012, the PRB directed a 2nd Comprehensive Review. Mr. Westlund met with Mr. Rodney at his office on June 25, 2013. Mr. Rodney had selected plan 132 0184 for plan examination and field inspection. Mr. Westlund checked the plan on June 26, 2013 and a third-party conducted the field inspection between July 17 and July 29, 2013. Mr. Westlund described a boundary uncertainty but acknowledged that the product was an unusual and difficult situation. He said of the 3 products examined, the field notes on this product were the best. The boundary uncertainty was not caused by Mr. Rodney and there was no simple solution. The field inspection revealed some original pins that were not considered, which should have been. The total area of the plan was wrong, and in the southeast corner, the dimension didn’t match the original block by 0.4 m, but there was nothing on Mr. Rodney’s plan to indicate that he actually reviewed it. Those, with some additional minor errors were summarized in Mr. Westlund’s report dated July 31, 2013. Mr. Rodney responded on November 7, 2013, clarifying how he had made his decision and endeavoring to improve his plan checking process and promising another plan correction. Mr. Westlund’s report, including Mr. Rodney’s response, was presented to the PRB meeting on November 20, 2013. The PRB asked Mr. Rodney to a formal hearing on January 15, 2014.

12. At the PRB hearing on January 15, 2014, Mr. Westlund attended as an observer. The transcript of the PRB hearing can be found at Exhibit 2, Tab D. At its subsequent meeting in February, 2014, the PRB unanimously agreed that a complaint should be filed. Mr. Westlund testified that the 4 major concerns at the PRB hearing were:

- Plan checking and drafting errors. Mr. Rodney was either not following his own process or his execution was poor;
- Redundancy checks. Mr. Rodney described a correct process but there was no indication that he was actually following it. If he was following it, he was not recording his checks;
- Governing evidence. Mr. Rodney created plans and often appeared not to realize that he didn't have any governing evidence. There was some uncertainty about whether he knows what governing evidence he should be looking for.

On the plans, his evidence analysis is often incomplete;
• Failure to follow up on promised plan corrections, or failure to complete plan corrections.

Mr. Rodney

13. Mr. Rodney returned to the hearing following the conclusion of Mr. Westlund’s testimony. After being sworn, he provided the Discipline Committee with Exhibit 11, which was a revised version of Exhibit 3, and he affirmed and adopted his earlier opening statement as his testimony under oath. He indicated that he had retired and that his current practice was limited to accepting updates for RPR’s. He indicated that he would not be closing his office until springtime because of outstanding money issues. In response to questions from Mr. Jardine, Mr. Rodney outlined his background, training and experience as an Alberta land surveyor. At the time of his testimony, he had been an ALS for approximately 15 years. During the time in question for the plans identified, he worked with his life-partner, Jan Penner (whom Mr. Rodney also described as “...my assistant, my wife, my partner) a draftsman, and a party chief. Mr. Jardine asked Mr. Rodney if he wanted to clarify anything identified in the notice of hearing, and Mr. Rodney said that in item 13, any inference that he had lied or knowingly misled the Association was wrong, since he had no intention of doing that. Mr. Rodney thought the corrections had been made in an appropriate manner, and he didn’t appreciate that the corrections had been overlooked by the land titles office. Mr. Rodney denied “cutting corners to save money” and indicated that while those words might have been used, that is definitely not his practice.

V. Submissions by Mr. Jardine

14. On behalf of the Association, Mr. Jardine submitted that the Association had to prove the allegations set out in the notice of hearing on a balance of probabilities. If the Discipline Committee found that some or all of the allegations had been proven, the Association also had the burden of proving that the proven allegations constituted either unskilled practice or unprofessional conduct. Mr. Jardine referred the Discipline Committee to section 35 of the Act. Mr. Jardine referred to Mr. Rodney’s testimony and Exhibit 11 in which Mr. Rodney acknowledged that there were a number of legitimate issues identified by the PRB. In relation to plan 112 1597, Mr. Westlund had testified that the 3rd plan had serious issues, in relation to questions from Mr. Jardine, Mr. Westlund acknowledged that there were a significant number of mistakes that were overlooked by the land titles office. Mr. Jardine said that the evidence was clear that Mr. Rodney might have thought the corrections had been done, but he obviously didn’t check to see if they had been done. Finally, allegation 15 alleged that Mr. Rodney’s plan corrections cause other problems, Mr. Jardine referred to one dimension being changed, which created a misclosure on the adjacent lot. Mr. Jardine said that the allegation was proven by the testimony of Mr. Westlund and confirmed during the Comprehensive Review process.

15. Mr. Jardine proceeded to summarize the evidence in relation to each of the allegations in the Notice of Hearing, Allegation 1, dealing with posting was admitted by Mr. Rodney. Allegation 2, dealing with closure, was also admitted by Mr. Rodney. Allegations 3 and 4, which dealt with revisions and dimension errors, had been established by the evidence of Mr. Westlund and acknowledged by Mr. Rodney (12 of the 19 dimensions had to be redone). With respect to allegation 5, Mr. Westlund testified that there was an issue about whether enough evidence had been checked to establish the boundary of the descriptive title. In relation to allegation 6, Mr. Westlund’s evidence clearly indicated that the boundaries did not close. In relation to allegation 7, the evidence disclosed that no redundancy checks were recorded. Mr. Rodney’s response was that they had been done, but there was nothing in the notation that showed that it had been checked. With respect to allegation 8, Mr. Westlund testified that the posts in question were off-line. With respect to allegation 9, Mr. Westlund testified that the area listed was incorrect, and Mr. Rodney acknowledged that fact. Mr. Jardine submitted that allegation 10 had been proven through the testimony of Mr. Westlund, and the exhibits, and there was a clear shortage outside the tolerances permitted in the Manual of Standard Practice. In relation to allegation 11, Mr. Jardine stressed that the boundary uncertainty was not created by Mr. Rodney, but it was his unwillingness to address the boundary uncertainty that had been proven by Mr. Westlund’s testimony and the exhibits. In relation to allegation 12, Mr. Jardine referred to page 31 of the transcript before the PRB, which confirms that Mr. Rodney had used those words. However, Mr. Jardine referred to the Discipline Committee to Mr. Rodneys explanation given earlier in these proceedings. In relation to allegation 13, Mr. Jardine indicated that the PRB felt that they had been advised by Mr. Rodney that the corrections had been completed, and the PRB found that they had not been completed. Mr. Jardine referred the Discipline Committee to Mr. Rodney’s evidence in that regard, and the documents that had been submitted to the land titles office. Allegation 14 dealt with whether Mr. Rodney had exercised adequate direction and control with respect to the corrections to plan 122-0231. Mr. Jardine said that the evidence was clear that Mr. Rodney might have thought the corrections had been done, but he obviously didn’t check to see if they had been done. Finally, allegation 15 alleged that Mr. Rodney’s plan corrections cause other problems, Mr. Jardine referred to one dimension being changed, which created a misclosure on the adjacent lot. Mr. Jardine said that the allegation was proven by the testimony of Mr. Westlund and confirmed during the Comprehensive Review process.

VI. Submissions by Mr. Rodney

16. Mr. Jardine submitted that a single mistake is not proof of unprofessional conduct or unskilled practice. However, it was open to the Discipline Committee to look at the entirety of the evidence and the number of mistakes or the nature of the mistakes, and whether appropriate checking was done and whether redundancies were done and documented. Mr. Jardine submitted that there were a significant number of mistakes that were proven to the point where it was detrimental to the best interests of the public, and if unaddressed, could harm the standing of the profession, amounting to unskilled practice or unprofessional conduct. Mr. Jardine submitted that most of the practice issues identified could constitute either unskilled practice or unprofessional conduct, even accepting the explanations given by Mr. Rodney on a limited number of specific allegations.

17. Mr. Rodney initially declined to say anything in his closing submissions. When pressed, he commented that while Mr. Westlund had testified that the 3rd plan had serious issues, in Mr. Rodneys view, the issues arising from the 3rd plan were not nearly as serious as the first 2. He described the area problem (allegation 9) not as a “lack of skill”, but merely a mistake based on placing the decimal point in the wrong place.
VII. FINDINGS OF THE DISCIPLINE COMMITTEE

18. The Discipline Committee makes the following findings in relation to the allegations in the Notice of Hearing:

ALLEGATION #1
The evidence establishes that Allegation 1 has been proven on a balance of probabilities to be a breach of Section 45 of the Surveys Act.

ALLEGATION #2
The evidence establishes that Allegation 2 has been proven on a balance of probabilities; the lot did not close.

ALLEGATION #3
The evidence establishes that Allegation 3 has been proven on a balance of probabilities; the ASCM tie was revised more than once.

ALLEGATION #4
The evidence establishes that Allegation 4 has been proven on a balance of probabilities; multiple dimension errors occurred when changes were made to the plan in an effort to satisfy georeferencing requirements.

ALLEGATION #5
The evidence establishes that Allegation 5 has been proven on a balance of probabilities; there is a possibility of a boundary uncertainty.

ALLEGATION #6
The evidence establishes that Allegation 6 has been proven on a balance of probabilities; there was a misclosure on the plan.

ALLEGATION #7
The evidence establishes that Allegation 7 has been proven on a balance of probabilities; redundancy checks were not carried out on this survey.

ALLEGATION #8
The evidence establishes that Allegation 8 has been proven on a balance of probabilities; the plan does not accurately represent the field survey.

ALLEGATION #9
The evidence establishes that Allegation 9 has been proven on a balance of probabilities; the areas for Lots 18A & 18B, Plan 132 0184 are incorrect. Further, the “found no mark” notation at the NE corner of Lot 2 is unnecessary.

ALLEGATION #10
The evidence establishes that Allegation 10 has been proven on a balance of probabilities; there is an approximate 0.4m shortage in the south boundary of this block.

ALLEGATION #11
The evidence establishes that Allegation 11 has been proven on a balance of probabilities; there is a possible boundary uncertainty in this block.

ALLEGATION #12
The evidence fails to establish that Allegation 12 has been proven on a balance of probabilities.

ALLEGATION #13
The evidence fails to establish that Allegation 13 has been proven on a balance of probabilities.

ALLEGATION #14
The evidence establishes that Allegation 14 has been proven on a balance of probabilities; Mr. Rodney did not exercise adequate direction and control with respect to the correction to Plan 122 1231.

ALLEGATION #15
The evidence establishes that Allegation 15 has been proven on a balance of probabilities; corrections to plan 122 0231 and plan 112 1597 created new problems.

VIII. FINDINGS OF FACT AND REASONS OF THE DISCIPLINE COMMITTEE

19. ALLEGATION #1
The Discipline Committee finds that the evidence clearly shows the access right of way which forms part of the subdivided lot on plan 112 1597 was not posted in accordance with Section 45(1)(a) of the Surveys Act. The plan being reviewed was registered on March 16, 2011. A plan correction (not related to the allegation) was registered at Land Titles on November 30, 2011. This plan correction was done prior to the initiation of CCR #224.1. According to the DPR’s comments in his Assessment Summary for CCR #224.1, when Mr. Rodney was questioned on February 13, 2012 (Transcript pg 87 – note error in year), he wasn’t aware the access wasn’t posted on both sides. Mr. Rodney added that he would review the plan and make any necessary corrections. And in Mr. Rodney’s testimony at the Discipline Hearing, he said this portion of the subdivision plan was posted as a right-of-way and added ‘That was incorrect’ (Transcript pg 213). The error was corrected by Mr. Rodney on the new version of the plan registered at Land Titles on January 8, 2014. The Discipline Committee notes that the access portion of the lot was not originally posted according to the Surveys Act, and that the error was not picked up when a correction to an unrelated problem was made to the registered plan at Land Titles. In addition, Mr. Rodney admitted to drafting and checking the plan himself (page 73, exhibit 2). In the opinion of the Discipline Committee, these facts and conduct, including the nature and extent of the errors, constitute unskilled practice and:

a. is detrimental to the best interest of the public,

b. harms or tends to harm the standing of the profession of surveying generally,

c. displays a lack of knowledge of or lack of skill or judgment in the practice of surveying,

d. displays a lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of surveying.
20. ALLEGATION #2
The Discipline Committee accepts that the version of Plan 112 1597 reviewed by the CCR process had a misclosure of approximately 0.5m. The plan was originally registered at Land Titles on March 16, 2011. On November 30, 2011, a distance on one of the boundaries of Lot 1 was corrected at Land Titles (prior to the issuance of CCR #224.1). Despite this plan correction, a 0.5m misclosure in Lot 1 still remained, and was identified during the DPR’s plan examination. The error was corrected by Mr. Rodney on the new version of the plan registered at Land Titles on January 8, 2014. Interestingly, of all the dimensions shown on the plan initially reviewed by the DPR, more than half were changed (initial letter of complaint - exhibit 2, transcript page 150) on the corrected plan dated January 8, 2014. The fact that a misclosure in Lot 1 still existed after a plan correction at Land Titles, and that numerous dimensions were ultimately changed, is evidence that closures were not properly conducted. Mr. Rodney admitted to drafting and checking the plan himself (page 73, exhibit 2). These facts together are evidence of unskilled practice. In the opinion of the Discipline Committee, these facts and conduct, including the nature and extent of the errors, constitute unskilled practice and:
   a. is detrimental to the best interest of the public,
   b. harms or tends to harm the standing of the profession of surveying generally,
   c. displays a lack of knowledge of or lack of skill or judgment in the practice of surveying,
   d. displays a lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of surveying.

21. ALLEGATION #3
The Discipline Committee accepts that the ASCM tie on Plan 112 1597 was changed twice. The plan was originally registered on March 16, 2011. A plan revision dated November 30, 2011 shows a new distance on the ASCM tie. On the subsequent Judges Order replacement plan (registered January 8, 2014), the ASCM tie was changed back to the original value. Mr. Rodney’s explanation for the initial change is found in his testimony at the PRB Hearing on January 15, 2014 (pg 77, exhibit 2). According to Mr. Rodney, Land Titles saw that the ASCM tie was incorrect and asked him to change it. This is difficult to understand, especially after the second plan correction, which changed the distance back to its’ original value. Despite the confusing nature of Mr. Rodney’s testimony, in the opinion of the Discipline Committee, the two changes to the ASCM tie is insufficient to lead to a finding of unskilled practice in relation to Allegation #3.

22. ALLEGATION #4
The Discipline Committee accepts that multiple dimension errors appeared on the initial plan registered at Land Titles on March 16, 2011. This is evidenced by comparing distances on the subsequent Judges Order replacement plan registered on January 8, 2014. The evidence also shows that Mr. Rodney’s original plan submission to Land Titles was rejected because it was not georeferenced (exhibit 2 – pg 15, 74, 75). Mr. Rodney believes the dimension errors occurred when he incorrectly rotated the plan to satisfy georeferencing requirements. Practitioners must stay current with new standards affecting their practice, including plan registration requirements at Land Titles. The evidence shows that Mr. Rodney was not aware of georeferencing requirements, and struggled with the technical components and follow-up requirements when attempting to adjust his plan. In the opinion of the Discipline Committee, Mr. Rodney’s lack of knowledge of plan requirements and standards constitutes evidence of unskilled practice and displays a lack of knowledge of or lack of skill or judgment in the practice of surveying.

23. ALLEGATION #5
The Discipline Committee accepts that the evidence shows a boundary uncertainty may have been created on plan 112 1597. A portion of the new lot boundary on plan 112 1597 is coincident with a boundary as described on a Certificate of Title. As identified in the CCR, Mr. Rodney did not tie in sufficient evidence to establish the boundary of the descriptive title (exhibit 2, pg 14). As a result, Mr. Rodney’s plan may have created a boundary uncertainty. In Mr. Rodney’s testimony at the PRB Hearing on January 15, 2014, he agreed that his plan may have created a boundary uncertainty (exhibit 2, pages 76, 80, 81). The Discipline Committee finds that Mr. Rodney did not adequately assess the survey evidence, possibly leading to a boundary uncertainty. Further, in his testimony, Mr. Rodney does not appear to acknowledge the importance of avoiding boundary uncertainties (same pages above, and also exhibit 11). In the opinion of the Discipline Committee, these facts and conduct, including the nature and extent of the errors constitute unskilled practice and:
   a. is detrimental to the best interest of the public,
   b. harms or tends to harm the standing of the profession of surveying generally,
   c. displays a lack of knowledge of or lack of skill or judgment in the practice of surveying,
   d. displays a lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of surveying.

24. ALLEGATION #6
The Discipline Committee finds that the evidence establishes that Lot 1 and Lot 2, as created on Plan 122 0231, did not close to an acceptable standard as prescribed in the MSP. The CCR review identified the misclosure, related to an erroneous distance on the boundary between Lot 1 and Lot 2 (exhibit 2 pages 21, 22). Mr. Rodney accepted this finding, calling it a drafting blunder (exhibit 2 page 30). Mr. Rodney also suggested that closures were done on the 2 lots (exhibit 2 page 31). The dimension was changed on a plan correction registered at Land Titles on May 30, 2013. In Mr. Rodney’s testimony at the PRB Hearing on January 15, 2014, he suggests 0.08m isn’t a great deal (exhibit 2 page 85), even though it resulted in a closure that was below the acceptable standard. The Discipline Committee finds that this demonstrates evidence of shortcomings in Mr. Rodney’s plan checking process, and also a lack of understanding of acceptable accuracy tolerances. In the opinion of the Discipline Committee, these facts and conduct, including the
nature and extent of the errors constitute unskilled practice and:

a. is detrimental to the best interest of the public,
b. harms or tends to harm the standing of the profession of surveying generally,
c. displays a lack of knowledge of or lack of skill or judgment in the practice of surveying,
d. displays a lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of surveying

25. ALLEGATION #7
The Discipline Committee finds that the evidence has established that redundancy checks were not carried out when the survey of plan 122 0231 was conducted. The PRB's field inspection was conducted on July 25, 2012 (exhibit 2 page 22). The field inspection determined that the position of found monuments were in different locations than shown on plan 122 0231 (exhibit 2 page 22). Further, Mr. Rodney admitted that redundancy checks were not performed on this survey (exhibit 2 pages 28, 29). Based on the results of the PRB's field inspection and Mr. Rodney's subsequent plan correction (registered at Land Titles on May 30, 2013), it is clear that if redundancy checks had been done, they were not reviewed and as a result significant errors were overlooked (excerpt from initial letter of complaint, exhibit 2 page 5). In the opinion of the Discipline Committee, these facts and conduct, including the nature and extent of the errors constitute unskilled practice and:

a. is detrimental to the best interest of the public,
b. harms or tends to harm the standing of the profession of surveying generally,
c. displays a lack of knowledge of or lack of skill or judgment in the practice of surveying,
d. displays a lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of surveying

26. ALLEGATION #8
The Discipline Committee finds that plan 122 0231 does not accurately represent the field survey. This was confirmed by the PRB's field inspection (exhibit 2 pages 21, 22). The DPR also found inconsistencies when comparing observed distances in Mr. Rodney's field notes to dimensions shown on the registered plan (exhibit 2 page 21). Further, Mr. Rodney admitted that his plan does not accurately represent the field survey with respect to Lots 1 and 2 (exhibit 2 page 30). Mr. Rodney expressed confusion in his response to the PRB (exhibit 2 page 30) on how to deal with posts that are offline by a few centimetres. In the PRB Hearing on January 15, 2014, Mr. Rodney spoke about “a true corner” (exhibit 2 pages 86, 95, 96). His testimony also seems to suggest that posts govern while simultaneously suggesting that they don’t (exhibit 2 page 87). The Discipline Committee finds that the above facts constitute evidence of a poor understanding of governing evidence. Furthermore, the Discipline Committee finds that Mr. Rodney was not able to demonstrate any clear understanding of how to show small discrepancies on a plan. In the opinion of the Discipline Committee, these facts and conduct, including the nature and extent of the errors constitute unskilled practice and:

a. is detrimental to the best interest of the public,
b. harms or tends to harm the standing of the profession of surveying generally,
c. displays a lack of knowledge of or lack of skill or judgment in the practice of surveying,
d. displays a lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of surveying

27. ALLEGATION #9
The Discipline Committee finds that the areas shown on plan 122 0231 for lots 18A and 18B are incorrect. This was identified by the CCR review (exhibit 2 page 46). Mr. Rodney also admitted that the areas were shown incorrectly (exhibit 2 page 61) adding that it was a drafting error which put the decimal point in the wrong place. When asked a general question at the PRB Hearing, Mr. Rodney said that areas of lots must be shown on a survey plan (exhibit 2 page 107). According to the Land Titles Procedures Manual, areas are not required to be shown on a plan if less than 0.5ha. With respect to the “found no mark” notation at the NE corner of Lot 2, the Discipline Committee agrees that it is unnecessary, as no previous plans indicate that a post was planted here (exhibit 2 page 46). The Discipline Committee believes that while these findings could be evidence of shortcomings in Mr. Rodney’s plan preparation and/or checking processes, as well as displaying a lack of knowledge relating to plan requirements, in the opinion of the Discipline Committee, these findings alone do not constitute unskilled practice.

28. ALLEGATION #10
The Discipline Committee finds that when compared to Plan 6308ET, there is a shortage of approximately 0.4m in the south boundary of the subject block on plan 132 0184. This was found by the DPR (exhibit 2 page 46). The shortage was confirmed by the CCR field inspection (exhibit 2 page 59). This discrepancy results in an accuracy of less than 1:5,000, which is the minimum requirement in the MSP. There is no check-measured comment on the plan to suggest Mr. Rodney was aware of the discrepancy. In his response to the PRB's report, Mr. Rodney failed to provide a satisfactory explanation (exhibit 2 page 62). When questioned at the PRB Hearing, Mr. Rodney said he didn’t look for additional evidence as it may have confused things more (exhibit 2 page 100). The Discipline Committee believes that additional evidence assessment should have been performed when the discrepancy was found. The Discipline Committee also found that Mr. Rodney lacked understanding of the accuracy requirements outlined in the MSP. In the opinion of the Discipline Committee, these facts and conduct, including the nature and extent of the errors constitute unskilled practice and:

a. is detrimental to the best interest of the public,
b. harms or tends to harm the standing of the profession of surveying generally,
c. displays a lack of knowledge of or lack of skill or judgment in the practice of surveying,
d. displays a lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of surveying
29. ALLEGATION #11
The Discipline Committee accepts that there may be a boundary uncertainty in Block 156 Plan 6308ET. This is confirmed by the DPR and the CCR field inspection (exhibit 2 page 57). In the PRB Hearing, Mr. Rodney states that a boundary uncertainty does exist (exhibit 2 page 99, 100), however his response suggests he does not believe he is responsible for dealing with it. The Discipline Committee stresses that it is the obligation of every surveyor to bring boundary uncertainties to light, with a goal to resolve them. This is the case even when the surveyor is not responsible for creating them. Further, the Discipline Committee acknowledges that Mr. Rodney avoided dealing with the potential boundary uncertainty in the vicinity of his new lots. The Discipline Committee does not however believe that in these specific circumstances, Mr. Rodney’s actions constitute unskilled practice, given that Mr. Scott testified that the situation was unusual, and nothing that Mr. Rodney did created the problem, nor could he resolve it.

30. ALLEGATION #12
The Discipline Committee fails to find proof on a balance of probabilities that Mr. Rodney may be cutting corners to save time. With respect to plan 122 0231, in Mr. Rodney’s response to the CCR report, he said that a lack of daylight prevented him from performing his redundancy checks. He left the job site early due to a lack of daylight (exhibit 2 page 28, 29). Although this is regrettable in this instance, there is not enough corroborating evidence to suggest Mr. Rodney routinely skips redundancy checks, or cuts corners to save time. In the opinion of the Discipline Committee, there is insufficient evidence of unprofessional conduct.

31. ALLEGATION #13
The Discipline Committee fails to find proof on a balance of probabilities that Mr. Rodney attempted to intentionally mislead the PRB regarding plan corrections made to Plan 122 0231. It is accepted that in his response to the PRB’s report, Mr. Rodney identified 4 corrections that he said he would do (exhibit 2 page 32). Upon review of the corrected plan (corrected at Land Titles on May 30, 2013), only 1 of the corrections was completed. At the PRB Hearing on January 15 2014, Mr. Rodney was questioned about the other 3 corrections. His testimony appears to blame Land Titles for not recording the 3 corrections (exhibit 2 page 91). He also admits that he had not seen the plan since the corrections were submitted to Land Titles (exhibit 2 page 91). In the Discipline Hearing, Mr. Rodney said he did not intend to mislead anyone (exhibit 13), although he admitted to lack of follow up. Also in the Discipline Hearing, Mr. Rodney expressed concern about the allegation. His response was that if he misled the Association somehow, there was no intention of doing so (transcript page 175). The Discipline Committee recognizes the seriousness of failing to complete the plan corrections. The Committee does not however feel on a balance of probabilities that there was any intent on Mr. Rodney’s behalf to mislead the PRB, and in the opinion of the Discipline Committee, there is insufficient evidence of unskilled practice or unprofessional conduct.

32. ALLEGATION #14
With respect to plan 122 0231, the Discipline Committee accepts that Mr. Rodney identified 4 corrections to the PRB that he said he would do (exhibit 2 page 32). The request submitted to Land Titles however did not match Mr. Rodney’s previously identified corrections (exhibit 2 pages 33-40). And the request submitted to Land Titles was not signed by Mr. Rodney, but by his assistant. Further, not all of the requested corrections were made by Land Titles, probably because the corrections were not clearly identified and thus overlooked by Land Titles staff. There is also no evidence that Mr. Rodney reviewed the submission to Land Titles or followed up after the corrections were done to ensure they were completed to his satisfaction. On this point, Mr. Rodney admitted during the PRB Hearing that he had not seen the plan since the corrections were submitted to Land Titles (exhibit 2 page 91). During the PRB Hearing, Mr. Rodney was asked if he would follow up with Land Titles about the outstanding corrections. From the testimony, there appears to be a reluctance on Mr. Rodney’s behalf to follow up – ‘I am not committing to do anything today. I can do that, if that is what you want’. Based on the evidence, the Discipline Committee accepts that Mr. Rodney did not exercise adequate direction and control with respect to the corrections to plan 122 0231. Further, the evidence shows that Mr. Rodney was reluctant to confirm if the corrections were made appropriately, unless instructed to do so by the PRB. In the opinion of the Discipline Committee, these facts and conduct, including the nature and extent of the errors constitute both unskilled practice and unprofessional conduct and:

a. is detrimental to the best interest of the public,
b. harms or tends to harm the standing of the profession of surveying generally,
c. displays a lack of knowledge of or lack of skill or judgment in the practice of surveying,
d. displays a lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of surveying

33. ALLEGATION #15
The Discipline Committee finds that the evidence demonstrated that a correction to plan 122 0231 created a new problem. On May 30 2013, a plan correction was registered at Land Titles showing a new distance on the east boundary of Lot 1. This correction solved the misclosure in Lot 1. The change in the distance however created a new problem, namely a misclosure in the adjacent Lot 2. The error is 1:4700, which is below the standard in the MSP (exhibit 2 page 9). A possibility that there was an error in the dimension on the north boundary of Lot 2 was brought to Mr. Rodney's attention in the PRB’s initial report, sent on August 20, 2012 (exhibit 2 page 22). In the PRB Hearing on January 15 2014, Mr. Rodney indicated that he was not aware that the plan correction introduced a misclosure on Lot 2 (exhibit 2 page 91). A similar situation occurred with plan 112 1597 and is detailed in Allegation 2. The Discipline Committee finds this evidence demonstrates that Mr. Rodney does not take sufficient care and attention when completing plan corrections. In the opinion of the Discipline Committee, Mr. Rodney’s actions constitute unskilled practice or unprofessional conduct.
Committee, these facts and conduct, including the nature and extent of the errors constitute unskilled practice and:
   a. is detrimental to the best interest of the public,
   b. harms or tends to harm the standing of the profession of surveying generally,
   c. displays a lack of knowledge of or lack of skill or judgment in the practice of surveying,
   d. displays a lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of surveying.

IX. CONCLUSION
34. The Discipline Committee has found that there was evidence of both unskilled practice or unprofessional conduct in 10 of the 15 allegations presented by the PRB, and the Discipline Committee believes that the practitioner’s conduct in the proven allegations was detrimental to the best interests of the public, harmed the standing of the profession, or displayed a lack of knowledge, skill and judgment in the execution of his duties as a Land Surveyor.

35. We feel that it is important to recognize that the plans under review in this matter came from a pool of products selected by the practitioner himself, and these plans contained information related to measurements and the placement of monuments that were significantly and consistently below acceptable standards. Testimony indicated that this particular file was described as one of the lowest scoring amongst the 454 files that were examined through Phase 1 of the CCR program.

36. It is disturbing to note that the plan corrections necessary with the subject products have not been entirely completed as of the date of this decision.

37. The Discipline Committee believes that the practitioner has exhibited a lack of knowledge in many of the most important areas of expertise necessary to a Land Surveyor, such as plan requirements, measurement standards, tolerances and redundancy, and the determination and use of governing evidence. He does not seem to afford the necessary care and concern for the cadastral fabric, nor does he appear to have a full understanding of the consequences of errors and deficiencies made on survey plans, that are registered documents of public record.

38. The Discipline Committee recognizes that the practitioner has indicated to us within his written summary that “I acknowledge the fundamental correctness of the charges put before you.” and “I do accept the consequences of my actions as an Alberta Land Surveyor.” He has further indicated his intent to very soon retire and that he is currently engaged in the wind down of his practice. His testimony on that point was not entirely clear to the Discipline Committee (in terms of detail and timing) but the Discipline Committee believes that issue should be addressed in the discussion of appropriate sanctions, in light of our decision on findings of unskilled practice and unprofessional conduct.

X. HEARING TO DETERMINE ORDERS/SANCTIONS
39. Given the findings of the Discipline Committee, the parties are directed to make suitable arrangements to make submissions on appropriate sanctions and orders within 90 days of the date of service of this decision.

Dated this 7th day of July, 2015.

Signed on behalf of the Discipline Committee

Dirk VandenBrink, ALS
Discipline Panel Chairman

Dominion Land Surveyors?

In 2010, we found this marker in Banff National Park, somewhere along the trail to Glacier Lake (a few kilometres south west of the junction of Highways 93 and 11), but perhaps 20 metres off the trail. I can’t find any contact info online for the DLS, but didn’t want this tiny piece of Canadian history to be forgotten.

Guillermo Barron
INTRODUCTION

1. A hearing of the Discipline Committee of the Alberta Land Surveyors’ Association (“the Association”) was held on September 15, 2015 at the Alberta Land Surveyors’ Association, 1000, 10020 – 101 Avenue, Edmonton, Alberta.

The members of the Discipline Committee were:

Mr. Dirk VandenBrink, ALS, (Chair)
Mr. Chad Finner, ALS
Mr. Blaine Benson, ALS

In attendance at the hearing were:

Mr. D.R. McWilliam, ALS, Acting Registrar
Ms. R. Broderick, Registrar (Observing)
Mr. L. Rodney, ALS
Mr. D. Jardine, Esq., Legal Counsel for the Association
Mr. F.S. Kozak, QC, Independent Legal Counsel for the Discipline Committee

2. In its written decision dated July 7, 2015, the Discipline Committee dealt with 15 allegations against Mr. Rodney set out in a letter of complaint from the Practice Review Board (“PRB”) dated February 12, 2014. The letter (set out below – appendices not reproduced) alleges the following:

The Practice Review Board, at its meeting of February 12, 2014, passed a motion to close CCR file 224.1 and file a complaint with the ALSA registrar.

The Practice Review Board alleges that Mr. Lewis Rodney is guilty of unskilled practice and unprofessional conduct.

The specifics of our complaint are as follows:

Examples of alleged unskilled practice

The PRB noted the following possible instances of unskilled practice during the review of Plan 112 1597. A copy of the plan reviewed, the corrected plan, and other supporting information is included in Appendix A. A copy of the hearing transcript is provided in Appendix D. The pertinent portions of the documents in the appendices have been highlighted and the reference number corresponds to the items in the following list.

[1] Lot 1 Block 1 Plan 112 1597 was not posted in accordance with Section 45 of the Surveys Act.

Plan 112 1597 created a boundary uncertainty between Lot 1 Block 1 and the NE 27 because the easterly portion of Lot 1 Block 1 was not posted on both sides and dimensioned accordingly (see Appendix A Page 12– Plan reviewed for CCR 224.1). Although Mr. Rodney indicated that he supervised the field work and checked the plan himself (see Appendix D Page 74 lines 18 to 20, and Page 75 lines 10 & 11), based on his response to the DPR’s questions during the initial review (see Appendix A Page 14), Mr. Rodney was unaware that this lot was not posted in accordance with the Act until it was pointed out to him by the DPR. It is also interesting to note that the plan examined for the initial review had been corrected prior to the plan being submitted for this review but the major posting deficiency was not addressed.

Mr. Rodney’s explanation for the error doesn’t seem plausible. According to his response to the DPR and his testimony at the hearing (see Appendix D Page 75 lines 13 to 22) the easterly portion of Lot 1 Block 1 was contained many drafting errors and misclosures. It also appears that the governing evidence may not have been used on two of the plans and one of the plans does not appear to accurately reflect the field survey. Through the course of the product examinations and field inspections and after reviewing the ALS’s responses to the Director of Practice Review’s reports and the ALS’s testimony at the PRB hearing, the PRB has uncovered possible shortcomings relating to the ALS’s field procedures, knowledge of Acts and Regulations, direction and control of the practice, and the plan preparation and checking processes. The PRB believes these shortcomings may not be limited to the products examined and the products examined are typical for this ALS. As such, the PRB has closed the file and is filing a complaint alleging unskilled practice and unprofessional conduct.

The Practice Review Board alleges that Mr. Lewis Rodney is guilty of unskilled practice and unprofessional conduct.

Background information

Mr. Rodney is the sole ALS at Kiriak Surveys Ltd. He is heavily involved in all aspects of the work done by this firm. He currently employs one staff member but, in the past, he has occasionally used a contract party chief and draftsperson. Throughout this review he indicated several times that he does everything. At the PRB’s hearing on January 15, 2014, he told the Practice Review Board (PRB) that he is the party chief, chainman, the draftsperson and the plan checker (see Appendix D Page 73 - lines 4 to 8).

CCR file 224.1 was opened on November 16, 2011. Two comprehensive reviews were completed and Mr. Rodney attended a formal hearing with the PRB on January 15, 2014. As part of the initial and comprehensive reviews, three subdivision plans were examined; two of these were field inspected. All three plans required plan corrections because they contained many drafting errors and misclosures. It also appears that the governing evidence may not have been used on two of the plans and one of the plans does not appear to accurately reflect the field survey. Through the course of the product examinations and field inspections and after reviewing the ALS’s responses to the Director of Practice Review’s reports and the ALS’s testimony at the PRB hearing, the PRB has uncovered possible shortcomings relating to the ALS’s field procedures, knowledge of Acts and Regulations, direction and control of the practice, and the plan preparation and checking processes. The PRB believes these shortcomings may not be limited to the products examined and the products examined are typical for this ALS. As such, the PRB has closed the file and is filing a complaint alleging unskilled practice and unprofessional conduct.

The specifics of our complaint are as follows:

Examples of alleged unskilled practice

The PRB noted the following possible instances of unskilled practice during the review of Plan 112 1597. A copy of the plan reviewed, the corrected plan, and other supporting information is included in Appendix A. A copy of the hearing transcript is provided in Appendix D. The pertinent portions of the documents in the appendices have been highlighted and the reference number corresponds to the items in the following list.

[1] Lot 1 Block 1 Plan 112 1597 was not posted in accordance with Section 45 of the Surveys Act.
initially intended to be an access easement for a driveway. Mr. Rodney indicated that "I didn't get that information (that it was to be part of the lot) until it was already in the process of being registered." Based on this, we would have expected to see an easement plan or a width for the access portion at the very least. Mr. Rodney drafted the plan himself and must have been aware of the change from an easement to a portion of the lot before it was submitted to Land Titles. He attempted to revise the plan but did not properly make the change. The explanation offered, "but the client expected it to be done two weeks ago" (see Appendix D Page 75 lines 5 to 7) suggests that further investigation into the cause of the errors made on this plan is necessary. Mr. Rodney's failure to notice that this plan was not posted in accordance with the Act even though he drafted the plan himself is a possible example of unskilled practice.

Mr. Rodney used a Judge's Order to correct plan 112 1597 on January 8, 2014. A copy of the most recent version of the plan is included in Appendix A Page 17.

[2] Lot 1 Block 1 Plan 112 1597 did not close.

Although Mr. Rodney indicated that he did a closure on this plan (see Appendix D Page 75, line 10) and compares distances to other registered plans as part of his plan checking process, the lot created on this plan did not close by up to 75 m when it was initially submitted to Land Titles. A correction to change a dimension from 142.19 to 66.60 was made prior to submitting the plan for examination by the DPR as part of CCR 224.1 (see the initial plan reviewed in Appendix A Page 12).

During the plan examination, the DPR noted that the lot on the corrected version of the plan still did not close by 0.5 m (see Appendix A Page 12 and 14).

Mr. Rodney's seeming inability to detect dimension errors on plans even though he claims to be checking them is a possible example of unskilled practice.

As noted above, a new version of the plan was registered using a Judge's Order. As can be seen on the corrected version (see Appendix A Page 17), 12 of the 19 dimensions drafted on the initial version of the plan were revised, some have been changed several times. Additionally, a post south of the NE 27 is now 0.04 W of the quarter line. These changes further exemplify his plan checking shortcomings.

[3] The tie to ASCM 105379 was revised multiple times (see the two versions of registered Plan 112 1597 provided in Appendix A Page 12 and 17).

According to Mr. Rodney's testimony at the PRB's hearing, the distance value to this ASCM was initially changed as requested by the Land Titles plan examination staff (see Appendix D Page 77 lines 10 to 14). The ASCM tie is shown to a new post placed by Mr. Rodney. It is difficult to understand how Land Titles would know what this value should be since it has not been shown or reported on any other plans. It seems that Mr. Rodney did not check the true distance or sufficiently review his field observations before making a change requested by Land Titles. The ASCM tie was later changed back to its original value. Mr. Rodney's seeming inability to determine the correct value for the ASCM tie is possibly an example of unskilled practice.

[4] When questioned by the DPR and PRB about the multiple dimension errors, Mr. Rodney claimed that the problems with the distances on this plan were a result of the requirement to georeference the plan (see Appendix A page 15 and Appendix D pages 74 lines 24 to 27 and 75 lines 1 to 4).

According to Mr. Rodney's testimony at the PRB's hearing, when this plan was initially submitted to Land Titles it was rejected because it was not georeferenced. At the time, Mr. Rodney was unaware of the requirement to georeference the plan. He claimed that he was under pressure to register the plan and rotated it incorrectly resulting in multiple errors throughout the plan. Based on his response to a question posed at the hearing, Mr. Rodney does not appear to fully understand rotation, georeferencing or plan bearings (see Appendix D Page 81 lines 10 to 26, Page 82 to 83). Mr. Rodney's apparent lack of knowledge of plan requirements, standards, and the fundamentals of surveying is possibly an example of unskilled practice.

[5] Mr. Rodney is unsure if there is a gap or overlap between the NW portion of Lot 1 Block 1 and the parcel to the north described on a certificate of title.

The governing evidence may not have been tied in for this survey and the methodology used to determine the north boundary is not 100% correct. Mr. Rodney has no record or cannot recall if he tied in the N 1/4 27 to confirm the certificate of title boundary (see Appendix D page 76 lines 2 to 23). Based on the methodology used to define the south limit of the certificate of title, there may be an overlap or gap between the plan and certificate of title boundary (see Appendix D page 80 lines 10 to 27). Additional Survey evidence may be required to determine the exact limits of the titled parcel to the north and whether or not there is a boundary uncertainty here. Mr. Rodney seems to have not adequately assessed the survey evidence and this may be another example of unskilled practice and requires further investigation.

The PRB noted the following possible instances of unskilled practice during the review of Plan 122 0231. A copy of the plan reviewed, the corrected plan, and other supporting in-
There are unanswered questions about Mr. Rodney's redundancy checks. The DPR questioned Mr. Rodney about his redundancy policy (see Appendix B Page 23) and in his September 23, 2012, response to the report prepared by the Director of Practice Review he wrote the following (see Appendix B Page 28): "By this time it was quite late and, since it was early November, had gotten quite dark. Although we had intended to change the base position and retie our work, we did not have enough light. Since the calculations had proved the survey essentially correct, I decided to call it a day. I thought at the time that if there proved to be significant problems with the collected data I could return, although the checks we carried out by calculation indicated the survey was adequate." Furthermore, when addressing the DPR's question he stated "my decision was to omit the redundancy checks unless the plan showed significant deficiencies post-survey" (see Appendix B Page 29). At the hearing, when asked about the redundancy checks Mr. Rodney suggested that the redundancy check were made but not recorded but he seemed to be unsure as to how his field assistant actually did the redundancy checks (see Appendix D Page 87 lines 24 to 27 and Page 88).

Based on results from the PRB's field inspection and the ALS's subsequent plan correction it is apparent that the additional check ties were necessary. If the redundancy checks were made, they were not reviewed and significant errors were overlooked.

When asked at the hearing if he noted any discrepancies on the plan (see Appendix D Page 89 lines 9 to 20) Mr. Rodney indicated that he did not until they were pointed out to him by the DPR.

Mr. Rodney seems to be unsure as to how to obtain redundancy, seems unable to identify poor observations, and seems to regularly omit redundancy checks. These are possible examples of unskilled practice.

Mr. Rodney does not appear to have a good understanding of how to handle posts that are offline.

Both the DPR and Mr. Rodney noted that plan 122 0231 does not accurately represent the field survey (see Appendix B page 21 and 30). This seems to be due to monuments that are offline by a few centimetres.

In his response to the DPR's report (see Appendix B Page 30) and his response to a question at the hearing (see Appendix D Page 87 lines 8 to 14) Mr. Rodney expressed confusion as to how to handle posts that are offline. At the hearing Mr. Rodney also spoke about a true and an actual corner (see Appendix D Page 86 lines 4 to 15 and Page 95 lines 18 to 27 and Page 96 lines 1 & 2). Mr. Rodney's terminology was very confusing and his train of thought was very difficult to follow. He seemed to suggest that posts govern while simultaneously suggesting that they don't (see Appendix D Page 87 lines 6 & 7). Additionally, in his response to the DPR's report (see Appendix B Pages 24 to 28) Mr. Rodney's description of the survey conducted for Plan 122 0231 is very difficult to understand and it seems that, for this survey, Mr. Rodney was distracted by non-governing monuments that were found in the area.

Through the course of this review it has become apparent to the board that Mr. Rodney may not understand the basic principles of governing evidence and does not understand how to show small discrepancies on a plan. This appears to be a possible example of unskilled practice and may require further investigation.

The PRB noted the following possible instances of unskilled practice during the review of Plan 132 0184. A...
copy of the plan reviewed and other supporting information is included in Appendix C. A copy of the hearing transcript is provided in Appendix D.

[9] The areas listed for Lots 18A and 18B are incorrect and the found no mark notation drafted on the NE corner of Lot 2 is unnecessary (see Appendix C Page 46).

This is the third plan that contains obvious drafting errors further highlighting the shortcomings in the plan preparation and checking process. At the hearing Mr. Rodney told the PRB that his plans are checked up to four times (see Appendix D Page 102 lines 15 to 21). The PRB wouldn’t expect to see a pattern of plans with obvious drafting errors if they are truly checked four times. If they are checked four times, Mr. Rodney does not seem to have the skills necessary to adequately check a plan and this is possibly an example of unskilled practice.

Furthermore, at the hearing, Mr. Rodney was asked if the lot areas are required to be shown on a plan. Mr. Rodney responded that they are (see Appendix D Page 107 lines 1 to 8). The lots on this plan are well below 0.5 ha and according to the Land Titles Procedures manual the areas are actually not required to be shown. The board believes that this is another example of Mr. Rodney’s lack of knowledge relating to plan requirements and further investigation may be required.

[10] According to the dimensions on Plan 132 0184 there is an approximately 0.4 m shortage in the south boundary of this block.

This discrepancy is over about 75 m and works out to be much less than the 1:5000 accuracy requirement outlined in the MSP but there is no acknowledgement of this on the plan (i.e. check measured). When responding to a question from the DPR about the discrepancy, no real answer was provided (see Appendix C Page 62). At the hearing, the ALS suggested that additional evidence assessment would have only further confused the issue (see Appendix D page 100 lines 3 to 9). It appears that more evidence assessment could have been done to fully investigate the discrepancy.

Furthermore, when questioned about another 0.06 m discrepancy between field measurements and plan dimensions, Mr. Rodney suggested that a 0.06 discrepancy isn’t a lot (see Appendix D Page 100 lines 10 to 24). However, this discrepancy is over 30 m and is again well below the acceptable tolerance requirements outlined in the MSP.

Mr. Rodney seems to continually demonstrate a lack of understanding of the accuracy requirements outlined in the MSP. This is possibly an example of unskilled practice.

[11] There may be a boundary uncertainty in this block.

Mr. Rodney was asked at the hearing if there is a bound-

Examples of alleged unprofessional conduct
The board uncovered possible unprofessional conduct during the review of Plan 122 0231. Supporting information is included in Appendix B and D.

[12] Mr. Rodney may be ‘cutting corners’ to save time.

When asked by the DPR about possible changes to his plan checking process, Mr. Rodney responded in his September 23, 2012 letter with the following comment (see Appendix B Page 31): “The only realistic change required would be as Director Pratt said to me “Do every closure on every lot or figure that can be closed. No matter how insignificant it may seem.” I am afraid that cutting corners to save time has proven him to be correct. My recollection is that I did closures on those lots but the evidence would suggest otherwise” (emphasis added).

Additionally, at the hearing, Mr. Rodney suggested that the redundancy checks were not made on Plan 122 0231 because he didn’t have the budget to do them (see Appendix D Page 89 lines 2 to 8).

Mr. Rodney seems to be more concerned with his costs than protecting the public and producing plans that are correct and adequately checked. These may be examples of unprofessional conduct and further investigation is warranted.

Examples of alleged unskilled practice and unprofessional conduct
The board uncovered several issues relating to the plan corrections made to Plan 122 0231. These allegations are difficult to classify and may be either unskilled practice or unprofessional conduct. Supporting information is included in Appendix B and D.

[13] Mr. Rodney either misinformed or attempted to mislead the PRB regarding the plan corrections made to Plan 122 0231.

In his September 23, 2012 response to the DPR’s report, Mr. Rodney self-identifed the following four corrections that are necessary on Plan 122 0231 (see Appendix B Page 32):

i. Correcting the value shown on the boundary between Lot 1 and Lot 2. That is: changing that value to read 97.56 rather than 97.47.
ii. Adding “Ck. M.” to the value on the south limit of Lot 2 to indicate the discrepancy between the existing measurement and the original posted value.

iii. Providing details that show R1 and the SE corner of Lot 2 off line and by how much.

iv. Add “by Plan 922 2842” to the information re: re-establishment of NE 6.

The corrected version of Plan 122 0231 (see Appendix B Page 42) reviewed on January 15, 2014, only contains one of those four proposed corrections.

At the PRB’s hearing on January 15, 2014, Mr. Rodney suggested that Land Titles was to blame for the corrections not showing up on the current version of the plan (see Appendix D Page 91 lines 2 to 16).

Based on his plan correction, registered as instrument number 132 155 819 (see Appendix B Pages 33 to 41), Mr. Rodney’s claim that Land Titles did not see fit to make the correction appears to only be partially true. Mr. Rodney did correct item i). He also appears to have intended to indicate ‘0.07 west’ at R1 as noted in item iii). However, as can be seen in the portion of the plan submitted with instrument number 132 155 819, this correction was not clearly identified by a circle and was not picked up by Land Titles as a necessary correction to the plan.

Based on instrument number 132 155 819, it also appears that Mr. Rodney intended to correct the bearing to the north of R2. This correction was also overlooked by Land Titles because it was not clearly identified by a circle on his submission.

According to instrument number 132 155 819 Mr. Rodney did not actually submit a correction relating to item ii), the SE corner of Lot 2 or item iv).

The board is concerned that Mr. Rodney intentionally attempted to mislead the board and blamed Land Titles for not undertaking the correction correctly. If his intent was to mislead the board, this is possibly an example of unprofessional conduct that requires further investigation. The inadequately prepared correction (not appropriately highlighting proposed correction for Land Titles) is possibly an example of unskilled practice.

At the hearing, Mr. Rodney also indicated that he has not seen the plan since submitting it to Land Titles (see Appendix D Page 91 lines 4 & 5). Based on this we concluded that Mr. Rodney did not review the corrected plan to ensure the correction was done appropriately and seems unwilling to do so unless he is instructed to do so (see Appendix D Page 94 lines 14 to 23). This is another possible example of unprofessional conduct.

[14] Mr. Rodney may not have exercised adequate direction and control with respect to the correction to Plan 122 0231.

Instrument number 132 155 819 (see Appendix B Page 33) is a copy of the plan correction submitted to Land Titles. The letter sent to Land Titles to initiate the correction, as well as all of the consents, etc. were signed by Janice Penner not Mr. Rodney. Based on the general lack of knowledge of the correction he demonstrated by his responses to questions at the hearing, the errors noted in the correction document, and his lack of follow up on this correction makes it seem like the correction was not actually prepared or reviewed by Mr. Rodney. This seeming lack of supervision and control, and his apparent unwillingness to review and confirm the correction was made appropriately is a possible example of unskilled practice and unprofessional conduct and further investigation is required.


Mr. Rodney’s correction to the line between Lot 1 and Lot 2 fixed the misclosure on Lot 1. However, the corrected values introduced a new 0.07 m misclosure into Lot 2 (see Appendix B Page 42). According to his testimony at the hearing, Mr. Rodney was unaware that there is now an unacceptable misclosure in Lot 2 (see Appendix D Page 91 lines 21 to 26). The possibility that the dimension on the north boundary of Lot 2 was incorrect by 0.06 m was identified during the PRB’s field inspection and Mr. Rodney was notified by the DPR in a report sent to the ALS on August 20, 2012 (see Appendix B Page 22).

Despite his insistence that he checks his plans and does lot closures on every lot, Mr. Rodney does not appear to take sufficient care and attention when completing plan corrections. This is also another example of Mr. Rodney’s inability to identify measurements that don’t meet the tolerances outlined in the MSP (the error is this lot is now 1:4700). Mr. Rodney’s seeming inability to identify errors despite a thorough plan check and his lack of care and attention to these matters is a possible example of unskilled practice.

**Conclusion**

The PRB believes these allegations are of the utmost importance and filing this complaint is necessary to protect the public. The products examined are significantly and consistently below acceptable standards. The board has reviewed 454 CCR Phase 1 files and we consider this to be the file with the most numerous, and most significant problems. We are concerned that the products examined are typical of the practice and believe the issues noted cannot be rectified through the educational tools available to us.
Mr. Rodney has demonstrated that he is unable to find deficiencies in his work on his own. These errors would not have been discovered had these plans not been examined as part of Mr. Rodney’s CCR. According to his responses to the DPR’s reports and some of his responses at the hearing Mr. Rodney seems to have a plan checking process that is comparable to other ALSs. Despite this, substantial errors and boundary uncertainties have been identified on every product examined. Furthermore, when he corrects an error, other errors are either introduced or overlooked. The board believes there may be a lack of knowledge with respect to plan requirements, standards, survey methodology, and governing evidence. The board is also concerned that Mr. Rodney has acted unprofessionally in his dealings with the board and has not adequately supervised the submission of plan corrections.

We trust you will find the documentation in order but if you have any questions, concerns or comments, do not hesitate to contact us via Kerry Barrett. Additional material from the PRB file, such as the plan checklists and the board letters sent to Mr. Rodney are also available to you at your request.

3. The Discipline Committee determined that 13 of the 15 allegations had been proven on a balance of probabilities, and also found that the conduct in 10 of the 13 proven allegations amounted to either unskilled practice, unprofessional conduct or both. Given these findings, the parties were directed to make submissions on appropriate sanctions and orders. Mr. Rodney confirmed that he wished to make submissions on sanctions in person, rather than in writing, resulting in this hearing convened on September 15, 2015.

Submissions of the Association on Sanctions and Orders

4. In his submissions to the Discipline Committee on behalf of the Association, Mr. Jardine outlined general principles to be considered and applied by the Discipline Committee in determining appropriate sanctions and orders, in light of its findings of unprofessional conduct and unskilled practice. Those general principles include:
   a. The protection of the public;
   b. Maintaining the integrity of the profession;
   c. Fairness to the member and full opportunity to respond;
   d. Deterrence

5. Mr. Jardine referred the Discipline Committee to the Jaswal decision, and proceeded to summarize factors he submitted were relevant, to be taken into account in determining appropriate sanctions. They included:
   • the nature and gravity of the findings;
   • the age and experience of the member;
   • the previous character of the member;
   • the number of times the incident of concern occurred;
   • the role of the member in acknowledging what had occurred;
   • whether the member has already suffered other serious financial or other penalties as a result of the allegations having been made;
   • other mitigating circumstances;
   • the need to promote specific and general deterrence and, thereby, to protect the public;
   • the need to maintain the public’s confidence in the integrity of the surveying profession; and
   • the range of sentences in other similar cases.

6. In applying those factors to the present case, Mr. Jardine noted that the allegations and findings made by the Discipline Committee indicated that these were serious issues involving both unskilled practice and unprofessional conduct. Mr. Rodney has been a surveyor for approximately 15 years, and is therefore not a new or inexperienced member. There have been no complaints or previous findings against Mr. Rodney. However, this was not a single incident, and the allegations arose as a result of a review over a period of time during which the problems were not adequately addressed. Mr. Rodney did appear at the hearing, and did acknowledge aspects of the problems identified by the PRB. Mr. Rodney suggested that the allegations and hearing process has had a very major impact on his ability to work, with significant financial repercussions to both him, and his business.

7. On the issue of specific and general deterrence, Mr. Jardine emphasized the concerns expressed by the PRB and the Discipline Committee in relation to Mr. Rodney’s surveying practices, and the critical need to protect the public and maintain public confidence in the integrity of the surveying profession. He referred the Discipline Committee to the Rachansky case, decided in 2008 which he submitted had some similar elements in that the allegations arose from a referral from the PRB about continuing problems that had not been addressed by the member. After providing the Discipline Committee with a copy of the case, Mr. Jardine said that the orders in the Rachansky case included a reprimand, fine, 12 month suspension, compliance order, a direction that the member could no longer practice as a sole practitioner, and the payment of costs.

8. On behalf of the Association, Mr. Jardine submitted that it would be appropriate for the Discipline Committee to include in its orders in this case a letter of reprimand, a suspension of 15 months, closure of his practice and transfer of existing workload during the suspension, a compliance order following the suspension to demonstrate competence to the PRB, a direction that he no longer operate as a sole practitioner, payment of the costs of the investigation and hearings, to be paid in 15 monthly payments commencing January 1, 2016, and publication of the decisions and orders on a named basis in ALS News.

Submissions by Mr. Rodney

9. Mr. Rodney indicated to the Discipline Committee that the proceedings have had a very significant impact on him, and he has only been doing real property reports for the last 2 years, which generates income of approximately $25,000 per year.
Other than one additional job done for a survey company earlier this year, he has tried to restrict his practice to real property reports. He advised the Discipline Committee that out of approximately 50 real property reports during the last year, he has 3 remaining to complete. He indicated that he has been using the last 2 years to essentially shut down his practice. He still maintains an office, but he has little remaining work and indicated that as soon as he finishes the 3 remaining real property reports, “he can consider retiring”.

10. The Discipline Committee deliberated briefly in the absence of the parties and then advised the parties that they would reserve their decision and render it in writing at a later date.

Decision of the Discipline Committee on Sanctions and Orders

11. The Discipline Committee finds that the following sanctions are appropriate in this case:

a. Mr. Rodney is to receive a written reprimand;
b. Mr. Rodney is hereby suspended as an active member of the Alberta Land Surveyors’ Association for a period of 15 months, from December 1, 2015 until February 28, 2017. During the period of his suspension, Mr. Rodney shall not carry on the practice of surveying or the practice of land surveying as defined in the Land Surveyors Act. Prior to Mr. Rodney being reinstated as an active member of the Alberta Land Surveyors’ Association, he must comply with and complete any requirements and examinations set by the Registration Committee including the Practical Surveying Exam, the Statute Law Exam, the Surveying Profession Exam, and the final qualifying exam (or as these exams may be modified from time to time) to prove he is competent to practice as an Alberta Land Surveyor, all of which must be completed by March 1, 2019.
c. Upon receipt of this order, Mr. Rodney shall immediately cease to accept any new survey related work either directly or through his surveyor’s corporation, Kiriak Surveys Ltd.
d. The practice of Kiriak Surveys Ltd. shall be closed by December 1, 2015 and arrangements must be made with another Alberta Land Surveyor or surveyor’s corporation to assume the existing workload and complete the same.
e. Once the period of suspension has been served, and in the event Mr. Rodney has been reinstated, for a period of 24 months thereafter, he must practice with another Alberta Land Surveyor in good standing who is aware of this decision and these orders. Mr. Rodney is prohibited from engaging in the practice of land surveying until these arrangements are in place and the Alberta Land Surveyor he will be practicing with has confirmed the arrangements made with the Registrar.
f. Mr. Rodney shall pay 66% of the costs of the investigation and hearings, including legal fees, court reporter fees, and all other expenses incurred by the Alberta Land Surveyors’ Association in preparing for and carrying out the discipline and sanctions hearings, as well as any costs incurred by the Discipline Committee in arriving at its decision, including its decision on sanctions, in this matter.
g. This decision shall be published in ALS News, on a named basis

Reasons of the Discipline Committee for the Sanctions Imposed

12. The Discipline Committee determined that a written reprimand is required as one appropriate element of sanctions to make it clear to Mr. Rodney that his approach to the practice issues identified by the Practice Review Board, and his approach taken during the Discipline Committee proceedings are inconsistent with minimal standards of conduct and skill expected of an Alberta Land Surveyor.

13. The Discipline Committee believes that a significant suspension, competency compliance directive, and requirement not to practice as a sole practitioner in the future are all essential elements in the Association’s primary duty in protecting the public. The findings of the Discipline Committee of unskilled practice and unprofessional conduct covered a wide range of allegations in differing circumstances, where the work product included measurements and placements of monuments by Mr. Rodney that were significantly and consistently below acceptable standards. It is noteworthy that the work product reviewed by the PRB came from a pool of products selected by Mr. Rodney himself. The errors demonstrated a fundamental lack of knowledge in many of the most important areas of expertise required of an Alberta Land Surveyor, including plan requirements, measurement standards, tolerances and redundancy, and the determination and use of governing evidence. The Discipline Committee was especially concerned that Mr. Rodney failed to understand the consequences of such errors and deficiencies made on survey plans, which ultimately has the potential to undermine public confidence in the profession. Mr. Rodney referred to his general intention to retire in the near future. Nevertheless, the Discipline Committee has determined that if he changes his mind and plans to practice after completing his suspension from practice, the competency compliance directive and requirement not to practice as a sole practitioner are essential sanction elements in this case in safeguarding the public interest.

14. Mr. Jardine sought payment of the full costs of the investigation and hearing, to be paid over 15 months, commencing January 1, 2016. Generally speaking, when allegations result in findings of unskilled practice or unprofessional conduct or both, all of the costs of the investigation and hearing process should properly be borne by the member whose conduct led to the costs being incurred. In his submissions to the Discipline Committee, Mr. Jardine very fairly conceded that only 10 of the 15 original allegations resulted in findings of unskilled practice or unprofessional conduct in this case. On that basis, the Discipline Committee exercises its discretion to deviate from the general rule of awarding all costs of the investigation and hearing process, and instead orders Mr. Rodney to pay 66% of those costs.

15. On the issue of publication, the Discipline Committee agrees that publication of the decision and name of the member is an essential aspect of maintaining public confidence in the profes-
Publication is consistent with an open and transparent approach to the decision-making process and imposition of appropriate sanctions. In that sense, publication plays an important role in educating members of the public, and members of the profession. It also enhances the sentencing goal of general deterrence.

Orders
16. The Discipline Committee finds that the following sanctions are appropriate in this case, and makes the following orders:

a. Mr. Rodney is to receive a written reprimand;
b. Mr. Rodney is hereby suspended as an active member of the Alberta Land Surveyors’ Association for a period of 15 months, from December 1, 2015 until February 28, 2017. During the period of his suspension, Mr. Rodney shall not carry on the practice of surveying or the practice of land surveying as defined in the Land Surveyors Act. Prior to Mr. Rodney being reinstated as an active member of the Alberta Land Surveyors’ Association, he must comply with and complete any requirements and examinations set by the Registration Committee including the Practical Surveying Exam, the Statute Law Exam, the Surveying Profession Exam, and the final qualifying exam (or as these exams may be modified from time to time) to prove he is competent to practice as an Alberta Land Surveyor, all of which must be completed by March 1, 2019.
c. Upon receipt of this order, Mr. Rodney shall immediately cease to accept any new survey related work either directly or through his surveyor’s corporation, Kiriak Surveys Ltd.
d. The practice of Kiriak Surveys Ltd. shall be closed by December 1, 2015 and arrangements must be made with another Alberta Land Surveyor or surveyor’s corporation to assume the existing workload and complete the same. Mr. Rodney shall return his permit stamp (and any related documentation directed by the Registrar) to the Association by December 1, 2015.
e. Once the period of suspension has been served and Mr. Rodney has been reinstated, for a period of 24 months thereafter, he must practice with another Alberta Land Surveyor in good standing who is aware of this decision and these orders. Mr. Rodney is prohibited from engaging in the practice of land surveying until these arrangements are in place and the Alberta Land Surveyor he will be practicing with has confirmed the arrangements made with the Registrar.
f. Mr. Rodney shall pay 66% of the costs of the investigation and hearing, including legal fees, court reporter fees, and all other expenses incurred by the Alberta Land Surveyors’ Association in preparing for and carrying out this discipline hearing, as well as any costs incurred by the Discipline Committee in arriving at its decision, including its decision on sanctions, in this matter.
g. This decision shall be published in ALS News, on a named basis.

The payment of the costs will be made by 15 monthly payments commencing January 1, 2016, or on other terms agreed to by the Registrar, and the payment of these costs shall be completed before Mr. Rodney can be re-instated to practice.

Dated this 29th day of October, 2015.

Signed on behalf of the Discipline Committee

Dirk VandenBrink, ALS
Discipline Panel Chairman

LETTER OF REPRIMAND

October 29, 2015

Mr. Lew B. Rodney, ALS
Kiriak Surveys Ltd.
11125 - 107 AVE SUITE 205
Edmonton, AB T5H 0X9

Dear Mr. Rodney:

RE: Decision of the Discipline Committee with respect to the Complaint Dated February 12, 2014 by the Practice Review Board against Lewis Rodney ALS

With respect to the above referenced complaint, this letter is intended to serve as a formal reprimand in accordance with the Decision and Orders of the Discipline Committee in this matter.

The Discipline Committee has found that there was evidence of both unskilled practice or unprofessional conduct (pursuant to Section 35(1)(a)(b)(c)(d) of the Land Surveyors Act) in 10 of the 15 allegations presented by the Practice Review Board.

The public, your clients, and your peers expect a much higher standard of conduct than what was demonstrated by you in this case. We trust that you will govern yourself and any future practice accordingly.

Yours truly,

Dirk VandenBrink, ALS
Chairman of Discipline Committee Panel

DV/Ab
Documenting Changes and Getting It Right

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

Since March 2010, more than 650 files have been reviewed under Phase 1 and 2 of the Continuing Competency Review (CCR) program. A large majority of these reviews have gone very well. However, there have been a handful of, what I consider to be, problematic files. I recently realized that a common thread amongst the most problematic files is that the surveyor being reviewed does not have an effective process to deal with changes. In this article, I’ll use a hypothetical revision to a pipeline right-of-way to highlight the types of changes that are causing problems and provide some strategies for documenting and ensuring these changes are accurately depicted on the final plan.

The scenario
Your client asks you to move the west end of a pipeline right-of-way 3.00 metres to the east. The original right-of-way was posted eight months prior to receiving this request and the plan has already been finalized (but not registered).

In an excellent set of field notes, the crew clearly indicates that the purpose of the survey is to revise the alignment of a right-of-way. They also provide a reference to the original survey. This is normally either done by including a written statement (as shown in Figure 1) or by using a copy of the sketch from the original field survey and adding to it in another colour. Clearly identifying that the current survey was done to revise the right-of-way alignment should emphasize the need for office staff to update the plan and the survey dates.

In some of the best field notes I have seen, colour has been used to highlight changes made to the original survey. As shown in Figure 2, the use of a red pen draws attention to the posts that have been removed and helps identify the new posts that have been placed. As mentioned earlier, a new sketch could be prepared for the current survey but based on what I have seen in practice, new information is often added to the sketch prepared as part of the original survey.

Based on what I have seen, documentation of changes in the field is often very well done and it seems that the difficulty really lies in getting the revised information onto the plan.

Documenting the work in the field
As per Part C Section 6.2 of the Manual of Standard Practice, “the field notes shall give a clear and detailed account of everything found, observed, and done during the course of the survey...” Your field notes are the basis for making the revision and must clearly indicate which posts have been moved or removed. Accurately documenting what was done in the field is critical to getting the correct information on the final plan. I have seen several excellent sets of field notes that clearly identify posts that have been removed. I have attempted to capture all of the elements of the best field notes in Figure 1 and 2.

Figure 1 – hypothetical field note title page

Figure 2 – hypothetical field notes documenting removal of posts and placement of new posts
Updating the plan
When, in the course of my examination of the field notes, I notice that the alignment of a right-of-way has been changed because posts have been moved or removed, I am no longer surprised when the final plan does not reflect the changes. This is very unfortunate and highlights the need to continue to work on improving our plan preparation and checking processes. When I come across a plan that does not show the final alignment, I often note that there are several drafting processes and key checks that seem to be regularly overlooked.

Based on what appears to work for most ALSs, and in the context of changing an alignment of a pipeline right-of-way, I offer the following suggestions to ensure that the final plan reflects the actual monumented, and intended, alignment:

1. Establish a process to track field revisions. This may include:
   • Ensuring the field staff always document changes to alignments by keeping a field work log. Field staff can use a log to record a summary of the field work done on the project and highlight the need for additional drafting work. Field work done to revise alignments can be clearly identified. Some firms have incorporated this log into their timesheets.
   • Incorporating the field work log into the overall project management system. If you are tracking project milestones as part of your project management system, field work that occurs after the entry that indicates that the final plan has been prepared and checked will be obvious and should underscore the need to make drafting revisions. I have seen this done using a hard copy project status sheet, a spreadsheet, and within project management software.
   • Incorporating the field work log into the overall project management system. If you are tracking project milestones as part of your project management system, field work that occurs after the entry that indicates that the final plan has been prepared and checked will be obvious and should underscore the need to make drafting revisions. I have seen this done using a hard copy project status sheet, a spreadsheet, and within project management software.

2. Ensure there are standard operating procedures for alignment changes. For example:
   • Add an item to the plan checklist to confirm that there have been no recent changes made to alignments.
   • Develop a policy around deleting and archiving old versions of drawings. This is particularly important if the drawing file has already been put through SPOC and the files for Land Titles have already been generated.

3. Incorporate the following items into plan preparation and checking processes:
   • Complete the plan check using the final version of the plan.
   • Review all of the field notes as part of the final plan check. With respect to alignment revisions, a review of field notes can focus on the following items:
     I. Ensure the survey dates drafted on the plan accurately reflect the survey dates shown in the field notes. Every time I have found a field revision that is not reflected on the final plan I also found that the survey dates shown did not include the most recent field visit.

   II. Cross-reference the posts shown as placed in the field notes to the posts shown as placed on the final plan. This process will enable you to identify any posts that were missed or extra posts that were placed. As noted above, all posts that were removed should be clearly identified in the field notes and special attention can be paid to these.

   III. Use the coordinates in the final ASCII file to compute inverses between all found and placed posts and compare the result to the information shown on the final plan.

   IV. Compare the descriptions recorded in the field notes (e.g. c.s., M.p., could not place due to ..., placed offset, etc.) to the descriptions drafted on the plan.

   V. Thoroughly investigate any discrepancies between the plan and the field notes.
     • Compute a closure in the vicinity of the revision using the information drafted on the plan. I often find that after a revision is made the bearing and distance shown as the ‘tie line’ will be incorrect. I specifically mention that the closure should be done using the information on the plan because, for those not using automated text update routines, I often note that the dimensions drafted on the plan do not correspond to the calculations file.
     • Compare the information in details to the information shown on the body of the plan. As noted above, often a change to the alignment is reflected in the body of the plan but the surrounding dimensions shown in a detail are not updated.

Effectively managing revisions is critical to getting the final plan right but I do not remember very many plans that I have done that didn’t change at some point during the plan preparation process. My involvement with CCRs has further emphasized the need for a process to deal with changes and the need to ensure that, when a change is necessary, the process is followed.

Use your smartphone to access the mobile member page
www.alsa.ab.ca/mm/

I recently realized that a common thread amongst the most problematic files is that the surveyor being reviewed does not have an effective process to deal with changes.

Volunteer for an Association Committee
A Complete List of Committees Are Available in the Recommendation Package.
Partial Surveyed Townships and Road Allowances

When preparing a plan for approval within provincial crown lands through either the Alberta Energy Regulator (AER) or Alberta Environment and Parks (AEP), there are a number of plan requirements that the plan examiners at these agencies review to ensure your plan meets Provincial Crown Lands Disposition Guidelines. One of these requirements is whether the disposition being applied for is located in surveyed or unsurveyed territory. For the most part it is easy to determine the status of the lands you are working within. Simply by looking at the Public Land Standing Report (PLSR) you can determine if the sections are titled and/or to some extent whether they are surveyed. But what is the status when the PLSR states “partly surveyed.” What does this mean? and are the road allowances in these partially surveyed sections theoretic or surveyed?

Figure 1 shows the table within the PLSR that indicates the title and survey status of each section in your PLSR search (this information can be found on the first few pages of the PLSR).

![Figure 1](image1.png)

In Figure 2 above, the red box indicates the location of a disposition to be surveyed. This location is within partially surveyed sections. As you can see, the township is surveyed only along the central meridian. So,

- What quarter sections are surveyed?
- What are the widths of the road allowances?
- Are these road allowances surveyed or unsurveyed?
- Based on surveying the figure shown in red how do we determine the areas for the disposition for each quarter section?
- Who is the owner and who controls the road allowances?

What quarter sections are surveyed?
The Director of Surveys Office would consider a quarter section surveyed, in most cases, if one of the following applies:

- Four corners of the quarter section are marked by monuments;
- Three corners of the quarter section are marked by monuments;
- Two corners of the quarter section are marked by monuments and an area for the quarter section is shown on the current township plan;
- Two corners of the quarter section are marked by monuments but no area is shown on the township plan; however the quarter section is patented.

In Figure 2, based on the above definitions, two quarter sections are surveyed (NE ¼ 9 and SE ¼ 16) and two quarter sections are unsurveyed (NW ¼ 9 and SW ¼ 16). The NE ¼ 9 and SE ¼ 16 are considered surveyed because they are marked by two monuments and the area is shown on the current township plan. It is important that you search for the most current township plan when doing your surveys. If a new version of a township plan is created, the Director of Surveys Office may remove the area within these quarter sections if in doing so it will not cause an issue with an outstanding interest in these sections. On modern township plans, the Director of Surveys Office will not show an area within a quarter section that is only marked with two monuments as this was an old practice that has been discontinued.

Width and survey status of the road allowances

Now that we have determined what quarter sections are surveyed, we will need to determine if the road allowance is 66 or 99 feet wide, and whether it is theoretic or surveyed. The first place to look is the township plan. Based on Figure 2, the status and width of the road allowances vary between 66 and 99 feet, and between surveyed and unsurveyed, depending on the quarter section we are working within.

The north-south road between sections 9 & 10 and 15 & 16 is a 66 foot road and is considered a surveyed road allowance. It is surveyed due to the fact that there are monuments defining the west boundary of the road allowance. To determine the width of the road, Part C, Section 8.1.1 of the MSP indicates the width of the road shall be maintained as shown on the official township plan. This particular township does not indicate a width of the roads but a 66 foot dimension can be inferred by looking at the areas shown in each quarter section. If the road was to be 99 feet wide, the area in the W ½ 10 and W ½ 15 would be approximately 2 acres smaller then shown.

The road allowance between the NE ¼ 9 and SE ¼ 16 is also 66 feet wide but is considered a theoretic road allowance as there is no monument to define the south boundary of this road allowance. Again, we can infer its width of 66 feet due to the areas shown on the adjoining quarter sections. If this road was deemed to be 99 feet, the area shown in SE ¼ 16 would also be approximately two acres less.
According to Part C, Section 8.1.2, the road allowance between the NW 9 and SW 16 is a theoretic 99 foot road. The transition of the 66 to 99 foot road would happen at the theoretic N ¼ 9 along the theoretic N/S ¼ line. The transition is explained in the Part C, Section 8.2 of the MSP.

**Determining disposition areas within partially surveyed sections**

When preparing disposition plans in partially-surveyed territory, there are other technical considerations that need to be reviewed prior to submitting your plan to AER or AEP. Some of these are:

In surveyed territory, your plan is to:

- Show the area of your disposition in each quarter section.
- Intersect the disposition boundaries with all surveyed lines. This would include surveyed road allowances.
- Areas for your dispositions are not to include the area within a surveyed road allowance (i.e. a surveyed road allowance cannot form part of the disposition).

In unsurveyed territory, your plan is to:

- Show the area of the disposition per township.
- Intersect the disposition boundaries with all surveyed lines. In this case, the road allowance intersections cannot be done as the roads are considered unsurveyed and theoretic.
- Areas for your dispositions are to include the area within the theoretic road allowances.

So, again, back to the example in Figure 2, the NE ¼ 9 and SE ¼ 16 are considered surveyed quarter sections, but we cannot intersect the disposition boundary with the road allowance due to the fact that the N ¼ 9 was never monumented. In this example (Figure 2), the title block for this plan would read:

Plan of Survey showing ______ within
NE ¼ Sec 9 and SE ¼ Sec 16, and within
Theoretic NW ¼ 9 and SW ¼ 16 Twp. 45, Rge. 9, W.5M. and through
Adjoining Theoretical Government Road Allowances.

The area for the site would include the area within the road allowance.

**Ownership, Direction, Control and Management of Road Allowances**

The final point to discuss is ownership, direction, control and management of road allowances. According to Section 16 of the Municipal Government Act, the title (ownership) of all surveyed roads in a municipality, other than a city, is vested in the crown in right of Alberta (i.e. Alberta Transportation). Section 18 of the Municipal Government Act gives direction, control and management of the roads to the municipality. So, except for cities, the provincial government owns the road allowances, but the direction, control and management rests with the municipality. A further note is that unsurveyed road allowances are owned by the provincial government (Alberta Environment and Parks).

I hope this article clears up some of the questions members and their staff may have with partially surveyed crown lands. This article definitely does not intend to cover all questions when dealing with road allowances, sections lines and surveyed sections in partially surveyed townships as there are always exceptions and unique circumstances to each situation. Any practitioner who is working with these unique situations on crown land should discuss the situation with the Director of Surveys Office, and always ensure they have all the information for the area, including:

- Current township and baseline plans. Making sure it is current, as the Director can update official surveys;
- Settlement surveys;
- Outline plans and baseline plans.

Joe Longo, ALS

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**Join us Friday Night at the AGM for a Night of Magic**

**Double Vision**

Double Vision is Canada’s ONLY identical twin comedy magic act. They are a “one of a kind” act, except there are two of them. The twins use their twenty three years of professional experience to provide a fantastic show with music, clean comedy, improvisation, audience participation and award winning magic.
Change is Here

We are a quarter of the way through 2016 and we hope the members of the Association are up to date and current with changes that have been implemented with the articling process. Changes with the project reports were implemented last June and 2016 will mark important changes with the written examinations and the qualifying examination. Articling pupils and principals are encouraged to review the updated current syllabus on the ALSA website to see how these changes will affect your articles.

A couple of important items to note for 2016 are with regard to the written exams and qualifying exam. The first Principles and Practice of Land Surveying Part 1 written examination will be offered in April, 2016. This exam may be better known as the “Urban Practical Exam” and will test the pupil’s knowledge with regard to land surveying in the urban/municipal environment. Questions will be related to urban types of surveys including right-of-ways, subdivisions, condominiums, real property reports, evidence assessment and so on. The Principles and Practice of Land Surveying Part 2 (Rural Practical Exam) will be offered in October 2016 and this exam will focus on land surveying in the oil & gas/rural environments. The pupil will be tested on surveys related to wellsites, right-of-ways, unsurveyed territory, natural boundaries and so on. We are look forward to see how pupils do with the new exams and to receiving feedback with regards to the new format. Good luck to all pupils writing exams this year!

The qualifying exam has taken on a new format and structure effective January 1, 2016. Candidates are reminded that they do not need to bring anything with them to the exam. Examiners will have already been provided with copies of the project reports and it is not necessary to bring them to the exam. I strongly encourage candidates to sit through a “mock oral” with your principal and peers. I feel it is the best way to prepare yourself for the qualifying exam. And it is easy for me to say “don’t be nervous” but really, try not to be. The best way for me to describe the qualifying exam is that it is exactly like having a conversation with your principal or project supervisor and discussing how to complete surveying projects.

The committee has been meeting regularly and items that are popping up on our agendas a little more often are requests for time extensions. Pupils are required to complete their articles within five years of commencing articles. We understand there are circumstances that will arise which are outside of the pupil’s control and an extension request is necessary. We do our best to review each situation thoroughly and assist the pupil accordingly. However, pupils need to understand that there are situations that are within their control and that all requests for extensions will not be approved. Pupils need to review examination schedules, timelines and deadlines carefully to ensure they are completing their requirements within the allotted time-frame. Remember it takes time for projects to be evaluated and for exams to be marked by the volunteer committee members and this time needs to be accounted for in your time-frame. You do not want to be in a situation where you are trying to complete projects and exams in your final year of articles.

As you know, there is a new form to be used to submit your affidavits of service and information is available on the ALSA website with regard to types of field experience that is required. Keep good journals and records of your work experience so that affidavits can easily be submitted by January 15 of every year. Also note that the committee will not accept construction surveying field time as a part of “prior field service.”

I also encourage members to review previous articles in ALS News from the Registration Committee as well as upcoming articles to stay-up-to-date with changes with the articling process. When I was asked to write this article, I went back and reviewed previous articles and there is wonderful information and advice being shared to help pupils work through their articling requirements. I have been on the committee for a few years and the majority of my time is spent marking project reports. The committee has developed marking guidelines to be used so that we are more consistent with the marks and feedback to the pupils. These guidelines have proven to be very beneficial and I feel they are definitely moving us towards this goal. However, like anything new, it is an evolving process and the committee is working to continuously improve them.

Currently, approximately 40% of the all the projects submitted are returned to the pupil to be revised and resubmitted for approval. The majority of my work experience is in land development. Therefore, I have had the opportunity to mark a number of real property report projects and subdivision project reports. I wanted to share some of my thoughts to hopefully help out as it would be wonderful to have all the reports passed on the first submission. Here we go…

• Keep your wording simple, direct and to the point. Avoid long, wordy sentences. I will read the whole report first to see how the report reads itself and to have a good understanding of the whole project. I will then read it again and review each portion individually.
• Avoid slang terminology. We place survey posts (not pins), we survey or measure points (not tie or shoot points).
• Have others review your report. It may be beneficial to have someone outside of the survey industry read it. They may not understand the survey aspects but they could certainly assist with the grammar, structure and flow of the report.
• Start your subdivision projects early! Subdivisions are unique and every subdivision is different with respect to the approval process, the municipality/approving authority, the conditions of approval, endorsement and the list goes on. Subdivisions take a long time to complete and if you want to benefit from the full experience, start early if you can.
• Two important stages of the subdivision process is the application stage and the endorsement stage. Why? Who is involved at these stages and who is responsible for meeting all the requirements for each stage? The pupil’s involvement with some subdivision projects may not start until after the application has been approved (meaning the landowner applied and received approval on their own) but it is important to understand and demonstrate the process that lead to the application being approved.
• Checklists – use them! How do you confirm that the field requirements or plan requirements are being met? If you do
...pupils need to understand that there are situations that are within their control and that all requests for extensions will not be approved.

not have a checklist for a particular portion of the project, perhaps a checklist should be created and included in your project report.

• Reports are limited to be 4-6 pages in length. However, please do not leave out an important aspect of the project just so that you are within six pages. I personally would rather read a well written, comprehensive report that may be a little more than six pages than to have to request a re-submission for missing information.

It may be difficult for some to find a subdivision project or oil & gas project to work on as it may not be a part of their regular business and survey work. I encourage you to check with other firms or land surveyors who may have a project that you can work on. It would also be beneficial for pupils to talk to others who have more or different experience in land development or oil & gas surveys to provide the pupil with a different perception of these types of projects. As an association, we need to have these opportunities available to pupils so that they have the opportunity to gain knowledge and experience in other areas of work and I feel most would be willing to open their doors to help the pupils be successful.

Heather Roberts, ALS

The Association has two brochures available to members and the public related to fences.

• I Just Built a Fence
• Tips to Fence Building

Order online at www.alsa.ab.ca.
What is a CPD, PDU or a CEP? A CPD is commonly known as continuing professional development, a PDU is a professional development unit and a CEP is a continuing education point. These are terms used by different associations and organizations all related to professional development. As an association, it has been noted that we do not pursue this. In British Columbia, Saskatchewan and Manitoba, the respective geomatic associations have continuing education programs in place for their members. Other associations such as the BC Foresters, HRIA and ASET have their membership actively maintaining their knowledge through courses, seminars, safety courses, sitting on council and even attending their respective AGMs.

This may be the perfect time for ASSMT to look at implementing a program of our own. We have the RST syllabus (levels 1 and 2) that can help our members track and progress towards receiving this new proposed designation. I can see this helping existing members expand or re-learn a number of technical skills we do not use on a daily, weekly or yearly basis. This may also lean towards helping the ASSMT membership in areas they are weak in: accounting, human resources rules and legislation and formal project management training.

One of the many questions that comes up is, how do we choose the right system? Point based, hourly tracked or subject orientated? All of these have their merits and this will be one of our first points to be discussed and decided on. How would we rate the material, courses and participation? I would love to see more of our members at the AGM, sitting on Council or running for one of the major seats on council (chair of a committee, treasurer or even president). Those are ways for members to collect units/points/hours.

Now this also brings up a question of timetables: how fast or slow is up to Council and our members. Do we look at making this program a yearly one or spread it out over a multi-year period, say two, three or five years? Given the ups and downs of our economy, there are times when everyone is too busy to complete their portion or funds are lacking to attend those seminars, courses or AGM. It has been discussed if a member could carry a positive or negative point/unit/hours amount into the following mandated period. As I look into other associations, more questions and discussion topics come up and will need to be addressed.

As an association, ASSMT has to review the facts, process the positive/negative aspects of such a program and be able to act on them as soon as possible. As a first step towards a continuing development program, I recommend to other membership committee members that with the help of council members, we formalize a plan to present this at the next AGM. Jon Baniak, CST

Chair of the Membership Committee for ASSMT
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.

Alberta Court Determines APEGAs Registration Examinations Are Not Discriminatory
In Association of Professional Engineers and Geoscientists of Alberta v. Mihaly, 2016 ABQB 61, Madam Justice J.M. Ross ruled that it is not discriminatory for the Association of Professional Engineers and Geoscientists of Alberta (“APEGAs”) to require an internationally educated engineer to write a confirmatory examination to assess whether the applicant possesses entry level competence to practice engineering in Alberta. The Court also found that it was not discriminatory to require the applicant to write a practice examination when all applicants are required to do so.

By James Casey, QC and Jason Kully

Rule Making
In Sobeys West Inc. v. College of Pharmacists of British Columbia, 2016 BCCA 41, various rules prohibiting incentives from pharmacists to patients on the sale of drugs were set aside because the lower Court thought the regulator’s rules went too far to address a largely hypothetical concern. The Court of Appeal reversed the lower Court decision and upheld the impugned by-laws.

The main issue was whether the lower Court scrutinized the regulator’s rules too closely. In a statement that is bound to be quoted extensively by regulators in the future, the Court of Appeal began by acknowledging that the concept of “public interest” is a broad one. The Court said: “There can be no doubt that “public interest” in this context extends to the maintenance of high ethical standards and professionalism on the part of the profession.”

While the Court of Appeal ruling is welcome, given the language used in the reasons, regulators would be wise to prepare detailed briefing notes to support significant policy decisions.

By Richard Steinecke in Grey Areas

February 2016 - No. 203

Professional Exams

Tuesday, April 5, 2016
Practical Surveying
8:30 am to 12:30 pm

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

Statute Law
1:30 pm to 4:30 pm

Wednesday, April 6, 2016
Surveying Profession
8:30 am to 11:30 am

Exams will be held in
Edmonton, Calgary and Grande Prairie.

All the examinations are closed book.

Please refer to the syllabus
for more information.

Register online at www.alsa.ab.ca.

AGM Seminars

Thursday, April 14, 2016
Keynote
The Surveyor and Technology: the Past, the Present and the Future
Presenter: Bryn A. Fosburgh

Diffusing Public Friction
Presenter: Don Boynton

Court Orders
Presenter: Jamie Polley

Executive Director’s Address
Making Your Change a Successful Change
Presenter: Brian Munday

Survey of the 24th Baseline
Presenters: Lisa Naphin and Chase Van de Brand

Solving Urban Evidence Issues
Presenter: Paddy Marshall

Register online at www.alsa.ab.ca.
Leading up to the 1978 Annual General Meeting, Ken Allred had been hired as the Association's first full-time Secretary-Treasurer and Registrar. In addition, the office moved from the Bonnie Doon Shopping Mall to 121A Avenue in Edmonton.

During the 1976-1977 fiscal year, 32 new members where commissioned and two former members renewed their registration. The large number of new members registered was a result of the large number of examinations written in recent years as articled students attempted to gain their membership before the new exam syllabus came into effect.

The conversion to the metric system continued to create problems. As a result of a problem where a member had submitted a metric plan to Land Titles, had it registered and subsequently de-registered, Council directed that a note be placed in ALS News warning members of the position of the Attorney-General regarding metric conversion. Later, Council agreed to make representations to the Minister of Agriculture regarding his press release calling for the retention of the "acre" in land measurement.

In response to a question from a member, Council agreed that any advertising by members should be informational rather than promotional.

The 1978 annual general meeting at Jasper Park Lodge was rescheduled due to labour problems. Council postponed the meeting to April 30, May 1 and May 2.

From the ALS News Vault
Alberta Survey Control Program Paper for the Canadian Institute of Surveying – 1978 – by E.J. Tessari, ALS
Note: The following is an excerpt from the Summer 1978 issue of ALS News.

Abstract

The earliest control surveys in Alberta, carried out by the province, took place from 1959 to 1963 in the Foothills area for the purpose of facilitating petroleum exploration and development. During this same period the need for a comprehensive coordinate reference system in urban areas was beginning to grow, stimulated by requirements for computerized information, coordinated mapping systems and integration of surveying and engineering for all development. The urban surveying and mapping program is now about 12 years old, with appropriate legislation aimed at coordinating the land survey systems.

In recent years both government and industry have been unanimous in emphasizing the need for full provincial coverage. A very recent development, reflected in the provincial government’s 1978 speech from the throne is an all-out thrust to cover the entire province to a basic working density, from which further densification can be carried out as needs from which further densification can be carried out as needs arise, and suitable for mapping for scales as large as 1:20 000.

The Ongoing Program

As earlier stated, the established survey control and mapping programs are not to be curtailed but will run concurrently with the new ten-year program. Key aspects of the existing program include:

a. Density
i) Highly developed urban area, 300 to 500 metres spacing
ii) Lower population and developing urban areas, 800 to 1000 metres spacing
iii) Rural, settled areas:
   - 1.5 to 4 km spacing on urban fringe
   - 3 to 605 km spacing in outlying areas
iv) Rural, unsettled areas, 8 to 20 km spacing

Accurate spirit-levelled vertical is placed on all monuments in high density networks, and where practical in lower density surveys.

b. Timing

When it is known, that an area is to undergo subdivision for urban development, survey control is installed at the 800 to 1000 metre density. This facilitates subdivisions and development. For the high density control (300-500 metres spacing), there are two options:

i) a number of municipal development agreements require installation of high density survey control at a late stage in the development process.
ii) in other municipalities, high density is installed under the provincial/municipal cost share arrangement.

Densification in rural areas, beyond the 10 by 20 km spacing, will usually be in harmony with resource development and/or major engineering works, funded by either government, industry or a combination of both. In all cases, industry has been found very cooperative in following specifications aimed at having their survey control projects permanently monuments and entered into the provincial record.

Maintenance

The need for an on-going maintenance program is recognized, although the provincial capability is not developed to the point where regular inspection, repair and replacements can be carried out. Provisions have been made, however, that have a positive effect on the maintenance problem;

a) In urban areas the municipality, by agreement with the province, assumes responsibility for field maintenance.
b) In rural areas, land surveyors are required, under the Surveys Act, to connect land surveys to all survey control monuments within one kilometre. Standard inspection forms are made available and surveyors are encouraged to return one as a report on each survey control monument visited in the course of their survey.

Coordination of the Cadastral System

No survey control project is undertaken by the Surveys and Mapping branch without serious consideration of obtaining ties to monuments in the land survey systems in the vicinity of each survey control monument. Records of coordinates for property corners are under constant revision as new ties are obtained and additional or revised coordinates generated for mapping and other purposes.

Assignments of an exact coordinate to every property corner in the province is seen as the ultimate key to preservation of the land survey system. Other benefits of course accrue to the multitude of users whose basic operating files must interrelate with other land-related information systems.
Doug Barnett, ALS (Hon. Life)
1933-2016

Mr. Doug Barnett of Edmonton, Alberta, formerly of the Stettler, Alberta area, passed away in Edmonton on Saturday, January 9th, 2016 at the age of 82.

Doug was born on February 25th, 1933 in the family home north of Spruce Grove, Alberta. He married Rita (nee Crowe) of the Stettler area in Christ King Catholic Church on August 15th, 1959 and thereafter resided in Camrose.

Doug’s love of education led to two provincial land surveying commissions (Alberta and Saskatchewan), as well as the federal commission as Canada Lands Surveyor.

From Camrose, his young family moved to Edmonton in 1966 and Doug became the founding chair for the newly-formed Survey Technology Program at NAIT. In order to benefit both the survey program and his students, Doug went on to graduate from the University of Alberta with a Bachelor of Education degree in 1973. All the while he worked hard to successfully establish the Survey Technology program as a Canada-wide accredited program. His dedication and care for his students prompted approximately 50 young men and women to pursue and obtain their Professional designation as Alberta Land Surveyors. His eldest son Bruce was one of these who obtained two land surveying commissions.

Doug retired from NAIT in 1995. In 2002, Doug received the prestigious Honorary Life Membership Award from the Alberta Land Surveyors’ Association and in 2010 was recognized again by his peers as they celebrated his fifty years of serving the public as an Alberta Land Surveyor.

Doug is survived by his three loving sons, Bruce (Patricia), Donald and Ken (Diyette). He was predeceased by his wife Rita in 2006. Doug’s early retirement years were spent loving and caring for Rita at home in Edmonton, while dementia took its course with her over a period of ten years. This self-sacrifice for the love of his wife was beautiful proof of Doug’s great soul. His example was one the family members will never forget. Doug dedicated his life fully to his family, his students and his profession. He will be remembered for his faith lived out in gentleness, kindness, generosity and leadership.

Lenwood Wallace Grover, ALS
1921-2015

Lenwood Wallace Grover, 94, of Honolulu, a retired civil engineer, died. He was born in Halkirk, Alberta. He is survived by wife Elli, daughter Stella, stepson Ken sister Lois, two granddaughters and two great-grandchildren.

He was registered as ALS#2016 on July 6, 1955. He retired from Underwood McLellan in 1972 and was the Association’s registrar in 1995.

Success in Canada’s’ corporate world entails men and women, from all walks of life, and hamlets, towns, cities and farms... from a meager beginning most of them make it to the top or close thereto.

Such is the case of Lenwood “Len” Grover, a one-time Hanna boy who recently retired as executive vice-president of the well-known engineering and architectural firm of Underwood and McLellan, and a recent retirement gathering and testimonial in Calgary, paid tribute to the contributions he has made to the firm, which itself began in a small way and is now recognized for its efficiency and service all over North America.

Len is a brother of well-known insurance agent and realtor Clair Grover. He with his father and mother, the late Mr. and Mrs. Earl Grover and other members of the family came to Hanna during the Depression years. He attended Hanna public and high school and like most small-town boys took part in various sports, such as baseball and hockey and became one of the “boys of summer” during his youth.

Len’s ascent in the corporate world actually began with the outbreak of World War II, when he enlisted in an engineering component of the Canadian Army. When the war was over he returned to Canada and continued his studies at the University of Alberta where he graduated in civil engineering. At the time of his retirement he held the degree of P.Eng in the firm which he originally obtained initial employment, as well as chief operating officer.

Hanna Herald, April 28, 1982

Donations have been made to the J.H. Holloway Scholarship Foundation.

Musings from 1969 - Descriptions of Land Alberta

Just as words have replaced common knowledge and then plans or survey have replaced words, it will not be many years before a rectangular co-ordinate grid, based on a modified transverse mercator projection, will replace plans of survey. People will then be able to refer to parcels of land by their grid co-ordinates on one plan of the whole world.

Provided by Al Jamieson, ALS
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Broad coverage, cost-effective insurance for Alberta land surveyors.

The CG&B Group, part of Arthur J. Gallagher Canada Limited, operates in every province providing insurance products designed specifically for the surveying profession.

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For more information about the PSC program for ALSA members contact:
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