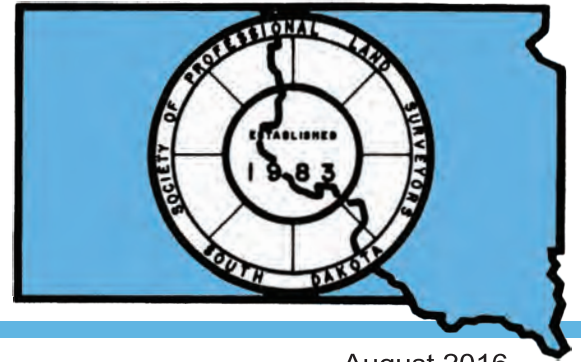


BACKSIGHTS & FORESIGHTS



Volume #26 Number 3

August 2016

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In remembrance of:

Charles M. Hanson, PLS (1940 – 2016)

1986 & 1990 SDSPLS President

1996 Surveyor of the Year

(see Page 6)

PLEASE VISIT US ONLINE FOR MORE INFORMATION ON SDSPLS

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fred.leetch@state.sd.us

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Black Hawk, SD 57718
(605) 716-7988
stevet_be@rushmore.com

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Rapid City, SD 57709
(605) 348-1538
cdodds@live.com

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1410 West Russell Street
Sioux Falls, SD 57103
(605) 331-2505
wlunders@clark-eng.com

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(605) 945-0769
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teropes@hotmail.com

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(605) 332-8241
gandersh@schmitzkalda.com

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Rapid City, SD 57709
(605) 348-1538
ron@fisklandsurveying.com

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4116 Hall Street
Rapid City, SD 57702
(605) 341-0809
mlippin@yahoo.com

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Dean Scott
DC Scott Surveyors Inc.
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Rapid City, SD 57703
(605) 393-2400
surveyor@enetis.net

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(605) 222-4041
mbsdd1@aol.com

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& Land Surveying
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Black Hawk, SD 57718
(605) 716-7988
stevet_be@rushmore.com

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Janelle Finck
Fisk Land Surveying & CE
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janelle@fisklandsurveying.com

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Backsights and Foresights accepts advertising from equipment suppliers and others offering surveying related services. There is no charge for help wanted or positions wanted, employment ads or equipment for sale by practitioners whose main business is not equipment sales or rental.

PUBLICATION DEADLINES

Material Cutoff	Publication
January 15	February 1
April 15	May 1
July 15	August 1
October 15	November 1

Backsights and Foresights

Backsights and Foresights is the official publication of the South Dakota Society of Professional Land Surveyors. It is published quarterly. Material published is not copyrighted and may be reprinted without written permission as long as credit is given. All material must be submitted by the middle of the month preceding the issue date, and should be directed to: The Executive Director.

Articles and columns appearing in the publication do not necessarily reflect the viewpoint of SDSPLS but are published as a service to its members, the general public and for the betterment of the surveying profession. No responsibility is assumed for errors, misquotes or deletions.

FROM THE PRESIDENT:

Wow, where has the summer gone? It's already the middle of August and fall will be here shortly.

Unfortunately we have lost one of our members this month. SDSPLS Past President (1986 & 1990) Charles (Chuck) Hanson passed away on August 12th. Our sincerest condolences are extended to Chuck's family and friends. His obituary is on Page 6

I would like to congratulate Southeast Technical Institute for being one of ten programs to be awarded the 2016 NCEES Surveying Education Award (see pages 26 and 27). STI will receive a \$10,000 cash prize for this award. South Dakota and the surrounding states are fortunate to have such an excellent school teaching Land Surveying Science Technology and preparing students for a career in Land Surveying (congratulations to Rod Breiting!!).

The South Dakota Electronic Recording Commission has asked SDSPLS for input regarding the proposed rules to allow electronic delivery of certain documents to the county Register of Deeds offices for recording purposes. The Board of Directors has submitted questions and concerns regarding these proposed rules. See pages 10 and 11 for their notice of Public Hearing.

Proposed ByLaw Amendments are being reviewed and updated to allow those holding an Associate Degree in

Land Surveying, Land Surveying Technology or an equivalent to qualify for the Technician membership classification. Included in this update is the proposed consolidation of the Ethics and Standards Committees into the Professionalism and Practice Committee. These and other "housekeeping" item amendments are included in this issue and posted on the SDSPLS website (www.sdspls.org) for your review. Please pass your comments along to the Executive Director and/or any member of the Board of Directors. We hope to approve these changes at the 2017 Annual Meeting.

The Board has been working on the Special Use Fund Hardship Grant Application. The application should be ready this fall so watch for the posting on our website.

We are still collecting data on which counties are following the law regarding the filing of corner records and the implementation of a corner records book. This should be complete by our annual meeting.

We are trying out a new electronic version of the "It's Your Land" brochure (pages 14 and 15) and would like your comments. When approved, the brochure will be posted on the website and available to members for their use and distribution to potential clients.

That's all for now!

Louis O'Donnell
SDSPLS 2016 President

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SDSPLS – Board of Directors Meeting

Friday, July 29, 2016

Missouri Winds Room – Cedar Shores – Chamberlain, SD

(This report subject to Board approval)

Participants: President Louis O'Donnell, President Elect Fred Leetch, Secretary Eric Howard, NSPS Director Tom Berkland, Missouri River Chapter President Dana Edwards, Education Committee Chair Kristi Goehring, Standards Committee Chair Dean Scott, Executive Director Janelle Finck.

1. Call to order at 12:40 (central) by President O'Donnell.
2. Acceptance of Agenda: ++Motion by Berkland to approve Agenda with requested amendment, 2nd by Leetch. Motion approved.
3. Secretary's Report – Eric Howard: Approval of minutes for the Friday, April 22, 2016 BOD meeting. Leetch asks of 6d) if the SDCL definition of Land Surveying was added to the Guidelines. Scott states it will go under section 2.2. Discussion on 6g) if conversation is continuing on the banners. Finck would like to see what NSPS has done. Leetch asks if they could supply their own banners. Scott would like to print poster for each year. ++Motion by Berkland to approve minutes, 2nd by Leetch. Motion approved.
4. Treasurer's Report – Steve Thinglestad: Written report submitted for review. Finck states it is tracking where it should be, nothing unusual. ++Motion by Leetch to approve the report, 2nd by Edwards. Motion approved.
5. President's Report – Louis O'Donnell: O'Donnell reports Southeast Tech has received a \$10,000 grant from NCEES and is great recognition for the school. Discussion follows: Leetch suggest a letter of appreciation and congratulations be drafted by SDSPLS to Southeast Tech. and also suggests we invite the President of Southeast Tech. to the convention.
6. Committee Reports:
 - a) Education Committee – Kristi Goehring: No report.
 - b) Legislative Committee – Gary Andersh: No report.
 - c) DPC Report – Don Jacobson: No report.
 - d) Standards Committee – Dean Scott: Scott states work is still being done. Scott would like to vote this year at convention on approval of the update and would like to get into the habit of continuing to revise. Scott would like to BOD to approve by October and include the guidelines into the newsletter to give the membership time to review before convention.
 - e) Public Information Committee – Mark Lippincott: No report. Finck states the brochure will be coming in the next couple of weeks.
 - f) Membership Committee –Ron Fisk: Membership Summary provided. Finck states we have gained a couple of members and now at 293. Sustaining membership is dwindling. Leetch suggest we invite others to become sustaining members by advertising through our membership.
 - g) NSPS - Tom Berkland: Berkland states there will be a conference call before our next meeting. Finck asks about the financial stability of NSPS. Berkland states

it's getting better. There are only two states that have not joined.

- h) Trig Star –Steve Thinglestad: Written report. Our state winner Alan Zhu (freshman) placed 15th in the national competition. Leetch states we should send a thank you to the schools for participation as appreciation from the BOD.
7. Chapter Reports
 - a) West River Chapter – Chad Dodds: No report.
 - b) Big Sioux Chapter – Wade Lunders –written report.
 - c) Missouri River Chapter – Dana Edwards. Written report. Edwards adds the chapter has completed services for two new trap shooting houses and associated walkways. Edwards also provides a county corner record recording practices hand out.
 8. Old Business
 - a) Special Use Fund - Kristi Goehring: Goehring submits handouts of the guidelines, and applications for the special use fund projects and special use fund hardships. Discussion follows: We need to set some parameters. The application has to be by an SDSPLS member or immediate family and define the amounts per year per member. Add a cover letter with the guidelines. ++Motion by Howard that the Hardship funds distribution to be \$300 per applicant per year. In extreme cases, distributions to be modified at the discretion of the BOD and subject to availability of funds. 2nd by Berkland. Motion approved. Discussion of the special use funds application follows: Edwards states a final report of the project will need to be provided. Goehring will clean up the document and will include a guideline sheet.
 - b) 2017 Convention – Finck states we are locked down and waiting for the final contract. The dates are January 11, 12, and 13, which will be Wed.-Thurs.-Fri and there will be no binders.
 - c) Bylaw Amendments – Discussion of the bylaw changes. ++ Motion by Leetch to approve the bylaw changes. 2nd by Berkland. Motion approved.
 - d) Corner Records – Goehring states she is about 60% done in her research and about ½ of those are following the rules. Leetch suggest we send the results to Julie Risti when complete.
 9. New Business
 - a) Register of Deeds Administrative Rules for Electronic Recording – Scott asks how other jurisdictions are doing this. The BOD has no comment at this time.
 - b) Street Authority Plat Certificates – Dean Scott – Discussion. No action.
 - c) SDCL 11-3-20.2 New plat vacating prior plats. – Defer to next meeting.
 10. Next meeting: TBD.
 11. Adjourn at 4:27 pm (central)

Respectfully Submitted
Eric Howard
SDSPLS Secretary

Charles M. Hanson

November 19, 1940 – August 12, 2016

Charles M. Hanson died Friday, August 12, 2016 after a short but courageous battle with pancreatic cancer. Chuck passed away at home surrounded by his family.

Chuck was the son of Merrill and Lydia Frese Hanson. He was born November 19, 1940 in Omaha, Nebraska.

Chuck grew up on a farm near Herman, Nebraska. He attended Dana College and then entered the Navy.

He married Linda Stave on February 23, 1963. Chuck and Linda lived in Omaha, Nebraska where Chuck began his career in surveying.

In 1978, Chuck and Linda and their three children moved to Sioux Falls, South Dakota and Chuck went to work for Sayre Engineering. In 1982, Chuck started his own surveying company, Hanson Land Surveying Services, Ltd.

In November of 2015 Chuck sold his company to Willadson Lund Engineering where he continued working. He loved surveying and never wanted to retire.

Chuck had a great work ethic, but he also was a wonderful family man. He always looked forward to spending time with his children and grandchildren.

Most importantly, he had a strong faith in the Lord and a sure reliance on the promise of eternal life which was won for him by his Savior, Jesus Christ.

Chuck is survived by his wife, Linda and their two sons; Brad and his wife Jackie and their son Sam; David and his wife Joan and their two children - Caitlin (and her fiancé Dan Stratton), and Aaron; one daughter Kirsten and her husband Aric Baloun and their daughter Aidyn; his mother-in-law Bernice Stave; two sisters, Gwen (Ed) Geisler, and Jeannie Casady; and sister-in-law Kristy Stave.

The memorial service was held at 2:30 pm on Saturday, August 20, 2016 at Bethel Lutheran Church on 1801 Valley View Road in Sioux Falls, SD.

Because of Chuck's great love of children and his belief in the value of Christian education, the family requests that any memorials be directed to Bethel Lutheran school – www.heritagesfsd.com

In Remembrance -

SDSPLS has sadly lost one of our founding members - Charles (Chuck) Hanson. Chuck was one of the founding members of SDSPLS and served as our first Secretary from 1984 - 1985. He followed as President in 1986 and was the only SDSPLS member to repeat service as President by accepting that position again in 1990. He was acknowledged as "Surveyor of the Year" by his fellow surveyors in 1996. He will be fondly remembered and greatly missed.



Born: November 19, 1940

Death: August 12, 2016

As all surveys go, there is a beginning and an end, with a heavy heart I am informing you that our brother in surveying has returned to his point of beginning and left his final mark on earth. I pray that his family finds peace during this time of sorrow. I didn't know Chuck personally, but I did have the pleasure of walking beside him from time to time while retracing surveys performed by him, some 40 years ago. No matter how old or new the survey that I was retracing, I could always follow it with confidence knowing that it was completed with accuracy and due diligence. His plats were definitely a product of professionalism that presented his love of surveying and how thorough he was. Whenever I would bump into him at Register of Deeds offices within the area he always presented me with a smile and good survey conversation. I am going to miss that.

Wade Lunders, PLS
SDSPLS Big Sioux Chapter – President





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The Map Maker of the American West

Gouverneur Kemble Warren was at the right place at the right time and made the right decision.

Warren was chief engineer of the Army of the Potomac during the American Civil War. During the Battle of Gettysburg, on July 1-3, 1863, he climbed Little Round Top, the second highest elevation on the battlefield. He found it unoccupied except for a small Signal Corps detachment. He immediately ordered Union troops to seize Little Round Top. They arrived just in time to hold off a Confederate attack. As a result, the Union army was able to hold this key position and go on to win the battle.

Years earlier, Warren had also been at the right place at the right time making the right decisions.

Graham A. Callaway and W. Raymond Wood called Warren "the single most important cartographer of the American West" in their introduction to "Lieutenant G.K. Warren's 1855 and 1856 Manuscript Maps of the Missouri River." At the time, Warren was a lieutenant in the U.S. Army Corps of Topographical Engineers.

Warren is credited with making the first reliable maps of the Black Hills and adjacent region, and with creating the first comprehensive map of the United States west of the Mississippi River. His reports are among the most readable and instructive official documents published by the government, and provide scientific knowledge of the region prior to white settlement, according to Callaway and Wood.

Born on Jan. 8, 1830 at Cold Spring, N.Y., Warren was named for his father's friend Gouverneur Kemble, a U.S. Congressman, diplomat and industrialist from New York. Warren received an appointment to the United States Military Academy at West Point when he was 16 and graduated second in his class in 1850.

In 1855, Warren was the topographical engineer for an expedition led by Gen. William S. Harney that took him from Fort Pierre to Fort Kearny in Nebraska across the Nebraska Sand Hills, then through the Badlands in what is now South Dakota.

Warren returned west the next year to survey the Missouri River from the southern boundary of Nebraska to a point 60 miles above the mouth of the Yellowstone.

"Lieutenant G.K. Warren's 1855 and 1856 Manuscript Maps of the Missouri River" contains charts of the river from the northern boundary of Kansas to a point above Fort Union, in what is now North Dakota. The charts are significant not only because they are among the earliest detailed maps of the Missouri River but because they contain symbols denoting sand bars, trees, bluff lines,

tributary streams and other features. The maps show how the course of the river has changed and where villages, forts and towns were located. Copies of the map were published by the State Historical Society of North Dakota, and are sold in the Heritage Store at the Cultural Heritage Center in Pierre. The map can be purchased at the website www.sdhsf.org or by calling (605) 773-6346.

In 1857, Warren obtained further data on the Central Plains from an exploration that skirted the Black Hills and the Niobrara and Loup rivers in Nebraska.

The government published a report of the three western expeditions as the "Preliminary Report of Explorations in Nebraska and Dakota, in the Years 1855-'56-'57."

The reports included information about rivers, routes, transportation, American Indians, military posts and meteorological observations.

Warren visited what is now South Dakota during a drought, and wrote that "continuous settlements cannot be made in Nebraska, west of the 97th meridian, both on account of the unfavorable climate and want of fertility in the soil."

At the start of the Civil War, Warren was a mathematics instructor at West Point. He was appointed lieutenant colonel of the 5th New York Infantry on May 14, 1861.

Warren was called the "hero of Little Round Top" for his actions on July 2, 1863, and promoted to major general. At the Battle of the Five Forks on April 1, 1865, Maj. Gen. Philip Sheridan judged that troops under Warren's command had moved too slowly and relieved Warren of command on the spot.

Warren returned to work for the Corps of Topographical Engineers after the Civil War and became the first district engineer of the St. Paul District in 1866. One of his first tasks was to study potential sites for railroad bridge construction across the Mississippi River between St. Paul and St. Louis.

During this time, Warren requested a military court of inquiry to clear his name. The court of inquiry was denied until 1879. The court found that Sheridan had not been justified in relieving Warren of his command, but it was too late for Warren to find comfort in the ruling. He died on Aug. 8, 1882, three months before court findings were published.

Several statues of Warren commemorate his service in the Civil War, including one at Little Round Top.

This moment in South Dakota history is provided by the South Dakota Historical Society Foundation, the nonprofit fundraising partner of the South Dakota State Historical Society at the Cultural Heritage Center in Pierre. Find us on the web at www.sdhsf.org. Contact us at info@sdhsf.org to submit a story idea.



CIVIL/SURVEY TECHNICIAN – CAREER OPPORTUNITY

Infrastructure Design Group, Inc. is a civil engineering and land surveying services firm providing professional services to public and private clients in the eastern South Dakota region. We provide professional engineering, surveying, and consulting services to local municipalities, county and state DOT's, and other state departments, as well as private sector clients. We have an immediate opening for a full time Civil/Survey Technician located in our Watertown, SD office.

Primary duties of the Civil/Survey Technician, include working with other engineers, surveyors, and technicians to complete engineering studies and designs, drawings, layouts, maps, and graphic representations of engineering designs using computer-aided drafting software, gathering field data and drafting of topographic surveys, perform ALTA surveys, boundary surveys, cadastral surveys, and construction staking. Work may also entail field investigations and inspections. We are interested in a motivated individual capable of taking on multiple responsibilities as a team player.

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August 4, 2016

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JANELLE FINCK
SD SOCIETY OF PROF LAND SURVEYORS
PO BOX 8154
RAPID CITY, SD 57709

RE: Administrative Rules
Electronic Recording in County Register of Deeds Office

Dear Janelle Finck:

The South Dakota Electronic Recording Commission ("Commission") is proposing administrative rules to allow electronic delivery of certain documents to the county Register of Deeds offices for recording purposes. Please note that the rules, as proposed, are permissive. The rules would allow electronic delivery of certain documents if the Register of Deeds chooses to participate. These rules do not mandate participation, however.

You were previously notified about these draft rules in July and asked to provide feedback. The Commission received questions regarding the draft, but there were no entities that opposed the draft or requested substantive changes. We hope that means the draft we have put together is a good one.

Enclosed please find the notice of the public hearing for these rules. You can access this notice and a draft of the rules on the South Dakota Association of County Officials (SDACO) website at www.sdcounties.org. The public hearing is scheduled for Thursday September 8, 2016 starting at 10:30am Central. It will be held in the board room of the SDACO office building (211 East Prospect Avenue Pierre, SD). If you would like to attend this public hearing via teleconference, please use the call information listed below.

Dial-in: 1-302-202-1102
Conference Code: 578111

If you have any questions about these rules, feel free to contact me at jristy@minnehahacounty.org 605 -367-4223 or Deb Young at deby@davisoncounty.org 605-995-8616.

Thank you for your kind consideration.

Sincerely yours,

Julie Risty

Julie Risty, Chair
South Dakota Electronic Recording Commission

Electronic Recording Commission
Notice of Public Hearing to Adopt Rules

A public hearing will be held at the Electronic Recording Commission office, 211 East Prospect Avenue, Pierre, South Dakota, 57501 , on September 8, 2016, at 10:30 a.m., to consider the adoption and amendment of proposed rules numbered: § 22:03:01:01; 22:03:01:02; 22:03:01:03; 22:03:01:04; 22:03:01:05; 22:03:01:06; 22:03:01:07; 22:03:01:08; 22:03:01:09; and 22:03:01:10.

The effect of the rules will be to implement uniform standards for electronic transmission of certain documents to and from a register of deeds that has voluntarily elected to accept electronic documents for recording in accordance with SDCL Chapter 7-9A.

The reasons for adopting these rules are to implement uniform standards for electronic transmission of certain documents to and from a register of deeds that has elected to accept electronic documents for recording and carry out the provisions of SDCL Chapter 7-9A.

Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the Electronic Recording Commission, 211 East Prospect Avenue, Pierre, South Dakota, 57501. Written comments must reach the Electronic Recording Commission office on or before the time of the scheduled hearing.

At the hearing, the Electronic Recording Commission will consider all written and oral comments it receives on the proposed rules. The Electronic Recording Commission may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Electronic Recording Commission at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 224-4554.

A copy of the proposed rules are posted on the South Dakota Association of County Official's website: <http://www.sdcounties.org/>. Copies of the proposed rules may be obtained without charge from the Electronic Recording Commission, 211 East Prospect Avenue, Pierre, South Dakota, 57501.

Published at the approximate cost of \$ _____.

Form 6

Reviving the Surveying Profession

(One Surveyor's thoughts on the destination of surveying)

By: Pat Gaylord, PLS

As many of you who attended the recent PLSO annual conference may have witnessed, the fact that we have a tremendous amount of expertise about to leave the profession is very real. For those of you who weren't there, a very informal poll at lunch with approximately 200 people in attendance revealed that nearly half were either retired or were going to retire in the next five years. The same poll of the room on the entry level side of the profession, through the first five years of licensure, revealed that we have very few following in our footsteps. Because of the venue and the informal nature of the data, this could be attributed to the fact that very few associates attended the conference or that maybe many of the older members of the organization place more value on attending. Whichever the case, the simple fact of the matter is that this dichotomy is well known nationwide and that we have a serious problem. I have heard estimates as high as 60+ for the average age of surveyors in the United States and around the world. Some estimates indicate as high as 10 – 12 % of the surveying population is retiring each year. Many of these retirements may mean the closing of small surveying businesses that have served our communities for many, many years. Without eager young licensees who have an entrepreneurial spirit these businesses will close and the community will suffer. The coming losses of our knowledge base ranges from business practices to local knowledge of records and problem boundary areas, not to mention all the little nuances of everything we do on a day to day basis. Paramount to boundary surveying is the loss of a true understanding of how to "follow in the footsteps" for work completed before the advent of lasers and data collectors. The question is, what are we going to do about it and what are you doing to replace yourself?

The aging of our profession has been a persistent issue for at least the last 10 years. While we banter it around the average age of surveyors continues to mount. I truly believe we are reaching critical mass on this topic. In the words of Albert Einstein, the definition of insanity is "to continue to do the same thing over and over again and expect different results." That my friends is us as a profession. There is no one other than us who is going to bring more surveyors into the profession and for as long as I can remember we have been recruiting in the same way and expecting a different result. That different result would be a flood of new faces coming into the profession. Plain and simple, it's not working and at the

very least it's not working well enough. While we can sponsor Trig-Star contests, TwiST, career fairs, surveying merit badges and all the other things we've been doing until we are blue in the face, these are obviously not enough. It should be clear by now that to really make a difference in the number of people entering the profession and to create a sustainable supply of replacements we need many more. Without a significant influx of new faces college programs will continue to close and jobs will go unfilled. Don't get me wrong, I believe all of these things we currently do are very valuable and we should continue them, however, they just are not achieving our goals. We need to ask ourselves why and where did we go off track when it comes to creating surveyors.

My personal opinion with regards to the rapid decline of LICENSED surveyors entering the profession is the trend towards a four year degree requirement to pass the license exam. I say trend because according to the NCEES webpage for Oregon, the requirements still allow a person to enter the Fundamentals of Surveying exam without a two or four year degree after eight years of experience which equates to 12 years before a person can sit for the LS exam. First of all, twelve years is an absolute eternity in today's workplace. The likelihood of a potential candidate sticking with it all the way to licensure seems extremely small. For one thing, the financial reward is not enough to justify a twelve year investment when you can make as much or more in less time with a four year degree of another kind or investing your skills and efforts in one of the trades. I am the first to defend that you absolutely can make a living in surveying, however, a plumber, electrician or carpenter can make just as much if not more in that same 12 year time period. Furthermore, while the door may be cracked open on the experience track the reality is that without a four year degree a person has little chance of passing the exam regardless of their experience. The myth, or maybe the reality seems to be that you can't obtain your license without a four year degree. In many cases that is probably true depending on the individual, but I would challenge if it is really necessary to only set the bar in this way.

There are many merits to the degree track, but if we poll those who are about to exit the profession we will find that historically surveyors have not found surveying as a high school graduate who was dying to be a surveyor and went off to college to pursue it. People often discovered surveying through many other career fields such as military service, civil engineering, construction, forestry, mathematics, and many more. Many of these "discoveries" occurred later in life. After that discovery they worked, learned and eventually licensed, but likely never went back to school full time if at all. I would further challenge the four year degree concept and say that those who fit this discovery description are some extremely good surveyors who have made many contributions to our profession. They would not be here if a four year degree was the only path to licensure.



Even growing up in a surveying family I was bound and determined to become a Forest Engineer and not surveyor. Late in my college career, I made a right turn and went back to surveying. If I had been required to totally change paths and pursue a surveying degree, I probably would not have done it and would have missed out on a profession that is one of the true passions of my life.

What do we need to do in order to grow the profession again? Apprenticeship seems to be a dirty word within the surveying profession because after all, 'we are a profession' aren't we! For many, the very mention of apprenticeship brings forth visions of the blue collar worker, a member of a trade. I have never really bought into this line of thinking and after much consideration I would challenge you that we need both a degree track and an apprenticeship track to fill our dwindling ranks. While surveying is a profession, we are not brain surgeons and there should be no reason we could not create a path to licensure using an apprenticeship model. Maybe we need to think out of the box and split the license much like our engineering counterparts. A college track leads to one part of it and an apprenticeship leads to everything else.

When I say apprenticeship I don't mean some haphazard process by which someone comes to you and says they are ready to license so you sign their application. That's pretty much what we have now isn't it? How many of you really "know" the full breadth of experience of the person for whom you sign the license exam application? Clearly you are supposed to, but at the end of the day you must take them at their word to one degree or another. Therefore the standard continues, someone passes their fundamentals exam and after the allotted time they find the required number of licensees to sign their application and if they can pass they become an LS, though it's questionable how much or what experience they may really have in the various aspects of land surveying. What I really mean by apprenticeship is a process that is regimented and clearly documented (just like union programs today). It is monitored and tracked by the State or some governing body and it clearly documents what you have done and haven't done. This would be a very valuable step between where we were and what we currently have and I think we should pursue it without delay. We must find a way to get more people to enter the profession who also have a formal path to licensure that may or may not include a 4-year degree in Geomatics.

The next step to growing the profession is self-promotion. This is a two-fold process that includes the societies as well as all of us as individuals. When was the last time that you told someone under the age of 21 what it is you do and why it is important? For that matter, when was the last time you told anyone what you do with some degree of excitement that might make them or someone they know want to consider a career change? For some of you this is probably a daily

occurrence, but for others it's time to change the paradigm. This means a conscious decision at parties, career fairs, on social media and with our friends in competing professions to get the word out. Not only about what surveying has to offer, but the peril that our profession faces with the looming retirement of many licensees. It is not just the peril of our profession, but that of society as well if land surveyors don't exist in sufficient numbers to do all of the various types of work expected of us. We all know that nothing gets built without us, so why not candidly point that out and promote what a cool place we hold in the fabric of our world? After the PLSO conference I posted on social media regarding career opportunities and retirements. Within hours I had four youth approach me about what the profession has to offer. Will all four of them enter the surveying profession? Likely not, but this is a great venue to get the word out to a much wider audience than any other method we have ever tried before. YouTube videos offer a great opportunity to educate friends and family about what we do and all you have to do is post it. For those four youth and their families who approached me on social media, I have been meeting with them individually about the opportunities that surveying offers. Social media is a powerful tool, but it must be used regularly and it must be followed up with fact to face contact when requested.

Next, our societies must do more to promote the profession in a commercial manner. This means state societies and NSPS need to take to the airwaves in a true campaign to get the word out. It means educating Congress or others with influence who can provide grants and funding to promote a critical profession in our society. It could also mean contracting with one or more advertising agencies to create professional grade public service announcements about what our profession has to offer. PLSO tried this once a number of years ago utilizing radio announcements on Oregon Public Broadcasting and National Public Radio. I believe it was a big step in the right direction, however, the PLSO Board ran into a roadblock from short sighted members who did not agree with the chosen venue. In short order the ads stopped before they could make an impact which I believe was unfortunate because I think it was our first step outside of the "tried and true" process that still is not working. Advertising campaigns are an expensive proposition and the societies don't have very deep pockets. Building partnerships with other organizations to promote common goals would be one solution to accomplish this task. Would you be willing to pay more dues, help write grant applications or develop public service announcements? If it is important to you then you must be willing to contribute in some manner. The last option is educating the professions and trades that depend on us. I would be willing to bet that most of the related professions such as engineering, architecture, real estate, construction and others have little inkling of the number of retirements facing the

Continued on Page 17

It's Your Land

Before you buy, sell, build, improve, or divide ...
find out the many reasons why and how you should secure the services of
a Professional Land Surveyor in the State of South Dakota.



Provided by:

The South Dakota Society of Professional Land Surveyors.
A statewide organization representing
Professional Land Surveyors
licensed to practice in the state of South Dakota.

*Additional consumer information can be found online by
following the link to our consumer's guide to surveying services.*



Visit us online at
www.sdspls.org

WHY do I need a Professional Land Surveyor?

For most of us, the land on which our homes and businesses are located is often our largest single investment and most valuable asset. For many, it is important to be as informed as possible about this important investment. In South Dakota a Registered Land Surveyor is the only one qualified and licensed to perform property surveys (SDCL 43-18-1).

WHEN do I need a survey?

In South Dakota, a survey is required for the platting or subdivision of land – whether changing a common or shared lot line, exchanging land area with an adjoining neighbor, or subdividing to create a new lot or multiple lots.

A survey can also inform you of the correct location of your property boundaries and the location of your improvements. If you are adding onto your home, building a new garage, fencing, or landscaping it is important to know the location of your property boundaries.

The buying or selling of a home or parcel of land may also come with the requirement for various types of surveys (boundary or otherwise) and it is important to understand the different types of services that are associated with a typical real estate transaction. Most surveys associated with the sale of a residence do not require a full or standard boundary survey. Review your purchase or sales agreement and be sure to ask your surveyor if you have questions about the different types of services offered.

WHAT are the different types of surveys?

Platting or Subdivision is the division of property and the creation of new lots. There are certain state requirements that govern this process but often there are many other local ordinances and requirements that must be met in order to complete this process. Choose a surveyor that is familiar with the subdivision and zoning regulations in your area

A *Boundary Survey* is the verification and/or establishment of property

boundaries and can include a full parcel of land/ lot or it can be verification of just one or more lot lines. Existing corners or monuments will be found and verified and missing corners will be set or replaced. The encroachment of buildings, drives, fences and/or landscaping can be noted. A drawing or Record of Survey may be provided for your personal information or to record at the Register of Deeds.

When ordering a boundary survey it is important to remember that your lot or parcel is like a puzzle piece and it needs to fit appropriately with the adjoining and surrounding properties. The survey of just a portion of a property is generally not proportionally less than a full survey since the surveyor must complete thorough research and retracement to ensure that any one corner or property line is in correct relation to the adjoining lands

A *Topographic Survey* will generally show the some or all of the physical features of a parcel, lot, or multiple lots. It may include elevation or contour information, buildings, decks, walks, adjoining roads, fences, rivers, observed and marked utility services, landscaping, etc. These surveys are often associated with new construction or development and can be used for design purposes for homes, businesses, streets and utilities. The details of these surveys are specific to the needs of the individual or circumstance. You should review your list of needs carefully with your surveyor.

A *Site Plan or As-Built Survey* is a drawing or record of existing or proposed improvements and may often include aspects of the boundary survey and topographic survey.

An *ALTA/NSPS Land Title Survey* is a detailed and high level accuracy survey that is typically provided in association with a commercial real estate transaction. There are published specifications and options that can be included with these detailed surveys.

A *Mortgage Location Survey or Improvement Location Exhibit* is normally provided in a residential real estate transaction for either the lender or title insurer. This service will typically include a sketch or drawing showing the approximate location of the improvements on the subject property. It does not generally require the surveyor to provide full or complete boundary

information. Review your purchase or sales agreement closely and ask your surveyor if you have questions about what services are included. Consult your survey for other types of surveys and services.

HOW much will a survey cost?

There are many variables associated with the cost of a survey, including the type of survey needed, the location, the amount of time required for research, calculations and completion of the field survey itself and any associated drawings. The size of the property, the terrain and vegetation, the quality of the original survey, availability and reliability of existing information and the surveyor's personal knowledge of the area can all be factors in the price of the survey. Even the weather can be a factor – frozen ground and snow cover in the winter and dense vegetation in the summer can all affect the time and cost for completion.

Be prepared to provide your surveyor with basic information such as your street address, legal description and/or parcel or tax identification number so that they can complete initial research and provide you with an estimate of cost and time frame for completion. A contract or service agreement may be required to engage their services.

A surveyor provides a highly technical and complex service. They are licensed by the State of South Dakota and are required to meet education, experience and examination requirements. The most qualified professional land surveyor is likely not going to be the least expensive. Remember, your land is one of your most important assets. Expertise, quality and reliability are the best protections for your investment.

The South Dakota Society of Professional Land Surveyors (SDSPLS) promotes ethics and professionalism in surveying. It provides its members with continuing education programs that help surveyors stay in touch with the latest developments in surveying technology and the laws relating to land boundaries and development.

This general survey information may be helpful to you as a landowner. Please contact a Professional Land Surveyor for information on your specific project.

This information is not intended to serve as legal advice. Please contact a qualified attorney for questions pertaining to legal matters.

New 2016 ALTA/NSPS Land Title Survey Standards

By: Gary Kent – Committee Chair

Two years of concentrated effort by their respective committees culminated in the adoption of the new 2016 *Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys* by the American Land title Association on October 8th (2015) and the National Society of Professional Surveyors on October 9th (2015). The new standards became effective on February 23rd (2016).

The officially adopted 2016 Standards can be found at <http://www.nsp.us.com/> under the “Resources” tab. Also found there is a “red-line” version of the 2011 Standards showing the deletions and additions that resulted in the 2016 version. The Standards can also be found at <http://www.alta.org/forms> (click on “Most Requested”).

FREQUENTLY ASKED QUESTIONS

Q Why the change in names from ALTA/ACSM to ALTA/NSPS?

A ACSM (the American Congress on Surveying and Mapping) was essentially merged into the National Society of Professional Surveyors (NSPS) several years ago. The successor organization is NSPS. The committees felt that it was appropriate that the name of the new Standards reflect the organizations that developed, adopted, and are responsible for them.

Q The effective date of the new 2016 ALTA/NSPS Standards was February 23, 2016. What about the transition period?

A It is suggested that any Land Title Survey being conducted pursuant to a contract that was executed before February 23rd be performed to the 2011 Standards. Any contract executed on February 23rd or after would have to be performed pursuant to the 2016 Standards. On the other hand, if the contract was executed on a date prior to the 23rd, but it is obvious to the surveyor that the survey will not be delivered until the 23rd or after, it would be logical, although not required, to perform the survey pursuant to the 2016 Standards.

There might be some exceptions to the effective date – depending on the attorney's attitude – related to HUD surveys. HUD Multi-Family has not released new requirements yet (in 2011, HUD Multi-Family did not release new requirements until June), and if the

attorney insists that the survey must be completed using the 2011 Standards until HUD recognizes the 2016 Standards, surveyors may have to comply.

Q How do I deal with an “update” to a 2011 ALTA/ACSM Land Title Survey?

A If the contract to conduct the “update” is executed after February 23rd, it would have to be performed pursuant to the 2016 Standards. However, if the “update” is simply a follow-up on a survey related to a conveyance that had been anticipated to close before February 23rd, the surveyor could probably logically conduct the update pursuant to the 2011 Standards. This logic should not extend to “updates” unrelated to the initial conveyance or updates that take place substantially after February 23rd.

As an aside, notwithstanding the innocuous-sounding word “update”, an update is actually a new survey. The only difference is that the surveyor happens to have surveyed the property previously, so the client may see a reduced fee of time frame depending on a number of factors (e.g., how long has it been since the initial survey? And how many changes have affected the property since?).

Q I see that in Section 4 of the 2016 Standards, there is essentially an acknowledgement that the documents to be provided to the surveyor may not be forth coming. If they are not, the surveyor need only conduct that research otherwise required by “the statutory or administrative requirements of the jurisdiction where the property being surveyed is located” (or pursuant to the contract). I am from a state that does not have any mandatory standards adopted by its regulatory Board or in its statutes. What responsibility do I have for the research if it is not forthcoming?

A Where there are no mandated standards, the practice of surveying would typically be defined by the standard of care exercised by competent surveyors working in the same area under similar circumstances and on similar projects. So, a surveyor should be familiar with how other surveyors in his or her area deal with research on land title and boundary surveys and do the same.

Q Why is observed evidence of utilities now mandatory on a Land Title Survey pursuant to Section 5.E.iv., rather than optional as it was in Table A Item 11 (a) of the 2011 Standards?

A This change was made to address a conundrum. Pursuant to the 2011 Standards, if a client did not request Table A item 11(a) or 11(b), the surveyor had no responsibility to locate and show evidence of utilities. But if that utility evidence could be considered evidence of an easement, the surveyor



did not need to locate and show it pursuant to Section 5.E.i through iv. The committees felt that most evidence of utilities could also be considered evidence of easements, so to eliminate future problems and questions in that regard, locating and showing observed evidence of utilities was made mandatory for 2016.

Q *The 2016 Standards say the surveyor needs to be provided with the most recent title commitment "or other title evidence satisfactory to the title insurer." Why not simply require a title commitment?*

A Title companies have other products that are sometimes requested by clients that fall short of commitments and policies, but that are acceptable to the client. In addition, in some cases, and in at least one state, abstracts are still used on a regular basis. Since the Standards were developed expressly to address title company needs, the standards – starting in 2011 – required that title evidence be provided to the surveyor. But sometimes, the title company may accept or produce something less than a title commitment, so the standards need to reflect that fact.

Q *The date of fieldwork is obvious, but what is the date of the Plat or Map?*

A That is the date that the survey will be identified by. Many surveyors date the plat or map as of the date they signed it. Others backdate it to the date of the fieldwork. The committees feel this decision is best left to the surveyor. In some states, the date of the plat/map must be the same as the date of the fieldwork.

Q *Former Table A Item 18 (Observed evidence of site use as a solid waste dump, sump or sanitary landfill) has been removed. Why?*

A This item was initially developed as a Table A item prior to the ubiquitous use of Phase One Environmental Assessments in commercial transactions. This is the type of thing that a Phase One ESA was developed to identify. The committees felt that, in the light of the near universal use of the Phase One ESA, there was no need for the surveyor to look for this sort of evidence. Of course, whether a surveyor not trained in environmental matters would recognize such uses was questionable anyway and the clients might have been placing unwarranted faith in this item. In the 2016 Standards, Table A item 8 now asks that the surveyor locate and show observed "substantial areas of refuse."

Reviving the Surveying Profession - from Page 13

surveying profession. We as state societies need to get the word out to our clients and business associates of the possibilities that could occur with the pending retirements in our profession. We as individuals need to get involved with their organizations and speak at their luncheons, conferences, and meetings about what we do and why they should support our recruitment efforts. This affects every walk of life and every public improvement project around us. Our related business' need to know what is coming and they many very well be inclined to steer some folks our way when confronted with a possible candidate that is on the fence about what they want to do for a career.

This really isn't the "chicken little" syndrome folks. We have all known this was coming for some time and no matter how seriously you have taken it in the past, the issue is full upon us now. The results of my informal poll at the PLSO meeting are the handwriting on the wall. We must do something different to get new faces into the profession and to replace the knowledge base that is soon to retire. I urge you to seriously consider helping to form a new path to licensure that is both measurable and regulated and which parallels the college degree path. I truly believe that unless we change our course and follow a new path, society at large is in for a very rude awakening when it comes to building the infrastructure that we depend on let alone having a solid land ownership system with reliable boundaries. I urge you to take ownership in this effort and work to immediately create new opportunities to move our technicians to become our future surveyors and to replace all of us with new faces that will carry on a rich and prosperous tradition of land surveying around the world. It's easy to give lip service to the joke about Mt. Rushmore being three surveyors and another guy, but who will be the next face on that mountain if we don't start diligently replacing ourselves? Are you willing to commit your time and resources to not only reinventing the path to get here, but to promoting it? These I believe are the questions of the day and time has just about run out to answer and address them. If we don't do it the "powers that be" will find a way to replace us with technology and I guarantee you that will not be a satisfactory outcome. More importantly, if we don't do it soon our successors will have to learn all of our lessons from scratch. Those of us with experience dealing with large agencies and the loss of institutional knowledge that ensues when key personnel retire without benefit of grooming suitable replacements can attest to the negative results. Take one-step when you finish reading this and go post on your favorite social media or whatever other method you are comfortable with and get the word out about how great your job is and welcome someone to come talk to you.

As seen in [The UCLS Newsletter](#), April 2016 and reprinted with the permission of the author.

As seen in [The NHLA Newsletter](#), April 2016 and reprinted with the permission of the author.

Land Surveyors Insurance Program

Land Surveying is no easy task.

It takes a crew of dedicated, hard-working specialists to turn points into boundaries. A faulty instrument, calibration error, a lapse of concentration, or even uncooperative weather can turn the task at hand into a liability nightmare.

We at NSPS have joined forces with Assurance Risk Managers Inc. dba ARM Multi Insurance Services to provide you with a great multi-carrier program that offers competitive rates, be of service attitude with state-of-the-art on-line risk management, and loss control services finally causing one to say, "It Pays to Belong". Our program will tailor a land surveyor's insurance policy to protect you and your crew from those exposures that you face everyday.

Even the most well run business can face disaster. Despite your hard work and successful management, the unexpected can occur. Whether you have a crew or work on your own, focus on residential jobs, commercial work or both, boundary surveys or construction staking, your specific operations come with a set of exposures and challenges that require the experience and expertise of a firm that specializes in protecting the land surveyor for over 20 years. That firm is Assurance Risk Managers dba ARM Multi Insurance Services and the NSPS Insurance Program.

Our program can cover you for injuries and damages caused to your customer or employees; damage to your equipment in the event of a loss; damage or loss to your trucks, trailers and other vehicles; error & omission; and much more.

We also understand the importance of Professional Liability (Errors & Omissions) coverage to secure that contract, defending your work performance, or in proving that you operate your business in compliance with state and local government rules and regulations. As a Design Professional specialist, and through our multi-carrier approach with A- or better insurance companies, we can provide you with the Professional Liability policy you need at affordable pricing.

But, we go even further. Providing land surveying services may be just the beginning of what you may offer and understanding all the services you make available is critical at Assurance Risk Managers and the NSPS Insurance Program. We will review your operation in detail to make sure you have the right coverage and adequate limits for the services you are providing as your ONE STOP SHOPPING experience.

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- Equipment Schedule to include serial numbers, make, model & value
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Business Insights

From the Office of Derderian, Kann, Seyferth & Salucci, CPAs & Advisors

Facts and Figures

Timely points of particular interest

Per Diem Rates—The government recently released per diem rates for business travel in fiscal year 2016 (FY2016). Private employers may also use these rates. For FY2016, the rate for specified high-cost areas is \$275 (up \$16 from 2015), composed of \$207 for lodging and \$68 for meals and incidental expenses (M&IE). The rate for low-cost areas is \$185 (up \$13 from 2015), composed of \$128 for lodging and \$57 for M&IE.

Tracking Time—One of the keys to better time management is making lists. You cannot expect to keep everything you have to do during the day in your head. Expand this technique to include monthly and annual lists. Making lists, and referring to them, is a fundamental business practice. Now you can use technology, including cell phones and other electronic devices, to take it to the next level.

Do's and Don'ts for Small-business Owners

Strategies in good times and bad

Despite its success, a profitable small business can expect times when sales slow-down, level off or even decline. Instead of waiting for the inevitable, here are some “do's” and “don'ts” to help.

DON'T think you have it made forever just because your business has been prospering.

All you should need for a warning is to pick up your Sunday newspaper and read yet another article about a corporate heavyweight taking it on the chin. There are simply no guarantees about the future success of your company. One of the worst enemies of a successful small-business owner is complacency.

DON'T take your customers or clients for granted.

For instance, you may assume that a certain sales territory is all wrapped up or a particular client will remain loyal forever. Then the other shoe drops when a large account unexpectedly switches to the competition. Even if you have provided quality services to someone in the past, you must show you will continue to do so tomorrow, the next day and the day after.

DO look to continue to expand your business.

It is rare to be in the enviable position of having “too much business.” More often than not, a business tends to get bogged down at a certain comfort level. When that

happens, a competitor may be able to siphon off some of your profits. Also, you may come across to clients as arrogant if you make only a halfhearted attempt to generate new business. A successful business is a growing business.

DON'T assume that you know everything you need to know about your clients.

Gathering information should be an ongoing process. Periodically, you should ask customers or clients questions about any concerns they have and opportunities they are facing, the changes that are affecting them, and any special conditions that are causing problems. If you do not keep in touch and up-to-date, you may not be able to meet their needs in the future.

DO hope for the best and plan for the worst.

This is not to say that gloom and doom should pervade your thinking. Rather, it is meant to convey that it is better to be safe than sorry. A safer approach is to recognize the inherent uncertainty in business and to act accordingly.

DON'T put all your eggs in one basket.

It is risky to stake your livelihood on just one or two accounts. Similarly, if your sales are completely price-driven, your business can go down the drain quickly if a competitor undercuts you. Offer more to customers than just a low price. This gives the impression that you intend to stay in business for the long haul.

If you take these precautions before danger signs appear, you can keep your business growing. However, if you wait until tough times arrive, it may be too late for meaningful action.

Business Tax Provisions

As with individual tax provisions, certain business provisions that expired after 2014 have been retroactively extended and, in some cases, made permanent.

Section 179 allowance: The Section 179 deduction, which had eventually reached a maximum level of \$500,000 with a \$2 million phaseout threshold, was scheduled to plummet to \$25,000 with just a \$200,000 phaseout threshold for 2015. The new law restores the higher figures and makes them permanent in addition to providing for future indexing.

Bonus depreciation: Previously, a business could claim 50% “bonus depreciation” for certain qualified assets placed in service during the year. The new law retroactively extends bonus depreciation from January 1, 2015, through December 31, 2019, as follows:



- 50% for 2015 through 2017
- 40% for 2018
- 30% for 2019

After 2019, bonus depreciation will generally expire unless it is extended again.

Fast depreciation write-offs: A special tax law provision had enabled taxpayers to use a faster-than-usual cost recovery period of 15 years for qualified leasehold, restaurant and retail improvements. The regular write-off period is 39 years. Under the new law, the faster write-offs are permanently available for 2015 and thereafter.

Research credits: The new law retroactively extends the credit to January 1, 2015, and makes it permanent with certain modifications. Effective January 1, 2016, a small business with \$50 million or less in gross receipts may claim the credit against alternative minimum tax (AMT) liability and a start-up company may be able to use up to \$250,000 of the credit annually to offset payroll taxes.

Qualified small business stock: Under prior law, investors could exclude 100% of the gain from the sale of qualified small business stock (QSBS) acquired before 2015, but the exclusion was reduced to 50% for QSBS acquired after 2014. The new law permanently reinstates the 100% exclusion for QSBS acquired on January 1, 2015, and thereafter.

Work Opportunity Tax Credit: A business could previously claim a Work Opportunity Tax Credit (WOTC) for hiring people from certain economically disadvantaged groups and military veterans. The WOTC is retroactively extended from January 1, 2015, through December 31, 2019.

Employee transportation: Currently, the tax law provides tax-free benefits for employee mass transit passes, vanpooling and parking fees. The maximum monthly benefits for mass transit passes and vanpooling (but not the monthly benefit for parking fees) had been cut almost in half, from \$250 to \$130. The new law equalizes these fringe benefits at \$250 per month (indexed to \$255 in 2016), retroactive to January 1, 2015, and makes the change permanent.

Finally, the new law includes numerous other provisions, including "moratoriums" on three health care law provisions (see "Three ACA Provisions Put on Hold" box), permanently extending a tax break for using Section 529 college savings plan funds to buy computers and codifying the Taxpayer Bill of Rights. For more information about these other items in the PATH Act and details on the provisions discussed above, contact your professional tax adviser.

As seen in Michigan Surveyor Spring/Summer 2016 and reprinted with permission.

The following information is taken from meeting minutes of the
South Dakota Board of Technical Professions
 complete meeting minutes can be found at:
<http://dir.sd.gov/btp>

March 18, 2016

Approve the following examinee for passing the Fundamentals of Surveying (FS) Exam:

Kristopher Kenneth Anderson

- - -

Approve the following examinees to take the Fundamentals of Surveying (FS) Exam:

Aaron David Boock
 Troy Thomas Brooks
 Eric Joseph Christianson
 Daniel Lukeus Grosz
 Tyler Steve Kasuske
 Andrew Wayne Klinger
 Grant Steven Kurkowski
 Ross Daniel Menking
 Dalton James Snow
 Jeff Steven Spondur
 Ruth C. Wetzel
 Lucas P. Zimmerman

- - -

Approve the following Land Surveyors (LS) Comity Applications:

Chad Bailey Atterton – ND – LS #12859
 Mitchell James Dureya – WA – LS #12860
 Robert Michael Ilg – ND – LS #12861
 Kyle J. Roddy – MN – LS #12862

May 20, 2016

Approve the following Land Surveyor (LS) Comity Applications:

Aaron James Anderson – ND – LS #12940
 James Richard Chervek – MO – LS# 12941

*Opportunities multiply
 as they are seized.*

- Sun Tzu -

You Can't Get There From Here ... or

Where Has Deed Research Gone?

By Greg Crites, PLS

A critical part of the business of land surveying (in Oregon at least) involves research. Of course, there's the office of the County Surveyor, local Public Works Departments, ODOT and other public agencies – both local and national – for researching survey/public records, but as most of you know, that's only part of the process involved in resolving the boundaries of a parcel of land. Our job pretty much starts with a deed.

A typical scenario can be found in any office of a surveying sole proprietorship. It starts once you hear the ringtone on your phone or a notification pops up in your email system that someone is seeking your services for a land survey. The initial conversation revolves around fact-finding. "Do you have a copy of your tax statement? Can you read me the assessor's parcel number? Street address?" I'm sure you can recall all the possible permutations of how you get to the point of determining where their property lies so you can begin the process of researching records.

Back when I started in this business, researching deed records was a simple process. Once I gained the trust of the Assessor (if you know me at all, don't bother to ask how I did that), which was, of course absolutely necessary to insure that I wasn't someone intent on burning the courthouse down, then my work pretty much involved going into the basement of the county courthouse, gaining access to the vault where all the old deed books were stored and thumbing through the pages until you found what you were looking for. If you wanted a copy of the instrument, you carefully broke the old ledger apart, took the required original documents up to the clerk's desk and requested to make copies. (Yes, remember the term "mimeograph?") If you were faced with a particularly complicated deed, or there were elements of the description that left a hint of some ambiguity, then you would need to dig deeper.

Abstracting title (or chaining, though I don't think either term is used much anymore) involved plowing through the grantor/grantee or grantee/grantor indices to track down predecessors in title to the current owner. If you ever looked through these old books and labored through the differences in handwriting styles of the various scribes, then you understand how difficult this process was, how time consuming it could be, and how

easy it was to overlook some branch of the conveyancing trail that lead you to the source of a scrivener's error or omission. Explaining to an anxious client about why your research took so long or was so complicated always seemed to draw a blank stare.

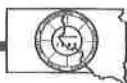
To a surveyor however, this was where the hunt began, where the understanding of the game gained clarity and where the pieces of the puzzle started to fall into place. This likely seems abstract to anyone other than a land surveyor, but hey, one of those "ah ha" moments that come with finally figuring out what happened can be one of the most gratifying feelings of your career. For me, a complicated deed record was something akin to catching the scent of a bull elk in the rut (I used to be a bow hunter, and that's all you need to know) while traipsing through the woods in an area where you knew there should be elk but you just hadn't crossed their trail as yet. The hair on the back of your neck stands up, your senses become instantly more acute, and your normally suppressed hunter instincts surface. Sadly, it seems that this hunt for information has been supplanted by someone who you very likely have never met and have no idea of their qualifications.

This then is where my story really begins.

Lately, I've been working on a transmission line project spanning a distance of slightly more than 80 miles. The planned route crosses more than 150 parcels. A few are concentrated into large tracts owned by industrial forestry companies, but the bulk is small landowners, just like me. A project of this magnitude relies on a title insurance company to prepare preliminary title reports on every parcel that may be impacted by this line. It's not hard to imagine how completely unrealistic (or cost effective for that matter) it is to think that anyone has the budget to turn a surveyor loose to develop title abstracts on every parcel by researching the deed record. Instead, a project of this size requires reliance on title reports prepared by a title company. Those reports generally consist of an abstract of the descriptive words of conveyance (commonly referred to as the deed), some reporting on the status of the tax account and the ever present "Schedule B". If the title company has done an "adequate" job, the abstract should regurgitate the descriptive words of conveyance from the recorded deed verbatim (though I fail to see why that is necessary, as simply citing the recorded instrument and including a *legible* copy of it in the supporting documentation should suffice). The Schedule B should have an exhaustive listing of all the possible encumbrances on the individual parcels.

Are you starting to get the picture?

There are numerous opportunities for errors when receiving a title report from a title plant that has been prepared by some unknown employee. There is no way you can know their qualifications, schooling, nationality



(yep, there I said it, because *cultural* differences and a thorough grasp of the importance of every nuance of the English language *do* make a difference in how a person sees the world from a real property point of view) or experience. If you were to ask me why I don't think chaining title can be outsourced, go through a condemnation proceeding and see how quickly some savvy states attorney will shred you for relying on unproven researchers to undergird your decisions on the resolution of a complicated, contested boundary that is being crossed by this route survey. A survey that may have strong opposition from the ranks of the rural communities it affects (does the word "fracking" come to mind?).

Okay, drawing from personal experience, here's a list of possible errors:

- The title officer did a less than adequate job of preparing the abstract, e.g. typographical errors, key omissions, poetic license. As you know, this isn't the exclusive provenance of title companies. How many times have you received correspondence from a member of the bar that is a clear admission that they are practicing outside their area of expertise?
- There are omitted encumbrances in the Schedule "B". Some may have limited or no effect on the considered transaction, but then again ... (see the case citation at the end of this article!)
- When the title chain is critically important to arriving at some understanding of how a particularly confounding ambiguity arose through the conveyancing tail, an incomplete record can be, not just frustrating but a fatal flaw. I can't tell you the number of times I've been faced with having to explain to an escrow officer (or whatever a title company uses for the title of a person who may be doing the chaining for you) what a title chain is and why it is critically important that they discover every document in the conveyancing record, without gaps. From my "old school" perspective, it's awfully frustrating to have to explain this process to someone else when you know *exactly* what you need and where to get it, assuming you have the luxury of time to do so.
- Erroneous citations of recorded instruments within the Schedule "B". Sorting out these obvious "dead-ends" can not only be time consuming, but frustratingly annoying. It's probably important to note here that the person/persons interested in the Schedule "B" may have differing needs regarding its contents and in defense of title companies, they are in the business of anticipating *all* the needs of those who may be interested.
- The time it takes to get all/any of the above resolved and produce a "revised" title report.

Think about this in terms of timelines. From personal experience, the title report comes through my client via someone in the real property division. They log it into the document trail, review it for sufficiency, assign a tracking number to it, then send it on. It arrives at my desk through several intermediaries, most likely months after it has been received. I review it, discover some critical errors that need revision and then return it, only to begin the whole cycle again. If you were preparing an ALTA survey for a commercial real estate transaction, do you think any of the parties involved would understand a process like this, let alone not chafe under it?

It is not my intention to throw brickbats at the title insurance field, only to point out a major opportunity within our profession to perform outreach. There may be numerous answers regarding how this can be done, only that the need is there. This discussion within the land surveying profession has been heard many times. Numerous articles have been published within our profession regarding the question of our relevancy. I hear the term dinosaurs batted around and that we've lost sight of that relevancy. We're now faced with GIS folks, general contractors and other manipulators of geospatial data taking measurement away from us, using tools that produce results without the need to understand them. Google would be happy to do that as well! You know what? I don't care. In my macroeconomic theory class back when I was in college, they used the often-heard Latin term, "caveat emptor!" Let the buyer beware!

Our role here is to educate people about the importance of what we do in terms of our subject matter expertise. It seems there is a tremendous opportunity (and need?) to get in front of title companies, real estate professionals, attorneys and yes, even the public, and talk about what it is within the conveyancing world that is important to us and how much better the system could be if more of our professional expertise were used to influence it. Complaints about this arena have been heard since I began in this profession. We need to work toward resolving a situation that I consider to be completely unwarranted.

What prompted me to write this article? I received a copy of an appellate court decision out of Multnomah County, filed June 11, 2014, *Jeffrey Kraft and Angela Schmiede, plaintiffs-appellants, vs. Estate of John Ronald Cooper, Sr.; et al, defendants*, and Chicago Title Insurance Company of Oregon, defendant-respondent (see 263 Or App 420 (2014)). Summarizing, this case hinges on the sufficiency of a title report, the expectations by the plaintiffs regarding what title insurance provides and the poor counsel plaintiffs

(Continued on Page 24)

received regarding which things should be specified in the purchase and sales agreement that insured the transaction would not go through unless the outcome satisfied the expectations by the plaintiffs for the use of the property.

The case hinged on an apparently critical error within the legal description prepared by Chicago Title of a public dedication for an additional 10-foot strip of road right-of-way along the front of the parcel to the City of Portland in 1924. In a nutshell, the original north/south dimension of the property was 151.88 feet *prior* to the dedication of the 10-foot strip. This dimension should have been amended to read 141.88 feet! Why was this 10-foot reduction in width so important? The property was listed as having the potential for the development of 6 lots. Without the 10-foot strip, this wasn't possible. The plaintiffs felt that they were entitled to some recompense for this significant oversight, but the court did not agree.

It seems that the legal description prepared by Chicago Title (which in fact was the same description used in the warranty deed), though containing the factual error of the 10-foot dimensional excess, did contain additional qualifying language that covered their mistake. In essence, the erroneous dimension in the description was further limited by the additional terms, "151.88 feet, more or less, to the North line of NE U.S. Grant Place, as now laid out and established (emphasis added)." The plaintiffs relied on the erroneous dimension (the court considered this to be ambiguous), though it wasn't discovered until they had a proper survey performed after (my emphasis) completing the purchase. Yes, I said after! Of course the completion of this survey should have been a condition of the purchase and sales agreement before (my emphasis) completion of the sale, stipulating that should this survey disclose material defects in the property that prevented the plaintiffs from realizing their development objectives, then the sale would not occur.

Of course you realize that the standard boiler plate within the Schedule "B" of the title policy expressly excepted from coverage any loss or damage "which arise by reason of discrepancies, conflicts in boundary lines, shortage in area, encroachments or other facts which a correct survey would disclose." In this particular instance, a citation referencing the dedication of the 10-foot strip to the City of Portland was omitted. *That* doesn't matter. After all, how many of us ask "what benefit does title insurance provide?" Certainly there appears to be, based upon the issues at trial in this case, a clear misunderstanding of that issue! What is more interesting is, had a "proper" survey been performed prior to closing, this whole debacle could have been avoided. Obviously, there is some finger pointing that could be done based upon questions I might ask of the interested parties in this case:

- Why didn't the purchaser's real estate professional alert his/her client to the land mine laying in wait for the unsuspecting plaintiffs prior to the sale? Where was their legal counsel? Certainly the location of this property (if you know anything about real estate values within the City of Portland) should hint as how much this parcel(s) would have been valued. Not to mention the fact that as this case went all the way to the appellate courts then there is some indication of the wherewithal of the purchasers.
- Why didn't the purchaser's real estate professional advise the purchasers to obtain a "proper" survey? I'm curious whether they surrendered their commission because of this outcome!
- Why didn't someone review the title insurance policy for factual omissions prior to its acceptance (did I hear you say, where was the surveyor in all of this?)? I might add here that at least for me, standard practice is to meticulously scrutinize all Schedule "B" exceptions within the title policy to ascertain their applicability, not to mention reviewing other sources of special data pertaining to a particular parcel to spot discrepancies (yes, there are times when simply looking at an Assessor's map may hint as a "hidden" encumbrance).

So, back to my original premise. Do surveyors have a relevant role to play in the geospatial community? You bet they do as the foregoing discussion should illustrate, though perhaps only in some small way. I can't begin to emphasize enough the importance of obtaining subject matter expertise in the conveyancing arena. I consider surveyors to be those individuals who have the most training and expertise, if for no other reason than we're the ones who are called upon to perform "proper" surveys.

I don't need to tell you what constitutes a "proper" survey, but certainly deed research, the ferreting out and understanding of patent/latent ambiguities, the importance of words in describing the intent of the parties to a transaction (when that isn't clear on the face of a deed) and a clear understanding of the value of educating the public regarding "the single most important financial transaction most of them will make in their lives," to name a few. Sitting back and relegating measurements to the non-technically trained members of the geospatial community is one thing, but when it comes to understanding the nuances of issues like those addressed in *Kraft vs. The Estate of John Robt. Cooper Sr.; et al.*, "Who ya gonna call?"

As seen in The Oregon Surveyor, Vol. 38, No. 5 and reprinted with the author's permission.





It Pays to Belong

How NSPS benefits members/ the profession:

Advocacy Program

- Political Action Committee (PAC)
- US Congress
- Federal Agencies
- Assistance on state specific matters (if requested)
- Other geospatial organizations
 - International Federation of Surveyors (FIG)
 - Coalition of Geospatial Organizations (COGO)

Education

- ABET-Lead Society for surveying/geomatics program evaluation for accreditation
- Scholarship Program – 15 annual awards

Licensing/Standards

- NCEES – Participating Organizations Liaisons Council (POLC)
- ALTA/ACSM Land Title Survey Requirements
- NSPS Model Standards

Outreach Opportunities

- Trig-Star
- Boys Scouts Surveying Merit Badge
- National Surveyors Week

Certification Programs

- Reduced rates for Certified Survey Technician Program
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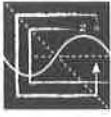
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NEWS RELEASE

July 12, 2016

Contact: Katy Goforth

Senior Marketing Associate

kgoforth@ncees.org

Winners of 2016 NCEES Surveying Education Award announced

Ten surveying programs each receive \$10,000 cash prize

NCEES is pleased to announce the recipients of the inaugural NCEES Surveying Education Award. This annual award recognizes surveying programs that best reflect the organization's mission to advance licensure for engineers and surveyors in order to safeguard the health, safety, and welfare of the public.

NCEES awarded a \$10,000 prize to ten qualifying programs to assist with each program's continued efforts to promote the importance and value of licensure. The award jury considered criteria such as student outcomes, student involvement, outreach, and recruitment. The award jury met June 23–24, 2016, in Clemson, South Carolina, to select the winners.

The jury selected ten programs to receive awards of \$10,000 each:

Ferris State University
College of Engineering Technology
Surveying Engineering program

Michigan Technological University
School of Technology
Surveying Engineering program

Nicholls State University
Department of Applied Sciences
Geomatics program

Oregon Institute of Technology
College of Engineering, Technology, and Management
Geomatics program

Parkland College
Department of Engineering Science and Technologies
Construction Design and Management: Land Surveying program

Southeast Technical Institute
Department of Engineering Technology
Land Surveying Science Technology program

The University of Akron
College of Applied Science and Technology
Surveying and Mapping program

Troy University
College of Arts and Sciences
Surveying and Geomatics Sciences program

University of Florida
School of Forest Resources and Conservation
Geomatics program

University of Maine
College of Engineering
Surveying Engineering Technology program

More information about the 2017 NCEES Surveying Education Award cycle will be posted at ncees.org/surveying when available.

ABOUT NCEES

The National Council of Examiners for Engineering and Surveying is a nonprofit organization made up of engineering and surveying licensing boards from all U.S. states and territories and the District of Columbia. Since its founding in 1920, NCEES has been committed to advancing licensure for engineers and surveyors in order to safeguard the health, safety, and welfare of the U.S. public.

NCEES helps its member licensing boards carry out their duties to regulate the professions of engineering and surveying. It develops best-practice models for state licensure laws and regulations and promotes uniformity among the states. It develops and administers the exams used for engineering and surveying licensure throughout the country. It also provides services to help licensed engineers and surveyors practice their professions in other U.S. states and territories. For more information, please visit ncees.org.



The Land Surveyor's Guide to the Supreme Court of South Dakota Part 15 – 1916 to 1918

This article represents the fifteenth in a series of excerpts from a book prepared by South Dakota licensee Brian Portwood. The complete book is available for review in PDF form on the SDSPLS website and covers 120 years of historic South Dakota cases, answering fundamental land rights questions of potential interest to land surveyors, which are being presented in chronological order here in Backsights & Foresights.

Does a mistaken opinion prevent adverse possession?

Ingalls v Gunderson (1916)

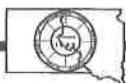
Up to this point in time, as our review of many cases decided by the Court has shown, boundary disputes were resolved on the basis of physical and testimonial evidence of original corners and lines, which was quite feasible during the era when only a moderate amount of time had passed since the completion of the original surveys, and adverse possession was simply a means of suppressing and silencing stale and inferior titles, in those instances when boundaries were undisputed and were not in contention. This clear division between title and boundary issues was destined to end however, as the passage of time eventually made it necessary or appropriate, in the eyes of the Court, to allow adverse possession to be utilized as a means of judicial boundary control, in order to protect the stability of long standing productive possession of unverifiable origin, in the absence of clear first hand evidence of original boundary locations, and the case we are about to review marks the Court's key first step in that direction. This same judicial transition, effectively merging the treatment of boundary and title issues, has taken place in every state at one time or another, as all modern courts gradually adopted established possession of land as a supplemental form of boundary evidence, to be judicially relied upon as such, in the absence of survey evidence or direct testimony providing definitive support or proof of original monument locations. From the Court's perspective, the main benefit that was derived from allowing adverse possession to play a role in the resolution of boundary disputes was the fact that doing so enabled the Court to dismiss and thereby negate the disruptive impact of the early resurveys, which had proven to be chronically erroneous, without any detailed consideration, by simply invoking the statute of limitations, rendering all such evidence moot, and in the end this option proved to be irresistibly attractive to the courts of

every state. The Court's rejection in this case of the concept that mistaken notions or ideas regarding boundary locations can prevent adverse possession was the harbinger of this judicial broadening of the use of the doctrine of adverse possession, although there was in fact no true necessity for the outcome of this particular case to be governed by adverse possession, as it could equally well have been resolved on the basis of the original boundary evidence that was presented. By this time however, the Court had become acutely aware of the potentially dramatic negative consequences that can result when an improper resurvey is left adrift to influence later generations, as happened here, and it was this knowledge gained from the Hoekman, Mills and Coulter cases, and earlier cases that we have reviewed, which motivated the Court to finally consent to employ adverse possession as a tool, with which to conclusively dispose of bogus claims founded upon problematic resurveys. Surveyors often correctly maintain that adverse possession should not be treated as a means of boundary resolution, without recognizing the irony in that position, since as this case shows, the very reason that the Court originally embraced such a role for adverse possession was to combat resurveys that had been executed on a fundamentally mistaken basis, and to fill the void that had been left by the passing of the era during which original survey evidence was readily available.

1867 - The father of Gunderson settled upon the west half of the northwest quarter of an unspecified section in an unspecified township in Minnehaha County, which had evidently been just recently surveyed and platted by the GLO prior to his arrival. Gunderson's father found all of the original monuments defining the location of the northwest quarter completely intact and undisturbed, the mounds and pits being clearly visible, and the GLO stakes still being upright in the center of each mound. He then erected a house and some typical farm buildings on the northerly portion of his land, and he began using the rest of it as cropland in the typical manner. The tract thus acquired by Gunderson's father was subsequently patented to him at an unspecified date.

1869 - As additional settlers arrived and began using the lands adjoining the Gunderson property, Gunderson's father decided to fence his land, based on the original monuments that he had found. Apparently no disputes arose over the location of Gunderson's fence at this time, and the settlers of the adjoining lands were evidently satisfied that he had enclosed the proper location.

1870 to 1890 - During this period all of the land in the vicinity of the Gunderson property was apparently patented and put into productive use in the typical manner by the various settlers who had occupied it and their successors, and there is no indication that any boundary disputes occurred. At



an unspecified date during this period, Gunderson's father conveyed his land to his son, so Gunderson became the owner of the family farm.

1891 - A surveyor arrived in the area and when he encountered Gunderson the two men engaged in a conversation. The surveyor informed Gunderson that he had been employed by the township to perform a complete resurvey of the township and he was looking for section corners, so Gunderson showed the surveyor the corners of his land, and presumably he also told the surveyor that his father had seen and used the original GLO section corners and quarter corners when he had fenced their farm over 20 years earlier. How old Gunderson was at this time is unknown however, so he may or may not have ever seen the original corners, or had any personal knowledge of their locations, beyond what he had been told by his father. Whether or not any physical evidence of the original monuments that had been found by Gunderson's father still remained visible at this time is also unknown, but the surveyor was evidently unimpressed with the evidence provided to him by Gunderson, so he decided not to accept any of the established corner locations in this area as boundary evidence.

1893 - Since the fence along the east side of his property was getting old, Gunderson rebuilt it, in the same location where it had been originally constructed by his father 24 years before. At an unspecified date, Gunderson had also acquired some additional property lying to the southeast of his father's former tract, and he fenced that area at this time as well. Whether or not Gunderson was aware that the surveyor who was currently conducting the resurvey of the township had rejected the boundaries that had been fenced by his father in 1869 is unknown. Who owned the northeast quarter of the northwest quarter at this time is also unknown, but no protest was raised by anyone, so the original fence location continued to serve as the functional east boundary of the Gunderson farm, after being thus rebuilt.

1895 - The same surveyor who had visited Gunderson in 1891 completed his resurvey of the township in question, and at this time he apparently set new section and quarter monuments throughout the township, creating large boundary discrepancies, and purporting to indicate the presence of major boundary issues, in the area that had been settled by Gunderson and his neighbors. The section lines marked at this time lay far to the west and somewhat to the south of the lines that had been accepted and adopted by the settlers, in fact the resurvey shifted all of the boundary lines in this area so far to the west that all of the buildings that had been erected by

Gunderson's father were actually located in the northeast quarter of the northwest quarter, per the resurvey, and Gunderson's east fence was located far inside the northeast quarter of the northwest quarter.

1896 to 1912 - Since the Court had made it known, during the 1890s as we have seen, that resurveys of an independent nature, which neglect to honor and utilize original survey evidence, such as the one that had been performed here, cannot be legally authorized and do not control, Gunderson and the other residents of this township apparently just ignored the results of the resurvey that had been done in 1895, and the township evidently also discarded it and made no effort to adopt the relocated section lines. During this period therefore, Gunderson and his neighbors continued to occupy and use their lands just as they always had, simply disregarding the monuments that had been set, and the lines that had been marked, during the resurvey. At an unspecified time however, presumably toward the end of this period, Ingalls acquired the northerly portion of the northeast quarter of the northwest quarter, and he decided to attempt to assert a claim to the portion of the Gunderson farm that was part of his quarter quarter, according to the boundaries that had been marked during the resurvey.

1913 - Although the fence that served as the line of physical division between the properties owned by Ingalls and Gunderson had remained in place for over 40 years by this time, Ingalls, who was presumably a newcomer to the area, unaware of the area's history, upon learning that the resurveyed location of their boundary was farther to the west, insisted that he owned most of the land west of Gunderson's east fence, land that had always been in the possession of the Gunderson family. Gunderson refused to concede the area in question to Ingalls however, so Ingalls filed an action against him, seeking to have Gunderson compelled to relinquish the land lying east of the relocated sixteenth line to Ingalls, and to require Gunderson to accept that line as their mutual boundary henceforward.

Ingalls argued that the sixteenth line dividing the east and west halves of the northwest quarter had always been the only true boundary between the properties of the litigants, and that line had been properly located during the 1895 resurvey, so the fence that had been rebuilt by Gunderson, and Gunderson's home and other buildings, had actually never been located in the west half of the northwest quarter, and most of the land used and occupied by the Gundersons was actually owned by Ingalls and his predecessors. Ingalls further maintained

(Continued on Page 30)

that since his action was filed to resolve a boundary location issue, and there was no conflict between the titles held by the parties, Gunderson could not obtain the benefit of adverse possession, because adverse possession could not be applied to resolve boundary disputes, so the fact that Gunderson had long been in possession of the area at issue, on the basis of a mistake regarding the sixteenth line location, was irrelevant and could not prevent Ingalls from claiming all of the land lying east of the true boundary location. Gunderson argued that his father had correctly located and fenced the boundaries of his property in 1869, based on its originally surveyed location, and the 1895 resurvey was simply incorrect and invalid, therefore no boundary dispute existed, since the sixteenth line location asserted by Ingalls was plainly illegitimate and groundless. Gunderson further maintained however, that the controversy created by Ingalls should be treated and resolved as a title conflict, since the possession of all of the land that had been fenced by his father and used by his family was genuinely adverse, because they had openly claimed ownership of it at all times, in direct contradiction to the resurvey, so title should be quieted in him, up to his east fence, regardless of where the sixteenth line was really located. The trial judge agreed that this matter could be properly resolved as a title conflict, and he instructed the jury accordingly, upon which the jury found that the boundary location in dispute had been properly located and marked during the resurvey, but also found that the possession of Gunderson had been adverse, so the trial court quieted title in Gunderson up to the fence, as had been requested by him, on the basis of adverse possession.

As we have already repeatedly observed in our review of the many PLSS boundary cases decided by the Court prior to this time, it was not uncommon for land surveyors during the early days to fundamentally misunderstand their proper role with respect to original boundary evidence, and to set out with the deliberate intention of performing what amounted to corrective surveys, convinced that rectifying errors made by the GLO surveyors in executing the original surveys was their proper objective. Even many county surveyors evidently conducted their work in this manner, and they passed on their views, by training their deputy surveyors to adopt this highly independent approach, emphasizing the supreme importance of the mastery of measurement science, in the apparent belief that every surveyor should strive to make the most precise measurements possible, with the ultimate goal of eliminating all measurement errors found to have been made in the past. Following this severely misguided path, great havoc was wrought upon many unfortunate settlers, and extensive damage was done to the security and stability of their land rights, as township officials who were ignorant of boundary law employed such surveyors to resurvey entire townships, under the mistaken concept that original survey evidence could

simply be swept aside, if the original monumentation was found to have been established with poor precision, and numerous townships were remonumented without justification on this basis. In most instances, such erroneous resurveys never reached the Court, if they were disputed at all, in part because the entrymen typically lacked the resources to successfully pursue costly litigation, and in part due to the fact that the typical entryman was uneducated and dared not challenge the knowledge and decisions of the county surveyors, so most of them simply accepted their fate, and acquiesced to the relocation of their boundaries, whether such relocation was justified or not. The impact of such ill advised survey procedures, neglecting to respect original survey evidence, and intentionally departing from the footsteps of the original surveyors, upon the innocent land owners, and on the harmony of their communities, did not escape the Court however, so the Court came riding to the rescue of the entrymen and their successors, by upholding their right to rely fully on the GLO surveys, whenever the opportunity to do so presented itself, as numerous cases that we have already reviewed illustrate. With the passage of time however, it naturally became increasingly difficult to assess the validity of potentially original boundary evidence, so the Court gradually became increasingly inclined to be open to alternative means of protecting established boundaries, and when this case arrived before the Court, a critical tipping point had finally been reached. The trial judge, a highly respected jurist who had handled the conclusion of the seminal Randall case during the 1890s, and who had dealt with countless boundary disputes of this very kind since then, had seen fit to accept and adopt the argument made by Gunderson that adverse possession should be allowed to operate as a means of resolving such boundary disputes, because such controversies are in effect partial title conflicts, that have an impact on the title of the litigants, and result in title being quieted up to a specific location. Although fully cognizant that boundary resolution was not among the originally intended applications of adverse possession, the Court elected to approve the crucial jury instructions given by the trial judge, on the following basis:

“This is an action brought to determine adverse claims ... defendant claims title both because of what he claims to be the true location of the government corners, and also because of his alleged adverse possession ... the township authorities had the township resurveyed. The surveyor treated the mounds at the northwest and northeast corners of the quarter as lost, and located the northwest corner some 50 rods west ... and the northeast corner some 30 rods west ... of the points claimed by defendant ... The jury found in favor of the plaintiff on the question of the location of the government mounds, but found in favor of the defendant on the question of adverse possession ... defendant had knowledge of the fact of this resurvey ... in order for defendant to prevail, the jury must find that he occupied the



land in dispute with an intent to claim up to the line claimed by him, whether it was the true line or was not the true line ... the mere fact that possession may originate in a mistake as to the location of the true boundary will not prevent the running of the statute and the acquiring of title by adverse possession, if the party in possession intends to claim the land to the line occupied by him as his own ... defendant believed the corners testified to by him to be the government mounds, certainly a clear intent to claim title to the fences is shown ... If after 1891 he realized that he was mistaken, then certainly his possession became adverse ... under such resurvey the land in dispute was located outside of the descriptions contained in his deeds ... There could be no clearer or more satisfactory evidence that he intended to claim this land in dispute whether the lines claimed by him were the true lines or were not the true lines. The facts of this case established title by adverse possession."

The outcome of this case was really unremarkable, in fact it was completely predictable under the circumstances, because there was simply no way the Court was going to allow Ingalls to force Gunderson off the land that his family had productively occupied in complete good faith for several decades. What makes this case noteworthy is the fact that it very clearly and poignantly displays the critical factors that caused the Court to finally abandon its efforts to treat boundary and title issues separately, and it thus marks the introduction of the era of modern adverse possession, as a means of judicial boundary resolution. Ingalls was very obviously acting purely in his own interest, and was egregiously unjustified in his attempt to arbitrarily force the Gundersons off their land by asserting that the illegitimate 1895 resurvey, which had never been adopted or utilized, represented the best evidence of the true location of the boundary in question, yet he was technically correct that the issue in play was purely in the nature of a boundary dispute, and was not a title conflict in any sense. Ingalls, like most such opportunists, including some who routinely filed such claims, operating as land sharks, had pounced upon this situation, realizing that if he could successfully maintain that Gunderson's possession amounted to a mere boundary mistake, then time would function as the ally of Ingalls, because time had made it difficult, if not impossible, for Gunderson to prove the original boundary location, by diminishing or eliminating most or all of the direct evidence of the original survey of the area at issue. Gunderson, on the other hand, was clearly within the class of litigants that the Court had always quite strongly protected, being the innocent successor of an original entryman, who had clearly made a good faith effort to take possession of the appropriate location, based on the original monumentation that he had found decades earlier, at a time when the authenticity of that monumentation could not be questioned. Yet Gunderson was in a weak position, the Court realized, because due to the passage

of time, the only basis upon which he could support his boundary location claim was his own testimony regarding what his father had done, so the Court recognized that the time had come to allow adverse possession to be extended to partial title claims, rather than being limited to complete title claims involving entire properties, to which it had historically been limited. The Court therefore agreed with the lower court's decision to treat all adverse claims involving the ownership of real property, including boundary disputes, as being equivalent in effect to quiet title actions, approving the jury instructions that had been given by the trial judge, and upholding the lower court's ruling in favor of Gunderson, thereby confirming that both legal and equitable factors can control boundaries, and abandoning the stance it had formerly adhered to, that claims of title based on possession can have no impact upon boundary resolution. In so holding, the Court had joined the great majority of states nationwide, in acknowledging that the open and visible use of land can represent compelling and decisive evidence of intent to claim title up to a given location, which in turn can represent conclusive boundary location evidence, within the purview and operation of the applicable statutes of limitation, making adverse possession a legal surrogate in effect, for direct physical evidence of an original survey, once such evidence has become obscured or extinguished, by the passage of time.

A strip of land varying from 200 to 300 feet in width, lying between the plat of Yankton and the Missouri River would become the subject of the next adverse possession case to be addressed by the Court, in *Lusk v City of Yankton* in 1918. Lusk obtained a deed in 1915, purporting to convey the strip in question, which had previously been quitclaimed by a descendant of the party who had been the original patentee of all of the land from which the city had been platted. When the strip in controversy was deeded to Lusk, Yankton had already been using most, if not all, of the disputed area as a quarry, from which sand and gravel was being extracted by the city and its contractors on a regular basis, for several years. Lusk and his business partners apparently demanded that Yankton turn over control of the quarry to them, and the city refused, leading Lusk to file an action against the city, seeking to quiet his title to the entire strip, which was approximately the length of 3 city blocks. The Court fully upheld a lower court ruling that Yankton had acquired the entire unplatted area by virtue of adverse possession, emphasizing that Lusk had acquired nothing, and flatly rejecting Lusk's assertion that the city, as a successful adverse possessor, should be required to compensate him for his loss:

"The respondent city ... perfected and acquired full and complete title to this land by adverse possession ... the contention is made that respondent, as a matter of equity, should

(Continued on Page 32)

reimburse plaintiffs ... it would be highly inequitable to do so ... respondent acquired title by fully ripened adverse possession ... appellants are not innocent parties without notice of respondent's rights."

In so deciding, the Court established some important precedents relating to adverse possession, that would often be applied in future cases, such as the concept enumerated above, that a party who acquires land which has already been adversely possessed acquires nothing, so he cannot successfully demand any compensation from the adverse possessor, because adverse possession vests title in the possessor immediately, upon completion of the statutory period, without any need for adjudication, which serves only to make the adversely acquired title a matter of record. The Court also again reiterated the frequently honored rule that any buyer of land, such as Lusk, who is placed upon inquiry notice, either by a physical presence on the land being acquired, or by the presence of a quitclaim deed in the chain of title, does not qualify for judicial protection as an innocent purchaser of land. While this case demonstrates the originally intended purpose of adverse possession, which was to transfer title and ownership of the entirety of a given tract to the occupying party, it would not be long at all before the Court would again turn to adverse possession as a remedy in the context of a boundary dispute.

Is acquiescence ever a factor in boundary determination?

Lehman v Smith (1918)

PLSS boundaries are once again the central topic, in the case we are about to review, which focuses upon the evidence required to support an original corner location, after the physical evidence of an original GLO monument has become degraded and obscure, to the extent that the question of whether the original location has truly been lost or is merely obliterated arises. In this instance, the original monument at issue, marking a typical quarter section corner, was evidently so weathered or otherwise diminished in visibility that it was either entirely overlooked or not recognized as an authentic original monument by a retracement surveyor just 27 years after it had been set. This was undoubtedly not an unusual situation, since the nature of the original monuments typically set by the GLO surveyors working in what would become South Dakota, being mounds and pits with wooden stakes, were obviously highly susceptible to being plowed out of existence by settlers who had little or no understanding of the importance of preserving such monuments. While an even greater challenge faces surveyors attempting to locate original GLO survey evidence today, due to the passage of a far greater amount of time since the execution of the original surveys, the principle dictating

that any such original evidence as may yet be discovered is of controlling value remains intact and fully applicable of course, making a truly diligent effort to locate all such evidence mandatory, as the highest and most significant function of every retracement surveyor. Whether the surveyor in this case ever even looked for the missing quarter corner in its original location is unknown, but most importantly he failed to seek out testimonial evidence, which would have guided him to the obscured original location, and would have assured him that whatever remnants of the original monument were still there, indistinguishable though they might be, were once part of a genuine monumented corner location. Thus the fundamental lesson of this case is that the burden of proof always rests upon the surveyor who elects to declare that any given monument is truly lost, which in turn clearly points to the fact that the surveyor, as a gatherer of evidence, must first and foremost set out to recover and preserve all historical evidence, rather than disregarding the potential presence of such legitimate boundary evidence and resorting too quickly to measurement based solutions. In addition to providing that highly valuable lesson, this case also marks the Court's first definitive statement on the topic of acquiescence, as a factor in boundary determination, and here we look on as the Court takes the fateful step of associating acquiescence with adverse possession, rather than categorizing it as an independent form of boundary resolution, or treating as a supporting element in the practical location of boundaries, as many other states have done, most notably Iowa, Michigan and Wisconsin. This decision on the meaning of acquiescence would go on to be cited by the Court in numerous subsequent boundary cases, eventually consigning the concept of acquiescence to a relatively insignificant role in South Dakota boundary law.

1873 - A certain township in Davison County was surveyed and platted by the GLO and the settlement of the area began.

1885 - By this time, settlers had begun to populate the southwesterly portion of this particular township. The north half of Section 33 was first placed under cultivation at this time, and some trees were planted on or near the north line of that section by the original settlers. A road also came into use, running on or near the north line of that section, but whether or not the south half of Section 28 had yet been occupied is unknown. The original GLO monuments marking the line between Sections 28 and 33 were evidently still in place, according to those parties who were already familiar with the area at this time.

1900 - Tiffany, who had acquired the southwest quarter of Section 28 at an unspecified time, wanted to fence his quarter, but apparently he could not find the south quarter corner of Section 28, so he ordered a survey, and that corner was reset at this time, directly on the line running between the existing southerly corners of Section



28, the locations of which were never disputed. Tiffany then built a fence along the entire south line of his quarter, at least part of which was located in the existing roadway, which apparently meandered along the section line and was only seldom used. No one objected to the construction of this fence, including Lehman, who had acquired the north half of Section 33 at an unspecified time, and the location of the apparently unimproved roadway just shifted slightly, as traffic simply passed along the south side of Tiffany's fence. However, Lehman did expressly inform Tiffany that the original quarter corner between Sections 28 & 33 had actually been located about 100 north of Tiffany's southeast fence corner, and Lehman told Tiffany that although he would agree to allow Tiffany's fence to remain where Tiffany had built it, Lehman still claimed to own all of the land south of that original quarter corner location, including the portion of the northwest quarter of Section 33 that Tiffany had fenced in. How much time had passed between the construction of the fence by Tiffany and this conversation that he had with Lehman is unknown, but Tiffany evidently understood and accepted what Lehman had told him, since he never erected any further improvements in the area claimed by Lehman, apparently using that area only as cropland or pasture.

1906 - Lehman built a fence, apparently running along the full length of the north side of Section 33, but he did not build it in the location where he believed the original section line to be, which was north of the road, instead he built it along the south side of the road, but again he informed Tiffany that he realized that neither of the two fences were located on the section line, and he still claimed to own all of the land lying south of that original section line.

1914 - Tiffany apparently conveyed the southwest quarter of Section 28 to Smith, and for unknown reasons, Lehman decided at this time that he was no longer willing to allow the fence that had been built by Tiffany to remain in its current location, so he asked Smith to relocate it to the original section line, but Smith did not agree with Lehman's opinion regarding the location of the quarter corner in question, so he refused to move the fence. Lehman therefore filed an action against Smith, seeking to have the original location of the quarter corner adjudicated, and to have Smith compelled to move his fence north to the original section line.

Lehman argued that he had seen the original quarter corner between Sections 28 & 33 himself, and he had always known exactly where it was located, so that corner had never been lost, and it had been incorrectly treated as lost and improperly relocated during the resurvey that had

been done in 1900, therefore the original section line location, and not the straight section line that had been erroneously surveyed, still marked his north boundary. He further argued that he had never agreed or stated that the straight section line was correct, or that it was acceptable to him, and he had openly and consistently maintained that his ownership extended north, beyond the road and beyond the fence built by Tiffany, to the original section line location, so the fact that he had allowed some of his land to be used by Tiffany, and some of it to be used as a roadway, was not binding upon him, and he still had the right to claim ownership of the entirety of Section 33. Smith argued that the evidence presented by Lehman relating to the original quarter corner location was inadequate, and the quarter corner had been properly deemed to be lost during the resurvey, so the original corner location alleged by Lehman could not control over the resurveyed location. Smith further argued that Lehman had fully acquiesced in the location of the section line indicated by the resurvey, and he had acquiesced in the construction of the fence by Tiffany on that line as well, so Lehman should be estopped from making any assertion that the resurveyed section line was not the true original section line. The trial court ruled against Lehman on both issues, holding that the quarter corner in question was properly treated as lost and properly reset during the resurvey, and also that Lehman was estopped, by his own conduct and behavior demonstrating his acquiescence, from presenting any evidence regarding the original quarter corner location.

Once again in this case, just as in the Ingalls case, just previously reviewed, the integrity of the corners and lines of an original GLO survey was at stake, bringing the principle that all entrymen and their successors have the absolute right to rely on the work of the GLO into play. Its important for surveyors to understand the reason that the original PLSS surveys are controlling in nature, and to realize that the reason they control is not simply because surveys always control, since that most definitely is not the case. As we have already repeatedly seen, resurveys never carry the same controlling value as original surveys, and in fact courts very often view resurveys with a high degree of suspicion, since experience has taught most judges that such suspicion is frequently justified. The reason why original surveys have the power to control boundaries is because in conducting an original survey, the surveyor is literally functioning as the hands of the grantor, who is the current owner of all of the land being surveyed, therefore all of the corners established on the ground during an original survey legally represent a direct and conclusive expression of the intentions of the grantor himself, regarding the boundaries of the land that he is preparing and proposing to convey. In the west, following the Louisiana Purchase and subsequent conquests, the United States became the owner of all of the land comprising the public domain, and in implementing the

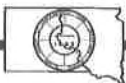
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PLSS, for the purpose of conveying that land into private ownership, the United States became a grantor, so the same legal principles that apply to individual grantors typically apply to the PLSS conveyances made by the United States. The acts of the GLO surveyors carried the full authority of the United States as a grantor, so every grantee under the PLSS is entitled to rely fully on the monumentation established by the GLO surveyors, not because the GLO surveyors were perfect surveyors, but because they functioned as the hands of the grantor, making every monument they set absolutely binding on the grantor and the grantee of every PLSS transaction, regardless of any technical matters, such as how well or how poorly the original surveys were done. Lehman was a typical successor of an original PLSS entryman, so his right to rely upon his knowledge of the location of the original corners and lines of his section was absolute, the Court well understood, and likewise of course, the parties who owned land in the adjoining section, Tiffany and Smith, were fully bound by those original locations, and had no right to disregard them on the basis of any resurvey. The crucial question in such situations, the Court fully realized, was whether the party presenting evidence of an original monument location, or the party claiming that the original monument was lost, bore the burden of proof, and here the Court made it very clear that the party attempting to deny the validity of an alleged original monument location must always bear that burden. Although Lehman had only his own testimony, and that of some other early settlers, relating to the original location of the quarter corner in controversy, the Court, intent upon protecting his right of reliance on the original survey, upheld the value of that testimonial evidence as being fully sufficient and controlling, finding that the monument location was merely obliterated, and concluding that it had been improperly treated as lost, negating the value of the resurvey, before moving on to the second issue to be addressed:

"The controversy is as to the location of the quarter section corner common to sections 28 and 33 ... The location of this corner is decisive of the boundary line of the tract of land in dispute ... The trial court found as a fact that the quarter corner ... was lost and that the corner located by respondent's survey, on a direct line between the undisputed section corners ... should be accepted as establishing the disputed boundary line ... a mound and two pits corresponding to the government regulations was observed ... it appears to have been partially obliterated by plowing ... no corner or indication of a government quarter corner ever existed on the direct line between the section corners ... The genuineness of this corner is unimpeached, save by ... the field notes and plat of the original survey, which purport to locate the corner on a straight line

between the section corners ... The question of title by adverse possession ... is not involved ... acquiescence ... is correlated to the rule of adverse possession ... Where acquiescence in a disputed boundary line continues during the statutory period prescribed as a bar to re-entry, title may be acquired through acquiescence ... being presumed to be adverse ... the boundary line did not become established by reason of acquiescence ... acquiescence is founded upon the presumption of an agreement fixing the dividing line from long maintenance of a fence or other monument marking a line as a boundary ... appellant at all times contended and insisted that the original government quarter section corner was at the point ... contended for by him ... there is not a scintilla of evidence tending to show that appellant ever ... agreed that the corner or the line in dispute was at any other place than that."

Having approved the original quarter corner location defined by Lehman's testimonial evidence as genuine, and confirmed that it controlled over the quarter corner set during the resurvey, the Court next had to assess the validity of the additional suggestion made by Smith, that Lehman had forfeited his right to point out that original corner location, in order to determine whether or not the original monument still marked the extent of Lehman's land rights, as well as the location of the section line in question. It had already been legally well established, for centuries in fact, that many equitable factors can have an impact on land rights, including boundary locations, but here the Court was confronted with the concept of acquiescence in the context of boundaries for the first time, so the decision of the Court here on this issue would set an important precedent, that would be applied to all subsequent situations revealing similar circumstances. Smith and his legal team were evidently aware that in many states acquiescence had been adopted and applied as a means of boundary resolution, so they had set forth the argument that Lehman's acquiescence to the physical conditions on the ground, that resulted from the relocation of the section line at issue by the resurvey, justified the imposition of an estoppel against him, which would force him in effect to concede that he had recognized the straight section line as the true line, by virtue of his actions with respect to that line. Acquiescence, when judicially exercised as a descriptive term for the conduct or behavior of a party, can carry varying meanings and implications, depending upon the context in which it is used, but as a judicial concept, principle or doctrine in the arena of land rights, it represents a state of inaction by a given party or parties, which can carry specific legal consequences, when such a failure to act can be shown to have had an impact on the land rights of others. The great significance of this case lies in the fact that while the Court acknowledged that acquiescence can result from an agreement, and can therefore represent valid evidence of an existing state of agreement between adjoining land owners regarding their mutual boundary location, it can



also represent a mere state of bare inaction, based upon plain indifference to the existing physical conditions, leading the Court to classify acquiescence as being merely a potential factor supporting adverse possession. Since Lehman, the Court observed, had never verbally acquiesced to the fence built by Tiffany as his boundary, and had always openly maintained that it's continued presence was entirely at his discretion, Lehman's land rights had remained intact, and were undiminished by his failure to require the removal of the fence, upon first discovering that it had been built on his land. Since the original quarter corner location had been successfully validated as legitimate, and the possession of the land south of the original section line location could not be shown to have been either adverse or the result of any agreement, through acquiescence or by any other means, the Court reversed the ruling of the lower court on both of those items, holding that Lehman could not be estopped from asserting his ownership of all the land in his portion of Section 33. The outcome of this case also serves as a very effective reminder that no retracement survey is ever legally binding upon any party who has never accepted it, provided that party has not sacrificed or otherwise forsaken the right to protest it, and to present evidence potentially sufficient to have it struck down, emphasizing the importance of discovering and utilizing all relevant evidence before concluding that any given corner is lost.

Two other cases addressing the concept of agreed boundaries are worthy of note at this point, the first being Wood v Bapp, which also came before the Court in 1918, just 4 months after the Lehman case. In the Wood case, Wood owned the northwest quarter of a certain Section 18, while Bapp owned the northeast quarter, and the north half of the section was evidently 70 acres shy of the 320 acres contained in a typical half section. The litigants agreed that the north and south quarter corners of the section in question had both long been lost, but Bapp claimed that he was entitled to his full 160 acres, leaving Wood with a northwest quarter consisting of only 90 acres, while Wood maintained that he was entitled to 120 acres, so a 30 acre area was the subject of the controversy over the location of the quarter section line dividing the properties of the litigants. The quarter line location claimed by Bapp was based on a long established crop line, which had allegedly resulted from an oral boundary agreement entered by the predecessors of the litigants in 1873, while the line claimed by Wood was based upon a 1913 resurvey of the section at issue. The trial court entered judgment in favor of Wood, rejecting the idea that the boundary agreed upon in 1873 had any validity, the Court reversed that decision however, stating that the acquiescence of the parties and their predecessors following the 1873 boundary agreement had resulted in the acquisition of the disputed 30 acre area by Bapp, not by virtue of the boundary agreement itself, but by means of adverse possession. The Court thus found the 1873 boundary agreement to have been legitimately made, yet declined to treat that agreement as a binding or controlling factor, choosing instead to rely solely upon adverse

possession to lock down the agreed boundary location as permanent, thereby eliminating any need to determine the validity of the methodology employed in locating the quarter line in controversy during the 1913 resurvey. Interestingly, in so ruling, the Court held that the location of the agreed line was perfectly clear, despite being marked only by a furrow, declaring that the line was "as clearly defined as though a fence stood there", and the Court also noted that boundary agreements do not require absolute uncertainty in order to be valid, concluding that "The books are filled with cases where agreements have been upheld where the true boundary could have been readily ascertained". In the 1974 case of Osberg v Murphy, the predecessors of the litigants had built a fence to separate their adjoining properties, and they had verbally agreed that the fence represented their boundary, but it was then discovered by means of a survey ordered by Murphy, that one end of the fence had been built to an incorrect property corner, which caused it to encroach upon the Murphy property. Osberg asserted that the fenced line represented a legally binding agreed boundary, despite it's mistaken location, while Murphy argued that the presence of a clear mistake in the placement of the fence had the effect of nullifying the boundary agreement. The Court reversed a lower court decision in Osberg's favor, indicating that the agreed boundary was rendered invalid by the presence of a mistake in the location of the agreed line, and observing that the fence had not existed long enough to support adverse possession, so it was subject to relocation by Murphy to the boundary location of record. Citing the Wood case in so deciding, the Court thus effectively eradicated the concept of binding oral agreements as a distinct element of South Dakota boundary law, by establishing that any oral agreement deviating from a record boundary location merely operates to set adverse possession in motion.

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ARTICLE I – MEMBERS

SECTION 1 QUALIFICATION OF MEMBERS

The members of the South Dakota Society of Professional Land Surveyors (SDSPLS) shall be **consist of** those persons who:

- (a) shall be **are** eligible for membership under the provisions of Article I, Section 2 **of these Bylaws;** and
- (b) shall have been elected to membership upon the recommendation of the Membership Committee; **and**
- c) are in good standing - not delinquent in the payment of dues, subject to expulsion, nor in violation of any other portion of these Bylaws.**

SECTION 2 CLASSES OF MEMBERS

The members of SDSPLS shall be classified in the following classes.

MEMBER:

- a) Any person licensed to practice the profession of surveying, according to state or provincial statutes; or
- b) A GS-1373 employee classified as a Land Surveyor or Supervisory Land Surveyor; or
- c) An academician holding a Bachelor's or higher degree and the rank of assistant professor or higher rank and teaching in an ABET accredited or a state land surveying registration board approved surveying program; ~~or~~
- d) ~~A practicing surveyor or surveying teacher who has attained a minimum of six years' experience in responsible charge of surveying activities or four years of education and two years of experience may submit credentials to the Membership Committee for consideration.~~

LSI MEMBER (Land Surveying Intern):

Any person who has successfully completed the LSI examination according to state or provincial statutes whose qualifications did not meet the requirements of Member.

TECHNICIAN MEMBER:

Any person who has successfully completed any level of the Certified Surveying Technician program as administered by and through the National Society of Professional Surveyors whose qualifications did not meet the requirements of Member or LSI, **or any person who holds an**

Associate Degree or higher in Land Surveying, Land Surveying Technology or an equivalent thereof and whose qualifications did not meet the requirements of Member or LSI.

ASSOCIATE MEMBER:

- a) Pre-Professional: Any person who by his or her employment is actively engaged in a program leading to a career in the profession of surveying.
- b) Subscriber: Any person with an associative interest in surveying whose qualifications did not meet the requirements of Member, LSI or Technician.

SUSTAINING MEMBERS:

Any person or organization, either **an** individuals, **a** partnerships, or **a** corporations, who or which **are is** engaged either in the manufacturing or distribution of surveying instruments, equipment, or supplies, or in the compilation or reproduction of maps, or in the performance of services for land surveyors.

STUDENT MEMBERS:

Any person who is a full-time (12 hours) student studying surveying or related fields.

HONORARY MEMBERS:

Any person who has attained unusual professional recognition by his or her contributions to the profession of land surveying and has been elected as **an** HONORARY MEMBERS by **a vote of** the membership **of SDSPLS**.

LIFE MEMBERS:

Any person who has attained 60 years of age and has retired from active practice as a land surveyor and who has paid dues for each of the nine years preceding and also in the year which he or she attained such age or so retired, whichever is later. Charter members are excepted from the nine-year requirement.

SECTION 3 APPLICATION FOR MEMBERSHIP

All applications for membership shall be presented to the Secretary or Executive Director upon a form prescribed by the Board of Directors and accompanied by the dues for the current membership year.

SECTION 4 DELINQUENCY

Dues notices shall be mailed to each member at their last known address by December 15th of each year. Dues shall be paid on or before January **first (1st)** of each year. Membership shall **expire** automatically and without any notice, hearing, or other action by SDSPLS, **expire** on the fifteenth (15th) day in April in the year in which such member shall have failed to pay the annual dues.

SECTION 5 EXPULSION

If and when the Ethics **Professionalism and Practice** Committee shall notify the Secretary **or Executive Director** that any member either:

- (a) has ceased to be eligible for membership in the class in which he or she is a member; or

- (b) has been found guilty of any felony; or
- (c) has violated any provision of any Code of Ethics adopted by ~~this society~~ **SDSPLS**, or
- (d) has willfully or repeatedly obstructed any purpose or proper activity of ~~this society~~ **SDSPLS**, or
- (e) has been found guilty of any other conduct detrimental to ~~either this society~~ **SDSPLS** or the profession of land surveying,

then the Secretary or Executive Director shall mail to said member written notice (specifying one or more of said grounds for expulsion) that said member will, automatically and without any further notice or hearing or other action by SDSPLS, be expelled from membership in ~~this society on the thirtieth (30th) day following~~ **SDSPLS thirty (30) days after** the date of the mailing of such notice, unless said member shall show presents cause in a written statement delivered to the Secretary Executive Director within thirty (30) days following the date of said mailing why said member should not be expelled from membership. If and when the Secretary Executive Director shall have received any such written statement of cause, he or she shall notify said member of the time and place of the next meeting of the Board of Directors when and where said member may be heard with respect to this expulsion. After said hearing, if said member is expelled by the Board of Directors, the expelled member may appeal to the next annual meeting of the members held not earlier than thirty (30) days after such expulsion, and such expelled member may be reinstated by the votes of a majority of the members who vote on a motion to reinstate said former member.

SECTION 6 PROPERTY RIGHTS

No member as such shall have any right, title or interest in or to any property of SDSPLS. Upon the death or dissolution of any member or any other expiration of any membership or the expulsion of any member, no ~~payment~~ remuneration of any kind or amount shall become payable owed by or payable from SDSPLS to the former member whose membership has expired or who has been expelled.

ARTICLE II – MEMBERS MEETINGS

SECTION 1 ANNUAL MEETING

There shall be one annual meeting held each year at such time and place as the **SDSPLS** Board of Directors may ordain, and at which time the President, President-Elect, Secretary, Treasurer and NSPS ~~Governor-Designate~~ Director shall be installed, annual reports received, and other business which rightfully may come before the meeting may be transacted.

SECTION 2 SPECIAL MEETINGS

Special meetings of SDSPLS may be called whenever and wherever the President or the Board of Directors may deem advisable.

SECTION 3 QUORUM

At each annual or special meeting of the **SDSPLS** members, ten (10) members present in person shall constitute a quorum.

SECTION 4 NOTICE

Notice of an annual meeting shall be mailed to every member's last known post office address not less than thirty (30) days prior to such meeting, and **Notice** for special meetings **shall be provided to all members of the Board of Directors and all current committee chairs** not less than five (5) days' notice so mailed shall be given **prior to such meeting via previously confirmed electronic mail transmission or other means**. Such notice shall state the time and place of such **scheduled** meetings and may be either an individual notice or part of any publication of SDSPLS.

SECTION 5 MEMBERSHIP CALL

A special meeting of SDSPLS may be called upon the written request of twenty-five percent (25%) of the voting members of SDSPLS upon notice as above provided for special meetings.

SECTION 6 VOTES

Each Member, **Life Member**, LSI **Member**, and Technician **Member** shall be entitled and restricted to one (1) vote in the affairs of SDSPLS, and there shall be no cumulative voting. Honorary Members, Associate Members, Sustaining Members and Student Members shall have no vote except as an ex-officio members of the Board of Directors.

SECTION 7 MAIL VOTES

Any member who is **absent from any members meeting yet** entitled to vote at, but who is ~~absent from any~~ **said** meeting of the members may vote by proxy on the proxy upon any election, motion, resolution, or amendment which the Board of Directors may, in its discretion, submit to the members for vote by them. Such proxy shall be in the **a** form prescribed by the Board of Directors and shall set forth the exact text of the proposed election, motion, resolution, or amendment to be voted upon at such meeting, and shall ~~have spaces in which such members may indicate his~~ **include provisions for clearly indicating an** affirmative or negative vote thereon. Such **absent** member shall **be responsible for clearly** expressing his or her vote by making a mark in the appropriate space upon **using the method provided by** such proxy. Such proxy, shall be signed by the member and when received by this association, **the Secretary of the Board of Directors** before said meeting shall have been called to order, shall be accepted and counted as the vote of such absent member at such meeting.

SECTION 8 RULES OF ORDER

Except as otherwise provided in these ~~b~~Bylaws in any standing rules of procedure (not inconsistent with these ~~b~~Bylaws) which shall have been adopted at any meeting of the members, "Robert's Rules of Order-Revised" shall be the parliamentary authority for the conduct of meetings of the members.

ARTICLE III – OPERATIONS

SECTION 1 THE BOARD OF DIRECTORS (**Directors**)

The members of the Board of Directors shall be **consist of the following duly elected officers, all of whom must be current members of SDSPLS in good standing:**

- a)** Immediate Past President;
- b)** President;
- c)** President-Elect;
- d)** Secretary;

- e) Treasurer;
- f) the NSPS ~~Governor designate~~ **Director**; and
- g) the President of each Chapter, ~~all who shall be members of the society in good standing.~~

SECTION 2 CHARTERING CHAPTERS

The Board of Directors shall have authority to make rules and regulations for chartering, combining or dissolving chapters.

SECTION 3 MEETINGS

The Board of Directors shall meet quarterly and at such other times and places as the Board may determine. Special meetings may be called by the President, or **by** a majority of the **d**irectors. All meetings shall be held on such notice, as the Board may prescribe, but any business may be transacted at any meeting without mention of such business in the notice of the meeting. Required notice may be given by any usual means of communications and may be electronic, oral or written.

- a) Meeting Via Communications Equipment – The Board of Directors may permit any or all **d**irectors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all **d**irectors participating may simultaneously hear each other during the meeting. A **d**irector participating in a meeting by this means is deemed to be present in person at the meeting.
- b) Action Without Meeting – Action required or permitted by law or these **b**ylaws to be taken at a meeting of the Board of Directors may be taken without a meeting if the action is taken by a quorum of the duly elected and qualified **d**irectors. The action must be evidenced by an electronic response describing the action taken, and included with the minutes of the next regular quarterly meeting.

SECTION 4 QUORUM

A quorum of the Board of Directors shall consist of a majority of the elected **d**irectors. A majority vote of the **d**irectors present shall decide all questions, except where a greater vote is expressly required by ~~law~~ of these **b**ylaws.

SECTION 5 REIMBURSEMENT

The reimbursement, if any, of the **d**irectors, officers, and members shall be fixed at the annual meeting.

SECTION 6 AUDIT

The Board of Directors shall audit books of SDSPLS each fiscal year, which audit may be by a public accountant or by an individual or individuals the Board chooses.

SECTION 7 BORROWINGS

The Board of Directors shall have power which may be exercised only by a vote of a majority of all the **d**irectors, to authorize and approve the borrowing of money and the pledging and mortgaging of any or all of the assets of SDSPLS as a security for the sums to be borrowed.

SECTION 8 CORPORATE SEAL

The Board of Directors may adopt, alter or abandon the use of a corporate seal.

SECTION 9 ENGAGEMENT OF SERVICES

The Board of Directors shall have the power to engage the services of, delegate duties to, and establish the responsibilities of, an Executive Director or other such personnel as may be deemed necessary or appropriate to conduct or complete the business of SDSPLS. The Board of Directors shall have the power to terminate the services of such Executive Director or other personnel.

ARTICLE IV - OFFICERS

SECTION 1 ELECTION OF OFFICERS

At the annual meeting of the members, the voting members shall elect a President and a President-Elect for regular terms of one administrative year commencing at the adjournment of the annual meeting. The President shall not succeed himself or herself in office. The sitting President-Elect shall automatically become a candidate for President. On even numbered years the voting members shall elect a Secretary and on odd numbered years a Treasurer and NSPS ~~Governor-designate~~ Director. The Secretary, Treasurer, and NSPS ~~Governor-designate~~ Director shall be eligible for reelection without any limitation on the number of terms for which they may serve. For the regular term next following the expiration of the term for which he or she served as President, the former President shall be designated as the Past President.

SECTION 2 THE PRESIDENT SHALL:

- a) ~~P~~reside over all meetings of the members and of the Board of Directors;
- b) sign all contracts and other agreements on behalf of SDSPLS;
- c) perform or delegate all of the duties of his or her office and shall perform such additional duties as may be required of him or her by the Board of Directors; ~~and~~
- d) appoint the chairperson and members of all standing and special committees from any class of membership; ~~and~~
- e) ~~shall~~ serve as an ex-officio voting member of all committees.

SECTION 3 THE PRESIDENT-ELECT SHALL:

- a) perform such duties of the President as the President may designate; in the absence or disability of the President, the President-Elect shall perform all the duties of the President;
- b) do and perform such other duties as from time to time may be assigned by the Board of Directors, or required by the President and the Board of Directors.

SECTION 4 THE SECRETARY SHALL:

- a) take or supervise the taking of complete minutes of all meetings of the members and of the Board of Directors;
- b) have custody of the SDSPLS minute book and of its corporate seal, if any;

- c) submit to the annual meeting of the members a report covering the business of SDSPLS for the previous fiscal year and showing the condition of SDSPLS at the close of said fiscal year;
- d) give, or cause to be given, all notices as required by law or these ~~b~~Bylaws;
- e) perform such additional duties as may be required by the President and the Board of Directors; and
- f) maintain a current record of membership.

SECTION 5 THE TREASURER SHALL:

- a) have custody of the account for all funds and property of SDSPLS;
- b) keep complete books and records of all financial transactions of SDSPLS; and
- c) perform such additional duties as may be required by the President and the Board of Directors.

SECTION 6 ~~THE NSPS GOVERNOR DESIGNATE OR APPOINTED REPRESENTATIVE~~ **DIRECTOR** SHALL:

- a) represent SDSPLS on the Board of ~~Governors~~ **Directors** of the National Society of Professional Surveyors; and
- b) monitor the National Society of Professional Surveyors programs and policies, and report the same to the membership of this society.

SECTION 7 OFFICER VACANCY

~~Each vacancy occurring in any office of the President, President-Elect, Secretary, Treasurer or an NSPS Governor Designate, other than the expiration of a regular term, may be filled until the next annual meeting of the members by a vote of the remaining directors.~~

The Board of Directors may appoint any voting SDSPLS member in good standing to fill a vacancy that has occurred for any reason other than the expiration of a regular term in the office of the President, President-Elect, Secretary, Treasurer and/or NSPS Director, to serve until the next annual meeting.

ARTICLE V – COMMITTEES

SECTION 1 STANDING COMMITTEES

The President, may appoint or reappoint from among the members of SDSPLS, the chairperson and members of each of the following Standing Committees:

- a)** ~~Education, Bylaws and Ethics,;~~
- b)** **Professionalism and Practice;**
- c)** ~~Legislation, Standards,;~~
- d)** ~~Membership,;~~
- e)** ~~Nominating,;~~ **and**

f) Public Information, and Special Committees as needed.

SECTION 2 THE EDUCATION COMMITTEE:

This committee shall promote and encourage educational facilities and activities which the committee deems to be advantageous or beneficial to the members or to students who are preparing to follow the profession of land surveying.

SECTION 3 THE ETHICS AND BYLAWS **PROFESSIONALISM AND PRACTICE** COMMITTEE:

This committee shall prepare and recommend to the Board of Directors a Code of Ethics, and amendments thereof from time to time. It shall investigate all questions arising under said Code of Ethics and recommend to said Board action to be taken by said Board concerning any such question, and it may This committee shall review this corporation's Bylaws each year and recommend to the Board of Directors such amendments as said committee may deem advisable. This committee shall recommend, or prepare and recommend to the Board of Directors, guidelines for the professional practice of land surveying in South Dakota, and amendments thereof from time to time. The Board of Directors may serve as the Ethics and Bylaws Committee.

SECTION 4 THE LEGISLATION COMMITTEE:

This committee shall study enacted and proposed legislation affecting land surveyors the land surveying profession, and provide reports and assessments to the Board of Directors. Said Committee shall and promote legislation which will be in the public interest and will elevate the standards in the interest of the profession of land surveying as directed by the Board of Directors.

SECTION 5 THE STANDARDS COMMITTEE;

~~shall recommend, or prepare and recommend to the Board of Directors, a manual of standards for the proper practice of the profession of land surveying, and amendments thereof from time to time.~~

SECTION 6 **5** THE MEMBERSHIP COMMITTEE:

This committee shall review all applications for membership in SDSPLS and shall recommend to the Secretary each applicant which said committee shall deem to be eligible for membership, together with said committee's recommendation concerning the classification of each recommended application. Said committee, without prior application, may recommend to said board and membership the admission of qualified persons to membership in this association as Honorary Members, Life Members, or Sustaining Members. Said committee shall also strive to increase the membership of SDSPLS.

SECTION 7 **6** THE NOMINATING COMMITTEE:

This committee shall consist of at least three (3) members and shall, prior to the official notice of the annual meeting of the members, nominate one (1) or more nominees for election to each office for which an election will be held at said meeting. The Board of Directors may serve as the Nominating Committee.

SECTION 8 **7** THE PUBLIC INFORMATION COMMITTEE:

This committee shall promote SDSPLS and its activities and programs. This committee shall coordinate all programs not covered by the Education Committee.

SECTION 9 **8** SPECIAL COMMITTEES

The President may appoint the chairperson and members of the following Special Committees as needed from the members of this corporation:

- a) Historian;_{7,a}
- b) Honors and Awards;_{7,a} and
- c) Convention;_{7,a}

and The President may appoint additional special committees for such various purposes as may from time to time deemed to be expedient.

ARTICLE VI – CHAPTERS

SECTION 1 ORGANIZATION

Area chapters of SDSPLS may be established by the Board of Directors upon the petition of at least five (5) members who wish to form a chapter in their area. The petition should include a chapter name and a list of counties to be nonexclusively served by the chapter. This list is subject to change at any time by the Board of Directors. The chapters shall be numbered in the order in which they are established.

SECTION 2 PURPOSE

The purpose of each chapter shall be to assist SDSPLS in fulfilling its objectives. The chapter shall actively promote membership in SDSPLS. The chapter shall also provide fellowship, guidance and assistance to students and technicians seeking a place in the profession by including them in chapter activities.

SECTION 3 MEMBERS

Only members of SDSPLS shall be eligible for membership in their respective chapters.

SECTION 4 OFFICERS

The Chapter Officers shall consist of:

- a) a President, who shall conduct the chapter business;
- b) a Vice-President, who assists the President or assumes the duties of the President in his or her absence; and
- c) a Secretary and a Treasurer, or Secretary-Treasurer who shall keep a record of the business and finances of the chapter.

Committees may be appointed by the Chapter President to assist in his or her term of office. The officers shall be elected annually. All voting members shall be eligible for office except in the event of a Student Chapter where all student members shall be eligible for office and shall be voting members in the chapter.

SECTION 5 MEETINGS

The Each chapter shall hold at least two meetings throughout the year. The meetings shall be conducted in accordance with "Robert's Rules of Order – Revised". Copies of the meeting minutes shall be mailed retained by the cChapter secretary, ~~to the President, Secretary and the~~

~~Chairman of the Public Information Committee of SDSPLS~~ **and copies shall be provided to the Chapter President.**

SECTION 6 DUES

The chapter shall determine its own dues, which may not exceed fifty percent (50%) of the respective state SDSPLS dues.

SECTION 7 ANNUAL REPORT

The ~~e~~Chapter **President** shall present an annual report to the membership at the annual meeting, containing a list of its members and a summary of its activities and financial status.

ARTICLE VII – FINANCES

SECTION 1 FISCAL YEAR

The fiscal year of SDSPLS shall commence on the first day in January in each year and shall end on the last day of December in the same year.

SECTION 2 ANNUAL **MEMBERSHIP** DUES

Each member shall be assessed, as of the first day of each fiscal year, such **full** amount of annual **membership** dues for said fiscal year as shall have been adopted by the members **Board of Directors** prior to the commencement of said fiscal year; ~~provided, first that each such member who shall have been admitted to such membership (a) between January 1 and March 31 of said fiscal year shall pay full annual dues for said fiscal year; (b) between April 1 and September 30 of said fiscal year shall pay one-half (1/2) annual dues; and (c) between~~

In the case of newly admitted members, dues may be pro-rated as follows:

- a) beginning on April 1 of said fiscal year newly admitted members may pay one-half (1/2) annual dues; and**
- b) beginning on** October 1 ~~and December 31~~ of said fiscal year **newly admitted members may** shall pay full annual dues which will cover the remainder of said fiscal year and all of the next fiscal year.

No annual dues shall be assessed against any Honorary Member.

The annual dues payable by Members, LSI Members, Technician Members, Associate Members, Sustaining Members, Life Members, and Student Members shall be established and assessed by the Board of Directors.

SECTION 3 ANNUAL BUDGET

The Board of Directors shall prepare, prior to the annual meeting, a proposed budget, and shall submit **the** same together with the notice of the annual meeting to the membership for their approval at the annual meeting.

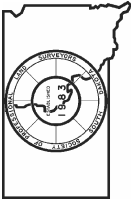
ARTICLE VIII – AMENDMENTS

SECTION 1 These ~~b~~Bylaws or any part of the same may be amended, abridged, altered, added to, or repealed by the membership of this corporation and not otherwise, at any annual membership meeting, by a two-thirds (2/3) vote of the membership voting.

SECTION 2 All proposed amendments to the ~~b~~Bylaws must be delivered to the Secretary not less than sixty (60) days prior to the date of the annual meeting. The Secretary must thereupon mail a copy of such proposed amendments to all members of every class, or email a copy of such proposed amendments and post a copy of such proposed amendments on the SDSPLS website www.sdspls.org not less than thirty (30) days prior to such annual meeting. Publication in the official publication of SDSPLS which is delivered thirty (30) days prior to such annual meeting shall constitute due notice to the membership.

SECTION 3 The Secretary shall mail a copy of all amendments to each member following adoption. Publication in the official publication which is mailed, emailed or provided to all members; or posting on the ~~SDSPLS~~ website www.sdspls.org of ~~SDSPLS~~ shall constitute delivery of the amendments.

Amended: *January 10, 2014*
Proposed Amendments. August 2016



SOUTH DAKOTA SOCIETY OF PROFESSIONAL LAND SURVEYORS

Affiliate of the National Society of Professional Surveyors

APPLICATION FOR MEMBERSHIP

Complete the following

Name: Last:
 First:

Preferred Mailing Address:
Business _____ or Home _____

Business: Name:
 Address:
 City:
 State: Zip:
 Phone:
 Cell:
 Email:

Home: (Required) Address:
 City:
 State: Zip:
 Phone:
 Email:

Check one and sign below

Member (In-State w/NSPS):	_____ \$160	Technician:	_____ \$60	Life Member (In-State w/NSPS):	_____ \$65
Member (Out of State):	_____ \$125	Associate:	_____ \$50	Life Member	_____ \$25
LSIT:	_____ \$90	*Student:	_____ \$25	Sustaining:	_____ \$250

*In-State classifications are determined by the home mailing address.
 Fees for In-State Members (\$160) include NSPS membership.
 Fees for Out-of-State Member (\$125) do not include NSPS membership.
 In-State Life Members have the option of selecting NSPS membership (\$65)*

Member:

- a) Any person licensed to practice the profession of surveying, according to state or provincial statutes;
- b) A GS-1373 employee classified as a Land Surveyor or Supervisory Land Surveyor;
- c) An academician holding a bachelor's or higher degree and the rank of assistant professor or higher rank and teaching in an ABET accredited or a state land surveying registration board surveying program;
- d) A practicing surveyor or surveying teacher who has attained a minimum of six years experience in responsible charge of surveying activities or four years of education and two years of experience may submit credentials for consideration.

LSIT:

Any person who has successfully completed the LSIT examination according to state or provincial statutes.

Technician:

Any person who has successfully completed any level of the Certified Surveying Technician program as administered by and through the National Society of Professional Surveyors.

Associate:

- a) Pre-Professional: Any person who by their employment is actively engaged in a program leading to a career in the profession of surveying;
- b) Subscriber: Any person with an associative interest in Surveying whose qualifications do not meet the requirements of Member, LSIT, or Technician.

*Student:

Any person who is a full-time student studying surveying or related fields.

Sustaining:

Any person or organization, either individuals, partnerships or corporations, who or which are engaged either in the manufacture or distribution of surveying instruments, equipment or supplies, or in the compilation or reproduction of maps, or in the performance of services for land surveyors.

Life Members:

Any person who has attained 60 years of age and has retired from active practice as a land surveyor and who has paid dues for each of the nine years preceding and also in the year which he or she attained such age or so retired, whichever is later.

Signature of Applicant

I certify that I qualify for the class of membership I have applied for as outlined below.

Date

*Signature of Faculty Member (required for students)

Date

Institution

I certify that the applicant is a full-time student. (12hrs or more)

Send complete application & payment to: SDSPLS - PO Box 8154 - Rapid City, SD 57709
(phone) - 605-348-1538 (email) - janelle@fisklandsurveying.com

SDSPLS
PO Box 8154
Rapid City, SD 57709

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520-622-6011



BACKSIGHTS & FORESIGHTS
