

HOOSIER SURVEYOR


Quarterly publication of the Indiana Society of Professional Land Surveyors, Inc.


FEATURED ARTICLE

The winning entry of the inaugural Hoosier Surveyor Photo Contest: a property line monument submitted by Jason Coyle, PS

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L to R: Alexander Fabian, Munster; Rich Hudson, Valparaiso; Norman Hiselman, Avon; Bryan Catlin, Clayton; Ed Sweetland, Indianapolis; Brent Friend, Franklin; Dave Myers, Terre Haute; Eric Banschbach, Indianapolis; Don Williams, Crown Point; Kurt Vonderheide, Munster; Vincent Barr, Franklin. Not pictured: Ryan Swingley, Indianapolis.

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FROM THE EDITOR

Deadlines for copy for various planned issues of the Hoosier Surveyor are as follows:

- Winter - February 1
- Spring - May 1
- Summer - September 1
- Fall - November 1

The Hoosier Surveyor is published quarterly by the Indiana Society of Professional Land Surveyors to inform land surveyors and related professions, government officials, educational institutions, libraries, contractors, suppliers and associated businesses and industries about land surveying affairs.

Articles and columns appearing in this publication do not necessarily reflect the viewpoints of ISPLS or the Hoosier Surveyor staff, 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 as to its contents.



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PRESIDENT'S MESSAGE

By ISPLS President, Bryan F. Catlin, PS

Greetings,

Second Chances

As I write this message, I have just returned from the weeklong ESRI Users Conference in San Diego. Besides spending time with the other nearly 18,000 attendees, I attended to keep somewhat up to date on the state of GIS and the most popular GIS software packages.

There were several things presented which I found informative, but the most interesting to me is that ESRI has improved the ability to link survey data from AutoCAD into ArcMap and GIS data from ArcMap into AutoCAD as well as Adobe Illustrator and Photoshop. For those interested, ESRI has a free plug-in for AutoCAD that can be downloaded to simplify the use of GIS data in your drawing files.

For many years, surveyors have bemoaned that we “missed the boat” on getting into GIS. I don’t agree with this belief. I have found that surveyors are very welcome where our special knowledge and skills fit with the needs of GIS projects and organizations. From control surveys to support photogrammetric mapping to data collection for field inventory to creating and maintaining survey specific layers (such as section corners and lines), I have worked on GIS projects off and on for almost 30 years. The Indiana Geographic Information Council (IGIC) has several professional surveyors as members, and ISPLS has a seat on the IGIC Board of Directors as well as joint committees for topics which affect both groups. What won’t happen is for surveyors to be put in charge of many GIS projects without developing our skills and interests in GIS. No more than we can control GPS as more and more accurate chips in smartphones are being used for all kinds of purposes, we don’t control all geographic data. By the way, I won’t be surprised if dual-frequency chips with real-time corrections start pumping out centimeter-level positions from your phone soon. But we do have knowledge of datums, errors, and coordinate systems that most non-surveyors lack, which gives us a special place as GPS users as well as in GIS.

Surveyors have often looked down on the accuracy of GIS data. Every time someone repeats that GIS means “Get It Surveyed,” that is really what we are doing. But survey accuracy is not the point of most systems, and we are partly at fault for not providing or pushing for more accurate base layers. I’m sure most, if not all of us, use online GIS as a research tool to find property ownership, aerial photos, etc. If you get Marion County corner ties from our website, you



are using GIS. Most GIS systems are meant to easily provide data such as this in an affordable, maintainable way. The corner tie layer for the Marion County GIS has surveyed locations for all of our corners which we update if the current measured location is found to be three centimeters or more from the prior location as we update ties. We are now making accurate data available which aids other GIS contributors in our enterprise such as the Assessor’s Office as they add parcel information. But even with high-resolution aerial photography and coordinate information accurate enough to see that the orthophotography is not on the same NAD 83 realization as our corners, GIS is still not a survey system, and it isn’t meant to be.

With some of the new tools I mentioned, as well as access to more sources of GIS data such as the Open Indy Data Portal and the Indiana Map where GIS layers can be obtained freely, surveyors have a second chance to learn about GIS and make the transition from GIS user to GIS data creator. I would encourage those interested to get training now. I know many members are, thankfully, very busy right now, but now is the time to invest in new skills and to explore new markets. I think the cyclical nature of the development industry most of us are a part of has recently proven that we can’t, or won’t, spend the time and money to learn new skills during a severe downturn.

And if you are spending every waking hour working, consider hiring. Hiring drives a virtuous cycle of demand and increasing wages which will attract more people into surveying as word gets around, and schools can use that information to recruit or redirect students. I would bet if Purdue Civil Engineering students who minor in Geomatics/Surveying start being hired for higher salaries than the students studying Structural, Environmental or Transportation, the future supply of surveyors from all schools will greatly increase. And we will have the time we need to explore new services, like GIS.

Bryan F. Catlin, PS
2017 ISPLS President

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SURVEYING - AN AMERICAN PROFESSION

By Perry D. Cloyd, PS

What is that old saying, “I have seen the enemy and he is us” by Pogo the Possum [a Walt Kelly comic]. I was recently told a surveyor said, “Why would someone want to be a surveyor when all they can make is \$60,000 a year?” When I heard this I was outraged to say the least. When you are building your career Charlie Daniels says you should never look at the empty seats, but this attitude is clearly looking at the empty seats and is a “the cup is half empty” attitude if I ever heard it.



Take a look at the national average for all incomes, \$48,099. Ever seen it adjusted to remove the high dollar jobs on the east and west coast, or ever seen the average for all incomes in Indiana [\$46,438]? The median household income in California is \$61,818 compared to Texas' \$53,207. I am here to tell you, brother, welcome to the land of milk and honey. We can start our surveyor technicians at almost that national/state average and they can quickly surpass that barrier.

Now how does your \$60,000 per year look? The cost of living here is much lower than either Texas or California. An equivalent annual salary in those locations could be as much as double those amounts.

Surveying is a perfect example of the American dream; better yet, it personifies everything there is about America and being American. Now I understand it is American to complain; the Pilgrims were complaining when they came to this land and the Indians were complaining shortly after they got here. But a “woe is me” attitude places blinders on what is really great about what we do.

Ever wonder why so many founding fathers were surveyors? Land then and land today is one of the most valuable commodities around, and no one is making more. What we see is all we have. What surveyors do with it determines its final value. No one really ever expands, builds, develops or improves without the input of a surveyor in some manner.

When all the land in the new world became available, who do you think was commissioned first to inspect and map the resources available? Exactly, the surveyor. That made theirs one of the most sought after professions of the day. Before any established cities [with their trade, industry, art, entertainment or stores] existed, surveyors determined what existed, what was available and where improvements would best be placed. Beyond that, the idea of surveying the frontier provided a new start, new rules and new adventures. Everything was built from scratch, always something

from nothing. All knew it would never be easy, but they were always able to move forward. They also knew there were no boundaries or restrictions, and that they could dream as big as they wanted.

If the perceived importance of our profession is less now than it was then, it is our own fault.

Ancient surveying has been an element in the development of the human environment since the beginning of recorded history. Basic surveyance has occurred since humans built the first large structures. The prehistoric monument at [Stonehenge](#) (c. 2500 BC) was set out by prehistoric surveyors using peg and rope geometry. The almost perfect squareness and north-south orientation of the [Great Pyramid of Giza](#), built c. 2700 BC, affirm the Egyptians' command of surveying. The Romans recognized land surveyors as a profession, known as [Gromatici](#), and they established the basic measurements under which the Roman Empire was divided.

Now that you know where it has been, how does that fit where we are today? What is your passion? History, Law, Science, Research, Space, Technology? It is all here!

By definition, Surveying or land surveying [taken from Wikipedia] is the technique, profession, and science of determining the terrestrial or three-dimensional position of points and the distances and angles between them. Surveyors work with elements of [geometry](#), [trigonometry](#), [regression analysis](#), [physics](#), [engineering](#), [metrology](#), [programming languages](#) and the [law](#). They use equipment like robotic total stations, GPS receivers, [retroreflectors](#), [3D scanners](#), radios, handheld tablets, digital levels, subsurface locators, drones, [GIS](#) and [surveying software](#).

Still with me? Modern surveying allows you to work at any level that meets your personality. You can stay in the field, work mapping the land, discovering/recovering property boundaries or staking/managing construction project; all in a boots and jeans if you so desire.

Or, you can start in the field and move to the office. Here you can apply your skills to drafting, accounting, database entry, research, documentation. Again you can move forward to project management. What is your desire in projects? Small, large, national or international? Again, if this is what you want, it is out there. All you have to do is go get it.

Want more? Obtain additional education for advancement. This could lead to staff management, a professional license or business ownership.

Want to be your own person and own a business? Do you want to own a small business, a large business, a national business or a worldwide business? Do you want to be a full service provider? A subject matter expert? Contract or consultant specializing in certain parts of projects [boundary, ALTA, FEMA/Flood/drainage]?

Like technology? We have it in spades and at all levels. Do you get a charge out of working with a hammer, tape, lath and machete? You probably did not think of these as technological advancements! What about computers, software implementation or software development? Want to do personal customization for your own use or programming for company use? Lasers, scanners, satellite measurements, drones, robots, GIS, GPR, LIDAR and reference networks are also available.

More book oriented? What about the law, the history and the investigation? You can apply yourself like Sherlock Holmes, investigating clues left behind, following the footsteps of early travelers. Through this effort you would be providing the intent and interpretation of previous works and determining legal precedent applied by courts.

Need more? What about contracts, both business and conveyance. Not only can you create them, you can actually become an expert on these subjects and provide valuable assistance to other professionals as well as the general public.

There is no dream that cannot be achieved within the profession of surveying. If it can be seen, thought or imagined, it is available. I defy you to think of one thing that motivates you or excites you that cannot be found within the ranks of the surveying profession.

Never tell me we have limits; that dog won't hunt. In an industry where the Baby Boomers are retiring and replacements are limited, there is no reason a surveyor cannot advance.

We each must realize, every time we set in a seminar or attend a conference, the only difference between the person at the front of the class and those in the seats is the desire to share gained experience.

The only thing that ever holds back a surveyor is a surveyor.

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INDIANA'S OLDEST STATE EMPLOYEE HAS LIFETIME OF WWII STORIES

Originally Published by CBS Indy 4

Spend two minutes in Bob Vollmer's home and you'll experience history.

The World War II veteran still has his military issue M-1 rifle he carried in the Pacific. Part of his uniform still fits too.

Bob lives in Brown County now, but he served in the Navy as a member of the Seabees, the naval construction battalions that built air strips and gun emplacements on captured Japanese islands. Bob often did his heroic work amidst sniper fire.

"I didn't think I'd make it, really I didn't think I'd make it," said Vollmer.

Bob also came away from his war experience with a firm understanding of its cost.

"This is the worse part of the war, you lose so many damn good men, good men, a helluva lot better than me," said Vollmer.

Vollmer left the military as a Chief Petty Officer.

He went to Purdue and eventually took a job as a surveyor for the Indiana Department of Natural Resources.

Vollmer started that job more than 50 years ago and still goes to work every day. That makes him the oldest full time state employee because Bob Vollmer turns 100 years old on May 20.

"What blows my mind is hearing some young kid saying hell there's nothing to do...I could think of a million things to do."

Bob doesn't spend much time on his back porch. But when he does, he'll tell you stories and teach you what he's learned in his 100 years.

"I can take a thousand people out of every country and leave the leaders...just people like us, and you're going to find people of every type, good ones, bad ones... everything. I don't think human nature changes a bit."

The Governor awarded Bob the state's highest honor, the Sagamore of the Wabash, last year. He earned that award with a simple philosophy that everyone could follow.

"You gotta do with what you got. If you can't get it then do it anyway."

[To watch the video, click here.](#)

IN CASE YOU MISSED IT:

Top Articles Featured in the ISPLS Newsletter | [June 2017 - August 2017](#)

2017 Salary & Benefits Study: Earning Potential and Satisfaction Rise for Land Surveyors
[June 6 Newsletter](#) | [Point of Beginning Online](#)

Thought Leader: Preparing Surveyors for the Future
[June 20 Newsletter](#) | [American Surveyor Magazine](#)

Accuracy, Precision and Boundary Retracement in Surveying
[July 6 Newsletter](#) | [GPS World](#)

Certifications or Licensing? The Future of Surveying
[July 20 Newsletter](#) | [xyHt](#)

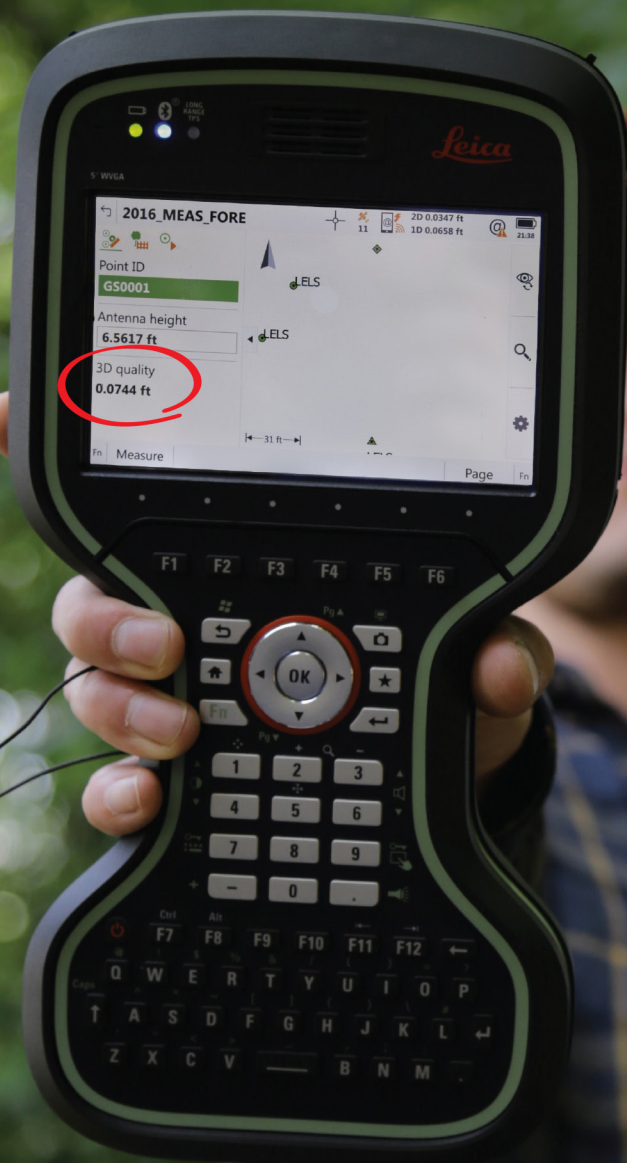
Debunking the Biggest Myths of Hiring: Four Faulty Beliefs That Could Be Hindering Your Company's Selection Process | [August 1 Newsletter](#) | [American Surveyor Magazine](#)

Night in the Afternoon: A US Solar Eclipse
[August 15 Newsletter](#) | [xyHt](#)

Have an article you want to see in the ISPLS Newsletter? Email [Kayla Jenkins](#)

PURE SURVEYING

Sure, the GS16's intelligent technology has tree canopies, bridges, and urban canyons for breakfast. But it is really the Captivate interface that makes technology feel human again.



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COMPLETED CAREERS

Erik Charles Bennett

Erik Charles Bennett, 37, of Indianapolis, formerly of Brown County, died May 25 at his residence. Born March 10, 1980, in Columbus, Indiana, he was the son of James C. and Jeanne L. (Price) Bennett. Erik attended IUPUI where he studied mechanical engineering and was a graduate of Vincennes University where he received an associate degree in surveying technology. He was employed by Civil & Environmental Consultants, Inc. in Indianapolis, and was working to be certified as a Land Surveyor.



Erik enjoyed his childhood growing up in the hills of Brown County where he learned to love being outdoors and pursuing outdoor activities. In addition, he was a fan of all sports in general but especially loved the Colts, the Indiana Pacers and playing golf. He enjoyed spending time with his large and close-knit family and circle of friends where he was always known to be very generous, outgoing and kind. He was known within the family as their shining star.

Thomas "Tom" Joseph Boofter, Sr.

Thomas Joseph Boofter, Sr., 74, of New Albany, Indiana, passed away on Thursday evening, August 17, 2017. He had served in the United States Army Reserve, and was a member of the American Legion Post 28 Bonnie Sloan, as well as a member of St. Mark's United Church of Christ and the Elks Club Lodge 270. Tom was a charter member of both the Floyd County Democrat Men's Club and Initial Point Chapter ISPLS. He was proudly elected as the Floyd County Surveyor for 21 years and was a member of the Board of Directors for the Indiana Society of Professional Land Surveyors from 1992-1996. He also served on the Indiana State Board of Registration for Land Surveyors and was honored as a Kentucky Colonel and also a Sagamore of the Wabash. Tom was a 33rd Degree Mason where he was a member of the Tri-County Shrine Club, Murat Temple, and the Scottish Rite Temple. In his younger years, Tom was involved as a Boy Scout leader, little league baseball coach, and had enjoyed golfing and fishing.

He was born on January 3, 1943 in Jeffersonville, Indiana to the late Joseph and Margaret (Waggoner) Boofter. Tom is survived by his wife of 44 years, Sandy (Swartz) Boofter; children, Thomas Boofter, Jr. (Aleah), Emily Byrd; sisters, Carol Boofter, Peggy Kimmel (Kevin); and grandchildren, Emma Byrd, Eveline Boofter, Nathaniel Byrd, and Jane Boofter.

He is survived by his parents, James Bennett and Jeanne Bennett, both of Nashville; three brothers, Adam (Kimoy) Bennett, of Evansville, Joseph Bennett, of Denver, Colorado, and John Bennett, of Nashville; his girlfriend, Ana Mendez; and two nephews and a niece, Samuel, Evie and Asher. He is also survived by many loving aunts, uncles and cousins.

A memorial celebration of life service was held June 4 at the Brown County Inn.

Bond-Mitchell Funeral Home in Nashville was in charge of arrangements. Online condolences may be given by visiting www.BondMitchellFuneralHome.com and selecting Erik's name from the list of obituaries and services.

Visitation was on Wednesday, August 23, 2017, at Newcomer Funeral Home (3309 Ballard Lane, New Albany) with cremation to follow according to Tom's wishes. His Memorial Service was on Thursday, August 24, 2017 at St. Mark's UCC (222 E. Spring Street, New Albany).

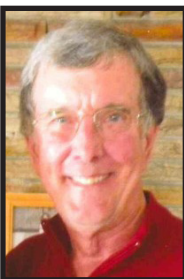


The family requests that contributions in Tom's memory may be made to the Floyd County Animal Shelter (215 W. Market Street, New Albany) or to his church.

To share a memory of Tom or leave a special message for his family, [click here](#).

Kenneth E. Jackson

Kenneth E. Jackson, 69, of West Baden Springs, Indiana entered into eternal rest on August 25th, 2017 in West Baden Springs, Indiana.



He was born in French Lick, Indiana on December 19th, 1947 to Clellon Jackson and Wilma "Belcher" Campbell.

Ken married the love of his life Mary Dukeman on April 11th, 1970 and she survives.

He was preceded in death by his father.

Ken was a 1965 graduate of Springs Valley High School and a member of the Hillham Church of Christ in Christian Union.

Ken served in the United States Army in the Vietnam War with the 9th Infantry Division, the Mobile Riverene Force and was honorably discharged at the rank of Sgt.

He retired from INDOT as Survey Operations Manager in the Vincennes District.

Ken is survived by:

Wife Mary Jackson West Baden Springs, Indiana
 Mother Wilma Campbell West Baden Springs, Indiana
 (1) Daughter Jolie Painter Jasper, Indiana
 (2) Brothers Robert Jackson Sulphur Springs, Texas
 James Jackson West Baden Springs, Indiana
 (1) Sister Dianna Smith Huntingburg, Indiana
 (1) Granddaughter Payton Painter Jasper, Indiana

A Funeral Ceremony was conducted by Pastor Mike Newland at 1:00 p.m. on Monday, August 28th, 2017 at the Brosmer-Kemple Chapel in French Lick, Indiana. Burial followed in Ames Chapel Cemetery, Paoli, Indiana.

Calling was on Sunday, August 27th, 2017 from 4:00 – 8:00 p.m. and on Monday from 11:00a.m. until the time of service at the Brosmer-Kemple Chapel.

In lieu of flowers, contributions may be made in memory of Ken to the UC Health Foundation, Attn: Diana Hatfield, Business Manager, 3200 Burnett Avenue, Cincinnati, OH 45229 or online at uchealth.com/foundation for the UC Cancer Institute.

Arrangements were in the care of Brosmer-Kemple Funeral Homes, 9640 W. State Road 56, French Lick, Indiana 47432. Condolences may be made on the Facebook page at Brosmer-Kemple Funeral Home or at – www.brosmer-kemplefuneralhome.com.

William L. "Bill" Stodghill

William L. "Bill" Stodghill, 86, of Clarksville, IN., passed away on Tuesday, August 2, 2017 at Clark Memorial Hospital in Jeffersonville, IN. He was born on March 10, 1931 to the late Robert Herschel "Jack" and Mary Ida "Buckman" Stodghill of Morganfield, KY.

Mr. Bill Stodghill was a graduate of Sturgis High School in Sturgis, KY. He was retired from the Army Corps of Engineers. He also operated his own business as a licensed surveyor in Kentucky.

Bill was a member of the United States Army and served in the Korean War. He was a member of Falls Masonic Lodge #749 Clarksville, the Clarksville Historical Society, American Legion Post 204 Sellersburg, a charter member in the Kentucky and Indiana Society of Professional Land Surveyors, and Ohio Falls United Methodist Church in Clarksville.

Bill was preceded in death by his son David Lee Stodghill, his parents, two brothers, Robert and Jean, two sisters, Marianna and Helen.

Survivors include his loving wife of 64 years Margaret Ann "Stone" Stodghill, his sister Janice Ruth Stodghill Clements, and a host of loving nieces and nephews.

Funeral Services were held on Sunday, August 6, 2017, at the Whitsell Funeral Home, 250 North Court Street, Morganfield, KY with burial at the Odd Fellows Cemetery in Morganfield. Visitation at Chapman Funeral Home, 431 West Harrison Ave., Clarksville was held from 4:00 to 8:00 PM on Friday, August 4, 2017. Expressions of Sympathy may be made in the form of contributions to Ohio Falls United Methodist Church, 917 S. Virginia Ave., Clarksville, IN., 47129.



ANNOUNCING THE WINNER OF THE INAUGURAL HOOSIER SURVEYOR PHOTO CONTEST

The winner of the inaugural Hoosier Surveyor Photo Contest is Robert “Jason” Coyle, PS, for the photo he shared on social media of a unique monument he spotted back in August.



The contest theme for the Summer issue of the Hoosier Surveyor was innovative and cutting-edge technology. Participants were challenged to capture and share their work or discoveries on social media in a fun, unique way. Jason’s “property line” photo entry best aligned with the theme and requirements for this issue, deeming him a worthy winner of the inaugural contest.

The monument, originally shared on Jason’s Twitter account, is a brass triangle set in concrete. Stamped on its surface is a property line within the Original Town of Brownsburg, which was named Harrisburg per the recorded plat.

“It was an innovative monument in that just about anybody observing the monument would know exactly what is was,” Jason said of his finding. “I did not find a recorded survey that referenced the monument, so I simply asked in my social media post if any local surveyors may have an idea of who may have set such a monument. Having the name and/or license number of the surveyor stamped within the monument would have been a great addition to the monu-

ment.”

Jason is currently employed as a Project Surveyor for Banning Engineering, working on a variety of projects ranging from preparing boundary and topographic surveys, to preparing conceptual layouts and construction plans for commercial and residential development. Of all the areas he’s involved in, Jason says what he enjoys most about his work is designing residential subdivisions.



“Taking all things into consideration; the topographic, the boundary, the zoning ordinances and development standards and designing a subdivision that the community will support and the developer can prosper from,” Jason explained.

The Hoosier Surveyor Photo and Video Contest was created to showcase and applaud the critical work land surveyors are doing in the community, raise awareness to the industry, and encourage students to join the profession. To learn more, visit www.ispls.org.

Note: Since there were no video submissions, there is no winner for the inaugural Hoosier Surveyor Video contest.

Indiana 811 Law Updated to Include Design Tickets

The Indiana 811 law was recently updated to include design tickets to help professionals plan future activities that are likely to involve excavation.

Per the law, a “Design Information Notice,” or design ticket, is defined as a notification made to Indiana 811 in preparation for bidding, preconstruction engineering, or other advance planning efforts. Indiana 811 began processing design ticket requests by phone on July 1, web based design tickets are coming in the near future. With these new options, a person responsible for the design of a construction project, or any project that will involve excavation or demolition, can request the locating of underground utility facilities at least 10 full days, but no more than 20 days prior to the start of engineering studies or construction planning.

A design ticket may not be used for excavation purposes. As with excavation notices, design tickets will only be sent to Indiana 811’s member utilities and/or their locators, and the person serving the design ticket will be responsible for private lines, and to notify non-member utilities directly.

To view a list of frequently asked questions about design tickets, including how to submit a design ticket, visit indiana811.org/design-notice-excavators.

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LEGAL SURVEYS

By ISPLS President, Bryan F. Catlin, PS

The goal of this column is to provide brief summaries of recent Indiana Court of Appeals and Supreme Court cases involving topics related to surveying practice, certainly not to provide legal advice. Information is gathered from the courts website at www.in.gov/judiciary. Comments or suggestions for future columns are welcome by email to: Bryan.Catlin@indy.gov.



This month there are two cases which point out possible issues with buying land on contract. Both of these cases involve contracts with family members. For some reason, this spring also saw a lot of cases concerning easements. And finally, there is more clarification on the effect *Fralely v. Minger* has on adverse possession cases as well as why Realtors should not be relied on to determine boundaries (although it worked out OK for one of the neighbors).

Town of Clear Lake v. Hoagland Family Limited Partnership, Indiana Court of Appeals Case No. 76A05-1606-PL-1241, April 6, 2017

This is a fairly technical case from the Steuben Circuit Court which revolved around which would come first, the Town installing a grinder pump to serve a property, or the property owner applying for a connection to the sewer so the Town can decide how to best serve a property that has been ordered to connect to the Town's sewer system. The trial court said the Town should install the grinder pump first and the Appeals Court reversed that ruling, noting that would typically cost a homeowner more as well as not being a correct reading of Indiana Code on this matter.

Wanda Roberts, et al. v. Anthony Henson, Indiana Court of Appeals Case No. 10A01-1607-PL-1647, April 18, 2017

In this case from Clarksville, Henson obtained a building permit for a lot in a subdivision with restrictive covenants for a two-story pole barn type structure with four garage bays (1,760 square feet of living space, 3,200 square feet of garage space). The covenants restrict homes to 1 ½ stories in height, do not allow barns or other outbuildings to be used as a residence and limit residents to a two-car garage. After Henson began construction, Roberts and seventeen other residents filed a "Petition to Enforce Restrictive Covenants" and a petition for an emergency restraining order to halt construction with the Clark Circuit Court. Henson filed a motion for summary judgment. Henson completed and

moved into the structure. Eventually the trial court denied the Roberts motion and granted summary judgment to Henson and this appeal followed.

The Appeals Court noted that the covenants do not bar post-frame building techniques, and that by definition, a main residential structure is not a barn or other outbuilding. However, the restriction in height and the number of garage spaces is a question of fact so the trial court's grant of summary judgment as to the covenant restrictions on height and number of garage bays was reversed and remanded for further proceedings.

Luther T. Collins v. Metro Real Estate Services LLC, Indiana Court of Appeals Case No. 88A05-1510-PL-1797, April 18, 2017

Here Joseph Howell owned two parcels in Washington County. The southerly parcel was along Mount Carmel Road and the northerly parcel only had access to Mount Carmel Road across the southerly parcel. Collins later purchased the southerly parcel at a sheriff's sale. Prior to the sheriff's sale, Howell mortgaged the northerly parcel to Old Capitol Mortgage. In order to "facilitate" the mortgage, Howell granted himself a 150' easement across the southerly parcel from Mount Carmel Road to the northerly parcel (both ends of the "easement" area were fenced with no gates). Collins did not object to Howell continuing to cross his property to get to and from the northerly parcel. The northerly parcel eventually was foreclosed on and sold to Metro. Collins objected to Metro using the easement and filed a complaint to quiet title with the Washington Circuit Court. The trial court entered judgment for Metro and Collins appealed.

The Appeals Court noted that the trial court recognized the easement that Howell had executed as well as an easement of necessity. The Appeals Court noted that the unity of title did not allow Howell to grant himself an easement; however, because the northerly parcel was landlocked, it fit the definition of an easement of necessity. The trial court finding that an easement exists for Metro's benefit over Collins' property was affirmed. There was no conclusion about whether a 150-foot-wide easement was necessary, or where the easement should be, as no evidence addressing these questions was presented at trial.

William J. Knapp and Rosalea M. Knapp v. The Estate of Carl R. Wright and Joan M. Wright, Indiana Court of Appeals Case No. 20A05-1610-PL-2344, May 4, 2017

The Wrights had leased and then offered a real estate contract to purchase part of their fifty-six-acre parcel to the Knapps, their daughter and son-in-law. Both the lease

document and land contract referenced property as shown on an attached Exhibit A. However, neither document included Exhibit A. Eventually the Knapps believed they had paid off the land contract and sought a warranty deed from the Wrights to a three-acre tract including a dwelling, pony barn, shop building and water rights to a private lake. The Wrights believed that they had only been selling a one-acre site including the dwelling but no water rights to the lake as indicated on a hand drawn map. The Knapps learned that the Wrights' attorney who had drafted the lease and land contract had a loose, undated, unmarked drawing that depicted approximately one acre in his files. The Wrights had a survey performed and recorded of the approximately one acre they felt was the subject of the contract. Family relations deteriorated, and beginning in June 2013, the Knapps occupied the one-acre and used the private lake without making any further payments.

In May 2014, the Knapps filed a complaint alleging that they are entitled to three specific acres and a right to use the private lake. The Wrights answered and counterclaimed foreclosure, injunctive relief, assault and battery, and trespass. The Knapps amended their complaint for quiet title, specific performance, injunctive relief, and trespass, and that in addition to being the rightful owners of three specific acres, they are entitled to an easement for a drainage field. The Wrights answered asserting, in part, the Statute of Frauds as an affirmative defense. The Wrights amended their counterclaim to request a judgment that the Real Estate Contract was unenforceable and ordering the Knapps to forego any claim or interest in the property. To avoid unjust enrichment, the Wrights requested a remedy of having the Knapps pay fair market rental value of the portion of the property they occupied for the period they occupied the property, and ordering the Wrights to pay the Knapps any amount the Knapps had already paid in connection with the Real Estate Contract that exceeded the rental value.

The Wrights then filed a motion for partial summary judgment on the Real Estate Contract being unenforceable under the Statute of Frauds as it did not contain a sufficient description. The Knapps responded agreeing that the description was not sufficient, but claimed acquiescence and estoppel were exceptions to the Statute of Frauds, among other claims. On October 22, 2015, the Elkhart Superior Court granted partial summary judgment in favor of the Wrights. After more maneuvering, the trial court entered an order of immediate possession in favor of the Wrights. The Knapps filed a notice of lis pendens (pending suit) claiming an ownership interest from the Real Estate Contract. The Wrights filed an emergency motion for discharge and release of lis pendens stating it was based on a contract that had been declared unenforceable by the trial court. After a hearing, the trial court awarded the Wrights \$24,000 in

damages related to fair market rents and entered a final appealable order stating all issues related to title and damages had been resolved. The court also granted the Wrights' motion to discharge and release the lis pendens notice, and specifically authorized the Wrights to sell the property free of these claims. The Wrights sold the property at auction three days later and this appeal followed.

The Court of Appeals noted that both parties had agreed the description was not sufficient, but now the Knapps attempted to claim the one acre based on the reference to the non-existent Exhibit A and the drawing in the attorney's files. The Court did not look favorably on the attempt to dispute what was not disputed at trial to support an opposite position to what they argued at trial. In short, the Appeals Court affirmed the judgments that the contract was unenforceable, that the \$24,000 damage award was based on fair market rental rates for the time the Knapps were not making payments, and that the trial court did not err in ordering the lis pendens notice removed.

Town of Ellettsville, Indiana Plan Commission and Richland Convenience Store Partners, LLC v. Joseph V. DeSpirito, Indiana Court of Appeals Case No. 53A01-1611-PL-2559, May 25, 2017

Richland Convenience Store Partners (RCSP) and DeSpirito own adjoining commercial subdivision lots. The RCSP lot has a platted 15' utility easement running through the middle of it containing a sewer line that serves Dr. DeSpirito's optometry practice. RCSP petitioned the Ellettsville Plan Commission for permission to move the sewer line and amend the plat at their expense in order to have a larger portion of their lot be buildable area. Dr. DeSpirito and two others opposed the plat amendment. The Plan Commission approved RCSP's plan and Dr. DeSpirito filed a petition for judicial review with the Monroe Circuit Court. The trial court overturned the Plan Commission decision and repeatedly mentioned "Dr. DeSpirito's easement" and his property interest in it, and claimed that the plat could not be amended without all persons who had a financial interest in the platted property, including Dr. DeSpirito as a lot owner, agreeing. The trial court noted it is illegal for a government agency to assist one private land owner to condemn and take the property of another owner. This appeal followed.

The Appeals Court found that the financial interest provision was based on a part of the Ellettsville Subdivision Regulations that apply to submission of a preliminary plat, not the amendment of an existing plat, as well as noting that the trial court's interpretation would require every owner in a 150-lot residential subdivision to agree to a relocation of an easement on one lot, an absurd result. The Court of Appeals also found that the constitutional and statutory

concerns are misplaced. There were also prior court cases cited by the trial court that do not apply because neither of the two owners selected the original easement location. The court also noted that an easement is a limited nonpossessory interest by definition and that preventing reasonable changes would amount to a possessory interest. The trial court's grant of summary judgment was reversed and remanded with instructions to enter summary judgment for the Plan Commission and RCSP, reinstate the Plan Commission's decision, and conduct further proceedings.

Roy Defries, et al., v. Board of Commissioners of Posey County, et al., Indiana Court of Appeals Case No. 65A05-1508-MI-1249, April 12, 2017 MEMORANDUM DECISION

This case from the Posey Circuit Court involves adjacent property owners who petitioned to vacate a small piece of a longtime unimproved road platted nearly two centuries ago. Other nearby property owners objected and the Commissioners eventually vacated the road. The remonstrators appealed to the Circuit Court. The trial court affirmed the Board's decision which led to this appeal. The Court of Appeals noted that there is a difference in missing a deadline in actions which would result in forfeiture of rights versus cases which would remove jurisdiction over an issue. There was discussion about the four statutory reasons a vacation can be objected to, none of which were found to apply here.

James L. Hochgesang v. Stanley McLain Sr., Indiana Court of Appeals Case No. 13A01-1608-PL-1944, June 9, 2017 MEMORANDUM DECISION

This is a case from the Crawford Circuit Court where a claimed prescriptive easement failed at trial and on appeal because twenty years of continuous use could not be shown. One notable point is that Hochgesang was claiming the easement in order to easily access 256 acres he purchased in two parcels in 1995.

John E. Moriarity and Mae E. Moriarity v. Richard Gillis, Indiana Court of Appeals Case No. 18A04-1611-PL-2463, June 13, 2017 MEMORANDUM DECISION

Fraleay v. Minger is involved again in this case from the Delaware Circuit Court. In 1987 Gillis and his wife bought three tracts at auction conducted by Schrader Real Estate Auctions. An auction representative pointed out a fence as the western boundary of one of the tracts. After divorce, Gillis ended up with two tracts which were combined into an approximately 57-acre parcel with the fence along the west side and newly described as a part of the northwest quarter of section 20. Gillis farmed the land and made

improvements to the drainage and soil. In 2008, the Moriaritys purchased approximately 80 acres of land west of Gillis through Schrader Real Estate. Their deed indicates the property is in the northeast quarter of section 19. A Schrader representative told the Moriaritys their eastern boundary was the same fence. In 2013, the Moriaritys discovered their legal description included 8.66 acres east of the fence. In 2014, the Moriaritys filed a claim against Gillis. Gillis counterclaimed that he had acquired the disputed property through adverse possession. The trial court found for Gillis after a bench trial.

The Appeals Court noted that, although this area is over 200 feet wide (east-west) and 1266.50 feet long, Gillis had noted that there was no landmark or other physical distinction to indicate where one quarter ends and another begins. There was only one continuous parcel bounded by the fence since before 1987. Since both parties had been told 21 years apart that the fence was the boundary, the court found it understandable both parties believed they were paying taxes on their parcels as defined by the fence. The Appeals Court agreed with this, as well as that Gillis had satisfied the elements of intent and notice. The Moriaritys also claimed that Gillis could not claim land beyond his unambiguous deed description, but the court did not agree.

Adrienne R. Helton v. Timothy Joseph Helton, Indiana Court of Appeals Case No. 60A05-1609-DR-2202, June 23, 2017 MEMORANDUM DECISION

Here is a case where, in 2007, a husband and wife were buying a piece of property from the husband's father by land contract. They built a house on the property and in 2010 discovered the house was actually on a neighbor's property and stopped making payments. The couple separated in 2013, and in 2014 the husband petitioned for dissolution of the marriage. In 2016, the Owen Circuit Court held a hearing where the husband testified that he continued to live in the house, pay property taxes, pay for improvements, and pay for insurance. Since there were no vested property rights in the house (the time period for adverse possession had not elapsed), the trial court did not include it in the distribution of marital assets. The wife appealed.

During the appeal, the wife claimed the trial court abused its discretion by failing to consider the husband's continued use and occupancy of the house in dividing the marital estate. Since this argument was not raised at trial, it is waived on appeal, and the judgment of the trial court was affirmed.

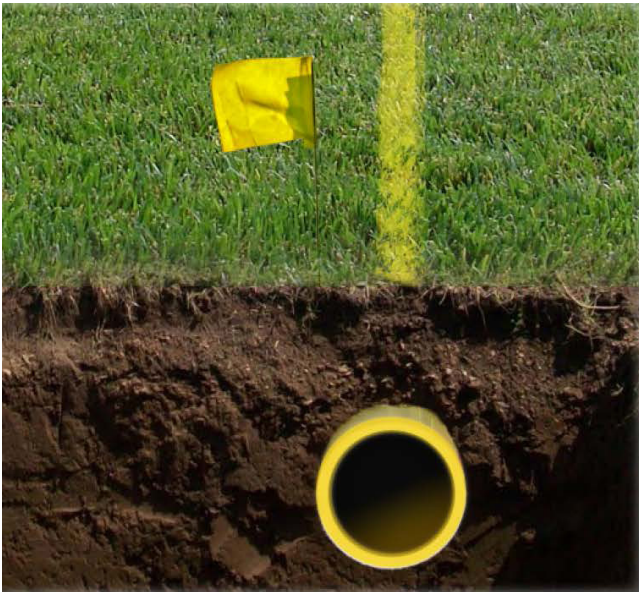
Betty J. Bynum, Timothy L. Bynum, and Juanita Maxwell v. David Short, Veronica Short, and Robert Lockhart, Indiana Court of Appeals Case No. 48A02-1608-PL-1921, June 26, 2017 MEMORANDUM DECISION

In 1979 Herbert and Betty Bynum conveyed five acres to their son John by warranty deed which contained metes and bounds descriptions for both the "real estate" and "an easement for ingress and egress." In 1995, John conveyed the parcel and easement to his son Jason by warranty deed with identical descriptions of the parcel and easement. In 2001, Jason conveyed the parcel and easement to the Shorts by warranty deed with identical parcel and easement descriptions. The Shorts leased a portion to Lockhart.

In 2015, the Bynums and Maxwell filed a complaint for wrongful entry, trespass and nuisance. They claimed the easement was illegally conveyed and was being used even though there was already access to the Shorts' property. They also sought to quiet title in the "disputed easement." The Madison Circuit Court heard motions for summary judgment from the Shorts to their unambiguous and appurtenant easement while the Bynum side responded that the easement was ambiguous and not appurtenant but an easement in gross (a personal easement that cannot be transferred). After a hearing, the court found the Shorts had received an express, valid, appurtenant easement and this appeal was filed.

The Court of Appeals rejected the Bynum argument that the easement was invalid because the dominant estate was not identified with reasonable certainty as any other interpretation didn't make sense. The Bynums then argued that the easement was meant to be an easement in gross to stay in their family. The Court rejected that as John Bynum had transferred the easement to his son, with no objections at the time, which he could not do if the easement was in gross, as well as because of the language used in the deed. The deed had described an ingress and egress easement, not a personal right. Citing case law, the court noted that: "An easement will not be presumed to be in gross when it can be construed fairly to be appurtenant to the land." The judgment of the trial court was affirmed.

Bryan F. Catlin, PS has been registered as a Land Surveyor in Indiana since 1991. He holds B.S. Land Surveying Engineering and M.S. Engineering (Geodesy) degrees from Purdue University.



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FINDING CAPTAIN KIBBEY'S MILITARY ROAD

By Brad Kramer, 2017 Greenville Treaty Chapter President

The ISPLS Greenville Treaty Chapter had a wonderful outing on Saturday, July 29. We set out to find remnants of Captain Ephraim Kibbey's military road, the first road to cross Indiana. At the direction of General Anthony Wayne, Captain Kibbey, a land surveyor and military scout, oversaw the construction of this strategic overland route from Cincinnati to Vincennes from 1799 to 1800. Portions of the newly-built road through Dearborn County were observed and noted by the original GLO surveyors as they laid out the sectionalized lands.



On the old county road to find the military road. The team discusses the possibility of finding another old roadbed. Second from left is a local farmer, Mike Witte, who offered his knowledge of the area to help guide the expedition.

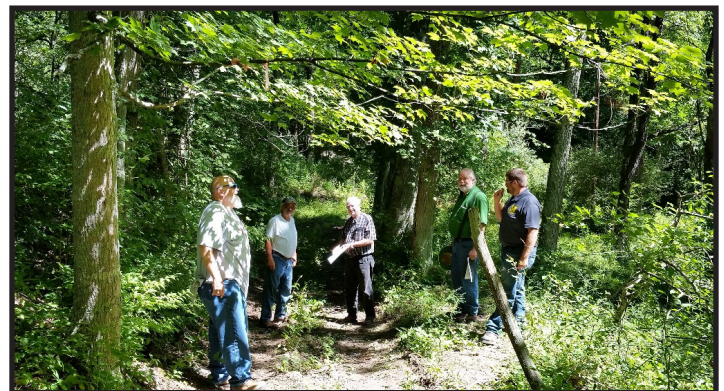


ISPLS members Bill Ruberry, Art Wenzel, Andy Murray and Doug Kramer at Moores Hill Community Park. Not shown: Dennis Kraus, Sr., Brad Kramer (photographer).

A small group of chapter members, eager land surveyors, met in work boots and denim that sunny, 65-degree Saturday morning at a local park shelter in Moores Hill, Indiana, near the Dearborn/Ripley County Line (Israel Ludlow's Greenville Treaty Line) and reviewed plans and notes and shared anecdotes that primed us for our upcoming field trip. In pickup trucks we caravanned to a nearby farm owned by a gentleman aged well into his nineties. The elderly owner did not meet with us, but his neighbor and farmer greeted us and offered to serve as our guide. What an advantage; in these parts it is easy to get twisted around. This man grew up here, raised children and cattle here, and knew the woods like the back of his hand!

We left the barnyard on foot, traversed pasture and woods, and soon came across an old unpaved roadbed that once connected the old man's farm to lands to the east. This was clearly an old long-abandoned road, but some of our party soon began to feel that we were not following the correct course. Based on plottings of the GLO surveyor notes, the 218-year old military road would have run more east-west than the trail we presently hiked.

We persevered nonetheless, and the roadway eventually led us to the intersection of a second old obscure roadbed — one which followed a small creek as the notes, aeriels and LIDAR indicated. Finally, based on topography, we were confident that we had discovered the elusive Kibbey's Road! The route was somewhat eroded, but was a definite hillside excavation running parallel below a modern gravel lane and above the small creek. We compared notes and took photos. Now that we had found it — at least a portion of the old military road — we resigned to conclude our adventure and head back to the trucks. Still, as we returned along the entry road our satisfaction was tainted by the realization that the greater part of our journey had followed a roadway that was likely no more than a century-and-a-half old. We had in fact visited a segment of the old military road, but as with most surveyor/historians, we thirsted for more.



Art Wenzel provided aerial and LIDAR imagery as well as GLO field notes to help find the route of the old military road.

As we made our way back along what we concluded as the “wrong” road, an old county road, our guide overheard us discussing compass readings and sympathized with our grumblings. He interjected, “There is another roadbed further north that runs right where you are talking. It eventually meets up with that intersection we just visited. I can show you how to get there.” Re-energized, we returned and jumped into our trucks, and the farmer directed our party across more hills of freshly cut hay where we parked again at the edge of a woods. This next trek was a gentle hike of about 1,000 feet of woods/pasture/woods, and we met again with what we recognized for sure as Kibbey’s trace.

This second stretch of road was everything we envisioned. It was long and wide as a military road should be, and led directly to and away from our earlier “intersection.” The course was east-west as anticipated and plotted wonderfully on the county map! Kibbey’s cross-section had been well preserved over the decades, about 25 feet in width and amazingly uniform in grade. Cut flat along the edges of rolling hillsides, the grade followed the natural slight incline of a small brook —the same small brook that we had visited earlier in the day. The earthwork was protected in this remote location from tilling and human encroachment. The road’s complete width was evidently preserved amidst the larger trees by more than a century of cattle grazing, and so the route was easy to identify in both directions. Small shrubs and saplings within the roadway were bounded

neatly on each side by larger trees and rotten stumps, and one could easily imagine the road being cleared again for reuse with minimal effort!



Brad Kramer, Andy Murray, Bill Ruberry, Art Wenzel, and Doug Kramer on Kibbey’s Road, built in 1799.

What a day! Our satisfaction was complete. We had found two sections of the first road to cross the Hoosier State, the bulk of which remained in a state of immaculate preservation. The weather could not have been more welcoming, and the tired surveyors returned home with high spirits. The chapter is grateful to the elderly landowner, to our new farmer-friend and guide, and most of all, to member Art Wenzel, for his hard work toward making this adventure possible.



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NORTHWEST CHAPTER 14TH ANNUAL GOLF OUTING

The Northwest Chapter of ISPLS met on Friday, July 21 for the Annual Golf Outing, benefiting the Ordell L. Gertsmeier Memorial Scholarship Fund. Participants played at the Course at Aberdeen, in Valparaiso, IN.



The winning foursome receives recognition.



The participants of the Northwest Chapter 14th Annual Golf Outing gathered for a group photo.

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Date: Thursday, October 5th

Registration Begins at 11:30

Tee off Time: 12:30

Place: Dye's Walk Country Club

<http://www.dyeswalkcc.com/>

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*Cost: \$90.00 per player – No Refunds

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Please return registration form to:

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Team Contact Person (Names of people on your Team)

Daytime Phone: _____

Player 2 _____

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Player 4 _____

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Golf

Family of the Year, National Golf Foundation: 1995

Old Tom Morris Award: 2003

PGA TOUR Lifetime Achievement Award: 2005

Design

Donald Ross Award: 1995

Architect of the Year, Golf Magazine: 1995

Sagamore of the Wabash Award: 1995

Academic Honors

Doctor of Landscape Architecture, Purdue University: 1995

TRIG-STAR PROGRAM – 2017

Report from Tony Gregory, PLS, NSPS Trig-Star Coordinator – Indiana

The Trig-Star program in Indiana in 2017 included the test being given at 15 high schools, and to 566 students. Four of the ten ISPLS chapters participated in the program. The Wabash Valley Chapter administered the test to 4 schools and 62 students; the Northwest Chapter to 4 schools and 336 students; the Southwest Chapter to 4 schools and 104 students; and the St. Joseph Valley Chapter to 3 schools and 64 students.



The first place state winner was Nolan Poczekay from Chesterton High School in Chesterton, Indiana (Northwest Chapter). Nolan scored 94 points out of 100 points in 60 minutes and 00 seconds. Nolan received a first place cash award of \$500 from ISPLS. Mr. Patrick Ward, Nolan's math teacher, received a \$300 cash award from ISPLS. As the state winner, Nolan participated in the National Test, which is the second phase of the Trig-Star program.

The second place winner was Elizabeth Ailes from Eastern High School in Greentown, Indiana (Wabash Valley Chapter). Elizabeth scored 88 points out of 100 points in 27 minutes and 30 seconds. She received a second place cash award of \$300 from ISPLS. Elizabeth's math teacher, Mr. Jim Vanmatre, received a \$200 cash award from ISPLS.

The third place winner was Michael Snyder of Tell City High School in Tell City, Indiana (Southwest Chapter). Michael's test score was 88 points out of 100 points in 30 minutes and 50 seconds. ISPLS provided cash awards to Michael, in the amount of \$150, and to his math teacher, Mr. John Lyons, in the amount of \$100.

Local awards totaling \$1,150 in cash and gift cards were provided to individual school winners by the participating ISPLS chapters. Several land surveyors and technicians participated in administering the test within the four participating chapters.

A special highlight to this year's Trig-Star testing process in Indiana was that 182 students participated in the program at Crown Point High School in Crown Point, Indiana (Northwest Chapter). This is, by far, the most students from one high school to participate in Trig-Star in Indiana in any year.

The state-wide participation in the Trig-Star program in Indiana has been consistent over the past several years. The goal remains that all ISPLS chapters will actively participate in the Trig-Star program by administering the test to at least one high school within the chapter. Information on the program can be found on the NSPS website, or by contacting Tony Gregory at gregorylandsurveying@gmail.com.

INDIANA STATE TRIG-STAR WINNING STUDENTS AND TEACHERS – 2017

First Place Student:

Nolan Poczekay
Westville

Second Place Student:

Elizabeth Ailes
Greentown

Third Place Student:

Michael Snyder
Cannelton

First Place Teacher:

Patrick Ward
Chesterton

Second Place Teacher:

John Vanmatre
Greentown

Third Place Teacher:

John Lyons
Tell City

2017 Indiana Trig-Star - State Results

School Sponsor No. Stud. Winner Score Time Award

Wabash Valley Chapter

Kings Academy	Wabash Valley Chap.	7	Kyleigh Krcmarik	72	1:00:00	\$50 Card
Eastbrook	Wabash Valley Chap.	8	Ryan Weimer	81	n/a	\$50 Card
Eastern	Wabash Valley Chap.	34	Elizabeth Ailes	88	0:27:30	\$50 Card
Southwood	Wabash Valley Chap.	13	Kim Hobson	88	0:39:04	\$50 Card

2nd

4 Schools 62

Southwest Chapter

Vincennes Rivet	SW Chapter	14	Susan Evans	60	0:35:24	
Tell City	SW Chapter	43	Michael Snyder	88	0:30:50	\$500
Jasper	SW Chapter	23	Lucas Rogier	88	0:59:58	
Perry Central	SW Chapter	24	Logan Hubert	88	0:51:00	

3rd

4 Schools 104

Northwest Chapter

Chesterton	NW Chapter	72	Nolan Poczekay	94	1:00:00	\$50
Crown Point	NW Chapter	182	Hannah Wylie	88	0:56:19	\$50
Highland	NW Chapter	48	Mason Gluth	88	0:36:12	\$50
Merrillville	NW Chapter	34	Jansen Tan	88	0:49:22	\$50

1st

4 Schools 336

St. Joseph Valley Chapter

Penn	St. Joseph Valley	20	David Kim	88	0:33:23	\$150 Card
Northwood	St. Joseph Valley	12	Cameron Stillson	78	0:56:37	\$50 Card
Bremen High School	St. Joseph Valley	32	Kaitlyn Cullers	78	0:54:20	\$50 Card

3 Schools 64

State Totals

of Schools 15
of Students 566

<u>State Winners:</u>	<u>Student</u>	<u>Score / Time</u>	<u>High School</u>	<u>Teacher</u>
First Place	Nolan Poczekay	94/1:00:00	Chesterton	Patrick Ward
Second Place	Elizabeth Ailes	88/0:27:30	Eastern	John VanMetre
Third Place	Michael Snyder	88/0:30:50	Tell City	John Lyons

Note: 100 points possible

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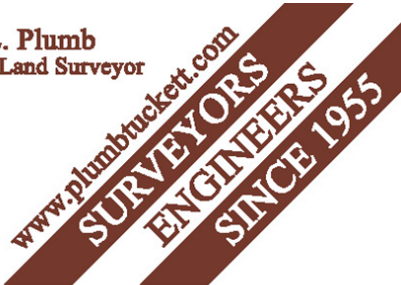
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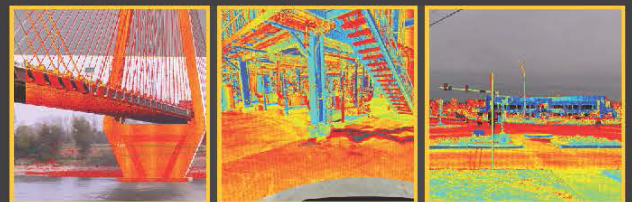
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