

44-3 Winter 2018

HOOSIER SURVEYOR

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

FEATURED ARTICLE

Incoming ISPLS President, Ryan Swingley, right, presenting the 2017 ISPLS President Bryan Catlin with a plaque in recognition of his service to the Society.

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ISPLS 2018 Annual Convention Highlights

USGS Webinar Focused on Upcoming Changes in State Plane System

Legal Surveys

Where is the Indiana-Kentucky Boundary?
There's an Online File for That



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L to R: Dave Myers, Terre Haute; Todd Bauer, Fort Wayne; Ed Sweetland, Indianapolis; Don Williams, Crown Point; Bryan Catlin, Clayton; Rich Hudson, Valparaiso; Eric Meeks, Scipio; Alexander Fabian, Munster; Vincent Barr, Franklin; Ryan Swingley, Indianapolis; Kurt Vonderheide, Indianapolis; Norman Hiselman, Avon.

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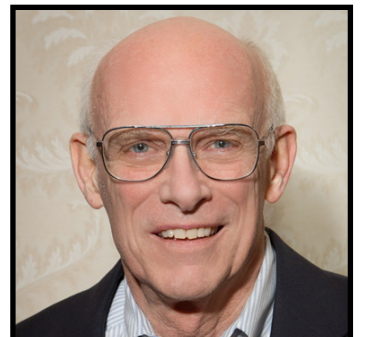
FROM THE EDITOR

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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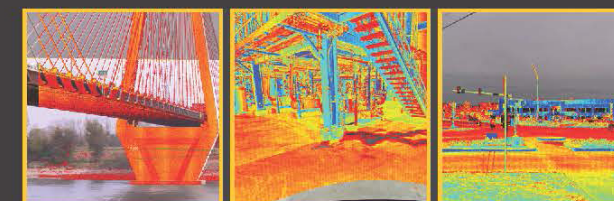
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USGS WEBINAR FOCUSED ON UPCOMING CHANGES IN STATE PLANE SYSTEM

By Mike Davis

Changes to the State Plane Coordinate System that are planned for 2022 were discussed by geodesist Michael Dennis in a free online presentation at 2 p.m. April 12.

Dennis, a registered land surveyor and professional engineer who is licensed in Arizona, has worked since 2010 for the National Oceanic and Atmospheric Administration's National Geodetic Survey. His roles — in addition to public outreach — include performing research and assisting in developing products and services for the National Spatial Reference System.

The one-hour webinar offered details on how the 2022 State Plane Coordinate System will be created, including the role to be played by those who rely on National Geodetic Survey services, and changes from how the State Plane system was previously defined.

This was a follow-up to a March 8 webinar, "The State Plane Coordinate System: History, Policy and Future Directions." It included a historical overview of the State Plane system and a discussion of how the 1983 system will be replaced.

Presentation slides and recordings from previous National Geodetic Service webinars, including the March 8 and April 12 sessions, may be accessed by selecting the Recorded Webinars link on the left side of the page at [here](#). Files from the April session should be posted by May 1.

A copy of a 61-page NOAA publication written by Dennis, and titled "The State Plane Coordinate System: History, Policy and Future Directions," is posted [here](#).

In May 2017, the NGS also refreshed web pages about the State Plane Coordinate system [here](#). The pages contain State Plane maps, a link to coordinate conversion tools, policies and documents.

Indiana Society of Professional Land Surveyors HOOSIER SURVEYOR

PHOTO & VIDEO CONTEST



Snap, Share, Win! The Indiana Society of Professional Land Surveyors (ISPLS) is pleased to announce the Spring 2018 Hoosier Surveyor Photo and Video Contest. All members of ISPLS are encouraged to participate for a chance to win up to \$100!

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.

The theme for this issue's contest is **innovative and cutting-edge technology**. To enter, simply share a photo and/or video on Twitter or Facebook that creatively captures the work you're doing in the field in a fun, unique way. There is no limit on how many photos or videos you can enter and this contest is open to all land surveying professionals and businesses, so **snap** and **share** for your chance to **win!**

Deadline to submit entries: May 21, 2018

HOW TO ENTER

- Must follow ISPLS on **Twitter** and/or **Facebook**
- For photo entries, use hashtag **#ISPLSPhotoContest**
- For video entries, use hashtag **#ISPLSVideoContest**
- All submissions must meet the theme and criteria outlined above
- Video entries must be between 30 seconds to 2 minutes in length
- All entries will be judged by the ISPLS Board of Directors
- Entries must be submitted by **May 21, 2018 at 11:59 pm EDT** to be considered
- By submitting your photo(s) and/or video(s) in this contest, you are granting ISPLS permission to use and republish the content provided.

Contact

Kayla Jenkins, Communications Assistant, ISPLS, kjenkins@ispls.org
LEARN MORE AT WWW.ISPLS.ORG

PRIZES

There will be one (1) winner for the photo contest and one (1) winner for the video contest.

- The winner of the photo contest will receive one (1) \$50 Visa gift card
- The winner of the video contest will receive one (1) \$50 Visa gift card
- The winner(s) will be featured in the upcoming issue of the Hoosier Surveyor and mentioned on social media
- The winner(s) will receive their own blog post on our website



#ISPLS2018

IN CASE YOU MISSED IT:

Top Articles Featured in the ISPLS Newsletter | [December 2017 - March 2018](#)

Protecting Your Eyesight – At Your Desk
[December 14 Newsletter](#) | [xyHt](#)

Surveyors: An Identity Crisis
[January 30 Newsletter](#) | [xyHt](#)

Executive Order Will Drive Demand for Surveying and Mapping
[January 30 Newsletter](#) | [POB Online](#)

Real Surveying
[March 5 Newsletter](#) | [xyHt](#)

Alexa, Survey This Parcel
[March 19 Newsletter](#) | [xyHt](#)

GPS, Surveyors and Politics – A 2018 Refresher
[March 19 Newsletter](#) | [GPS World](#)

Have an article you want to see in the ISPLS Newsletter? Email Kayla Jenkins

ISPLS 66TH ANNUAL CONVENTION HIGHLIGHTS

Indianapolis Marriott East | Indianapolis, IN | January 17-19, 2018

Many thanks to our presenters for another successful convention.



Aaron Blank



Bruce Carlson



Milton Denny



Duane Doucet



Brandon Elia



John Ellingson



Tony Gregory



Steve Jones



Jeff Lucas



Jason McCourt



Brent Slawnikowski



Jim Swift



Ryan Swingley



Shad Tidler



Shane Turay

Other speakers not pictured: Charline Avery, Steve Baker, Chris Dintaman, Steve Jones, Travis Lemoine, Matthew Marchioni, Chris Morse, Andrew Pursifull, Mark Schnesk, Garry Seeley, Jim Sparks and Philip Worrall.

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ISPLS 66TH ANNUAL CONVENTION HIGHLIGHTS

Indianapolis Marriott East | Indianapolis, IN | January 17-19, 2018

ISPLS 2018 Scholarship Recipients



Alex Daugherty, Secretary/Treasurer of the Southwest Chapter, awarding the 2017-2018 1st Year Student Southwest Chapter Scholarship to Jacob L. Burress, Vincennes University.



Alex Daugherty, Secretary/Treasurer of the Southwest Chapter, awarding the 2017-2018 2nd Year Student Southwest Chapter Scholarship to Gavin D. Benock, Vincennes University.

The 2018 IPLS Foundation Scholarship recipients will be included in the Spring issue of the Hoosier Surveyor.

Newly Licensed Professional Surveyors



Recognizing newly licensed Professional Surveyors: Jonathan Cross, Alex Daugherty, Seth Dyer, Tony Hiatt, Christine Keil, Andrew McClelland, Nathan Plooster and Ryan Selby.

ISPLS 66TH ANNUAL CONVENTION HIGHLIGHTS

Indianapolis Marriott East | Indianapolis, IN | January 17-19, 2018

ISPLS 2018 Awards Presentation



2017 ISPLS President Bryan Catlin, right, awarding a 2017 President's Award to Mike Davis, editor of the Hoosier Surveyor.



2017 ISPLS President Bryan Catlin, right, presents a 2017 President's Award to Edward J. Sweetland, Beam, Longest & Neff, LLC.



2017 ISPLS President Bryan Catlin, right, awarding the 2017 Atlas Award to William L. Clark, Vincennes University.



Incoming ISPLS President, Ryan Swingley, right, presenting the 2017 ISPLS President Bryan Catlin with a plaque in recognition of his service to the Society.



The ISPLS Board of Directors receiving stakes in recognition of their service.

COMPLETED CAREERS

Richard E. Durham

Richard E. "Bull" Durham, 63, Anderson, passed away Feb. 8, 2018, following a yearlong battle with cancer.

He was born March 24, 1954, in Quonset Point Naval Hospital in Rhode Island to Eugene and Martha (Grossgruth) Durham.

Richard was graduated from Madison Heights High School in 1972. He furthered his education by working his way through college at Tri-State University in Angola, graduating in 1979.

He established Durham Engineering and Land Surveying in Anderson in 1988, and he specialized in transportation design. He was a registered Professional Engineer in the states of Indiana, Ohio, Florida and Illinois and was registered as a Professional Surveyor in Indiana.

Richard was a very active member of the American Society of Civil Engineers where he served as secretary of the Metropolitan Indianapolis Branch. He was also active in the American Council of Engineering Companies. He was a member and past-master of Mount Moriah Masonic Lodge No. 77. Richard desired to give back to his community by serving on the 4-H Association board for eight years, helping the youth of Madison County. He also gave free seminars to other consulting firms, giving back to his profession.

He is survived by his wife and best friend of 39 years, Robin (DeLong); three children, Amber L. Durham, Sarah R. Durham and Christopher D. C. (Kayla) Durham; seven grandchildren, Skylan I. Durham-Jones, Michelle J. Follmar, Larissa C. Follmar, Lyla R. Durham-Laycock, Charles G. Durham, Kloe G. Durham and Kaylee G. Durham; one granddaughter on the way; and a brother, Kenneth Robert Durham.

Richard was preceded in death by his parents and his brother, Donald Durham.

A funeral service was held Feb. 12 at Scott E. Hersberger Funeral Home, 1010 N. Main St., Lapel. A Masonic Memorial Service was conducted prior to the service. Burial followed in St. Joseph Cemetery in Elwood.

Memorial contributions may be made to the charity of the donor's choice.

Online condolences: www.hersbergerfuneralhome.com.

County Surveyors Association of Indiana Present 2018 President's Award



Zach Beasley (Tippecanoe County Surveyor) received the President's Award from Richard Vermillion (Knox County Surveyor) at the County Surveyors Association of Indiana meeting at the Purdue Road School last week. Photo captured by Susan Bodkin (Hancock County Surveyor).

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RODNEY KELLY WINS SPECIAL EDITION OF THE ISPLS HOOSIER SURVEYOR PHOTO CONTEST

By Kayla Jenkins

The winner of the Winter 2018 issue of the Hoosier Surveyor Photo Contest is Rodney Kelly, PS, Survey Department Manager for Etica Group, for the photo he shared on social media during a session he attended at the ISPLS Annual Convention held January 17-19 at the Indianapolis Marriott East.



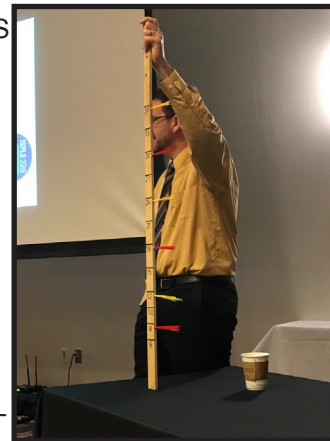
In this special edition contest, participants were encouraged to capture and share moments during the convention to continue the conversation online with those who missed out on the annual event, and to help raise awareness to the surveying profession. Kelly's entry best aligned with the requirements for this issue, deeming him a worthy winner of the contest.

The winning photo captures convention speaker Aaron Blank of Lawson-Fisher Associates showing off tips and tricks that their field crews use to obtain more accurate measurements in structure details. With he and his team at Etica Group currently taking an interest in sharing ideas and collaborating with other firms, Kelly knew the information presented in this interactive session would be beneficial to his company and department.

"Because our industry is constantly changing with technology and workforce challenges, I have recently enjoyed redeveloping thought processes and developing innovative

ways of collaborating with others to redefine partnerships and collective teaming strategies within our company and abroad," Kelly says of his interests in surveying. "As expectations from clients increase, so does the opportunity to reposition yourself in the market and as a professional."

Kelly has been attending ISPLS conventions since his second year in the surveying field. Through his experience, Kelly has found attending the annual conventions extremely beneficial to his career and believes others who attend will always have the opportunity to learn and grow as a professional if they are willing.



"I believe that every professional surveyor should attend the annual convention so they can see and hear how our profession is changing," Kelly explained. "Within the seminars, you have yearly changes in laws and standards that you as a professional need to know, learn or be aware of for many reasons. You are also around more professional surveyors at one time that you will be around for another year. What a great opportunity to share ideas and collaborate with others on how to do better and be better."

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.

Northwest Chapter 2017 Rich Hudson Service Award



The ISPLS Northwest Chapter 2017 President Frank Walsko (far right) presents Torrenga Surveying with the 2017 Rich Hudson Service Award at the Chapter's Family Christmas Celebration at the Hall of Justice in Crown Point, Indiana. Torrenga Surveying was represented by Chris Fabian, Brittany Fabian, Alex Fabian and Al Fabian, Partner.

JOIN US FOR AN UPCOMING ISPLS WEBINAR: PROFESSIONAL ETHICS AND THE LAND SURVEYOR

Friday, May 4 | 12:00 pm - 2:00 pm EST | 2 CEUs (Mandatory)

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PROFESSIONAL ETHICS AND THE LAND SURVEYOR

Presented by:

Anthony Gregory, PS,
Purdue University Northwest



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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.



Robert K. Reinmiller Living Trust, Timothy H. Matthews and Paula C. Matthews v. Jeffrey L. Metschuleit, Karen Metschuleit, Glenn Nix, and Moira Nix, Indiana Court of Appeals Case No. 31A01-1609-PL-2168, October 12, 2017

This case from the Harrison Circuit Court involves multiple owners and surveys, including legal surveys. In 2005 and 2011 Reinmiller had surveys done for logging purposes but neither survey was recorded. In 2012 the Nixes hired the same surveyor to perform a legal survey of the Nixes', the Metschuleits', and the Matthews' properties. Each party was to pay 1/3 of the price of the survey. However, when the survey was completed, the Nixes and the Metschuleits did not agree with the result as the north-south Center Line of the Section ran through a cultivated field, west of an existing fence line, and west of what they believed to be the remnants of an old school. They did not pay their share, and this survey was not recorded. There is an exception to the Metschuleits' deed for a one-acre school site in the southeast corner of the south half of the northwest quarter. In mid-2012 the Nixes and Metschuleits hired another surveyor to prepare a legal survey, which was completed and recorded in the Harrison County Recorder's Office on June 1, 2014. This survey placed the line in question 150 to 165 feet east of the prior survey where it agrees with an old fence and a cemetery and is to the east of what are believed to be the remains of the school.

Reinmiller and Matthews filed a complaint against this legal survey, and at a bench trial the two surveyors explained their reasoning. The first surveyor had found two stones on an east-west line and thought the eastern stone was on the north-south Center Line. The second surveyor had also found a stone in the old fence consistent with a call in the Matthews deed for a "stone marking the southeast corner of the northeast fourth of the Nor[th]west quarter of section 25." There was also discussion of an Elm tree called for in a deed that had apparently washed into Blue River. The trial court eventually granted the appeal of the second survey in part as it had included property not in the Metschuleits deed, but denied the appeal over the placement of the Center Line, finding the second surveyor had correctly located the line. This appeal followed.

Here the trial court's finding of the location of the Center Line of the section was upheld. The trial court was found to have not followed the statutory procedure which requires ordering a different surveyor to complete a new survey or ordering the county surveyor to mark the boundaries, so that portion was reversed and remanded with instructions. There is an entertaining argument that the second surveyor was supposed to "search" for the Elm tree while admitting he looked for the tree and did not find it. There is also

discussion of the research of old photographs, newspapers, testimony of the clients, county surveyor's records, auditor's records, chain of title, and deeds to support the school location as well as searching for cultural evidence, monuments, fencing, an old road and a cemetery. This was found to support the conclusion that the second surveyor had properly conducted his survey and evaluated the evidence.

The Appellate Opinion includes a reduced copy of the later legal survey. This is the first time I have seen a part of a survey included in the written opinion. The Harrison County on-line GIS was also helpful in picturing the situation.

Certain Home Place Annexation Territory Landowners v. City of Carmel, Indiana, Indiana Court of Appeals Case No. 29A05-1606-MI-1291, October 31, 2017

In 2004, the City of Carmel began the process of annexing Home Place. Since then, there have been on and off again efforts to advance the annexation which have been heard at the trial and appellate court level. Now the Hamilton Superior Court has ruled in favor of Carmel on the last remaining issue, whether anyone other than Carmel provides fire protection to Home Place. The Landowners appealed.

The court notes that Clay Township had contracted with the City of Carmel to provide fire protection service to residents of the Township outside the limits of Carmel. While the Township owns five of the vehicles in the fleet of thirty-four operated by Carmel and one of six firehouses, the Township does not have a fire department or employ firefighters. It is Carmel firefighters who respond, relying on mostly Carmel equipment, apparatus, buildings and administration. The judgment of the trial court was affirmed.

Town of Ellettsville, Indiana Plan Commission and Richland Convenience Store Partners, LLC v. Joseph V. DeSpirito, Indiana Supreme Court Case No. 53S01-1709-PL-612, December 12, 2017

Here, a case from last year was granted transfer to the Indiana Supreme Court. As a reminder, the original case summary follows in italics.

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 courts 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.

Now the Indiana Supreme Court weighs in after a Petition to Transfer was granted. Here they rule that, as the Court of Appeals noted, there was not a final judgment in place to appeal. However, the Court of Appeals proceeded noting the Supreme Court has relaxed procedure in this regard. The Supreme Court now finds that the circumstances cited do not apply to this case and remand the case to the trial court for a decision within the next 90 days.

Bellwether Properties, LLC v. Duke Energy Indiana, LLC, Indiana Supreme Court Case No. 53S04-1703-CT-121, December 20, 2017

Again, as a reminder, my original case summary follows in italics.

Bellwether Properties, LLC v. Duke Energy Indiana, LLC, Indiana Court of Appeals Case No. 53A04-1511-CT-1880, September 13, 2016

On July 19, 1957, Duke's predecessor in interest, Public Services Company of Indiana, obtained an easement five feet on either side of the utility lines on property now owned by Bellwether. Over the years since 1957, the Indiana Utility Regulatory Commission has adopted versions of the National Electrical Safety Code (NESC), most recently the 2002 version. Bellwether wanted to expand a structure on their property and contacted Duke about their plans. Duke responded that Bellwether could not build the planned expansion because the plan did not provide the horizontal strike clearance required by the 2002 NESC (since the type and voltage of the current lines require approximately twenty-three feet of horizontal strike clearance) and that 170 I.A.C. 4-1-26 and the 2002 NESC provided Duke with control over the entire twenty-three-foot strip in and around the easement.

On June 30, 2015 Bellwether filed a Class Action Complaint in the Monroe Circuit Court alleging one count of inverse condemnation. Duke moved to dismiss the claim arguing that it fell outside of the six-year statute of limitations. The trial court agreed with Duke and dismissed the complaint. This appeal followed.

The Court of Appeals weighed whether the incorporation of the NESC by the IURC provided sufficient notice of the regulations Duke cited sufficient to trigger the statute of limitations among several other questions. Two of the appeals panel agreed that it did not, since information about the type of utility lines and voltage were solely in the possession of Duke, so neither 170 I.A.C. 4-1-26 nor the 2002 NESC placed Bellwether on notice that Duke's control over land surrounding the easement had expanded. The trial court's order was reversed and remanded.

A dissenting opinion was filed, noting that in 2015, the Indiana Supreme Court had overturned an appeals court opinion that the statutory definition of synthetic drugs and look-alike substances were void for vagueness. So if an "ordinary Hoosier" can be charged with knowledge and understanding the complex drug statute, Bellwether should be charged with knowledge that there were horizontal strike clearance requirements, what the requirements were, and that they applied to the Bellwether easement.

Duke Energy sought and was granted transfer to the Indiana Supreme Court. The Supreme Court now finds that the evidence presented did not establish when the expanded horizontal strike clearance became effective for the line in question and thus the trial court dismissal was again reversed. Duke had essentially argued that any taking had occurred in 2002 with the adoption of the NESC so the six-year statute of limitations had run. But evidence of the timing of any voltage changes which affect the horizontal strike clearance was not presented.

Since the record did not include the 2002 National Electrical Safety Code which had been incorporated in the Indiana Administrative Code by reference only, the court had a staff member attempt to obtain a copy of the hundreds of pages long NESC from the Indiana Utility Regulatory Commission. Finding that the private, copyrighted 2002 NESC was only available for inspection at the IURC, and that copies were not provided for purchase or allowed to be checked out, the court now raises a new question for the trial court to consider. Namely, that if ignorance of the law is no excuse, that requires meaningful access to the laws. Incorporation of standards by reference is noted as having desirable advantages, but private standards are not always as accessible as federal statutes, regulations, and open-source materials. Courts must also have access to the Safety Code when faced with disputes such as this one. The Court noted that "In light of prevailing technology, incorporating copyright-protected materials by reference seems antiquated and at odds with government's obligation to provide meaningful access to laws." The Court was eventually able to track down a copy on-line, but was unsure if it was the same edition as the NESC referenced by the IURC or when it became available on-line.

The court noted that they were not prejudging whether there was meaningful notice of a taking in 2002. But it seems like they are giving a hint to the trial court. I think there may also be more appeals if the trial court does find that the property rights were taken and that it is now too late for compensation, as this would seem to be a widespread situation. I doubt the IURC intended this outcome, but time will tell.

Coutar Remainder I, LLC, Kooshtard Property I, LLC, Mac's Convenience Stores, LLC, f/k/a Bigfoot Food Stores, LLC, and Union fidelity Life Insurance Company, v. State of Indiana, Indiana Court of Appeals Case No. 53A01-1704-PL-798, December 28, 2017

Here is another case from the Monroe Circuit Court. In 1971, when the State of Indiana was obtaining right-of-way for State Road 37, they acquired a right-of-way parcel that included an access control line restriction but provided for an opening in the access control line for direct access to the remaining parcel. In 2014, the State initiated condemnation proceedings to take an additional parcel and close the opening in the access control line from the remaining parcel for Interstate 69 development over State Road 37. The State plans to provide access to the property from I-69 via a route that adds an additional one-half mile of travel from I-69 to this parcel, now occupied by a convenience store and gas station. At trial, the property owners argued that Interstate 69 would eliminate access to their property provided by the opening in the access control line and that elimination was a compensable taking. The owners also argued that the closure of the nearby access alone would result in \$1.3 million dollars in damages and the closure of

the convenience store and gas station. The court-appointed appraisers reported the amount of just compensation at \$420,000 but did not consider closure of the opening. The trial court disagreed with the owners and entered summary judgment for the State.

On appeal, the court found that the elimination of the access opening to State Road 37 is a taking of a property right the State had agreed to be bound to in 1971. Thus this is a taking of a property right subject to compensation, and the trial court judgment was reversed and remanded for further proceedings.

The court noted that this is a unique case, but it seems the relocation of access to parcels which currently rely on easy access may be more common as I-69 advances towards Indianapolis.

Audrey Mullins and Danny Mullins v. Robert Maas and Gail Maas, Indiana Court of Appeals Case No. 44A03-1611-MI-2631, October 4, 2017 MEMORANDUM DECISION ON REHEARING

Here the Mullinses seek rehearing, claiming the appeals court decision erroneously affirmed the trial court's denial of their motion for relief and wrongly indicated the trial court's denial had the effect of granting the Maases title to the disputed parcel. On rehearing, the appeals court noted that the Mullinses are correct that nothing the trial court did had the effect of granting title to the disputed parcel to the Maases, but all of their other claims are without merit.

My summary of the prior appeal from July 27, 2017 follows in italics.

The Mullins purchased property in the plat of Brushy Prairie (primarily Lot 14) in LaGrange County in 1981 without a survey. Between 1981 and 2006, they made some use of a disputed parcel which consisted of parts of Lots 13, 23 and 24, planting/maintaining bushes, trees, grass, bird feeders and burn barrels on it. During the same time period, Linda Lee Perkins, believed she owned the disputed parcel and also used it, hiring someone to mow it and owning a pole barn partially in it. In 2006, Perkins sold to the Maases by a deed that included the disputed parcel. The LaGrange County Auditor later determined Perkins did not possess legal title to the disputed parcel. In 2013, a survey revealed that the Mullinses' property did not include the disputed parcel.

The Mullinses filed a complaint for adverse possession in the LaGrange Superior Court in October of 2013 and after a bench trial the court entered a judgment in favor of the Mullinses on December 31, 2014. On January 30, 2015, the Maases filed a motion to correct error with a newly elected judge which was eventually granted based on a finding that the Mullinses had failed to establish control, in-

tent and notice. The Mullinses appealed and the trial court judgment was affirmed.

Stewart H. Hudson and Sheila D. Hudson v. The Winfred D. Dixon Revocable Living Trust, Crystal J. Dixon, Trustee, Trevor Robbins, Amanda Robbins, Indiana Court of Appeals Case No. 47A01-1704-PL-865, December 13, 2017 MEMORANDUM DECISION

The Dixon family had owned property just outside of Fort Ritner since 1881. Part of the property (the Dixon Trust Property) was sold to Emma (Dixon) Dodds in 1898 and part (the Hudson property) was sold to another Dixon in 1899 and stayed in that family until 2006, when Hubert Thomas Dixon (Tommy) sold the Hudson property to Kevin and Tammie Biddle. The Biddles lost the property in foreclosure in 2013, and it was sold to the Hudsons in 2014. A creek generally runs between the two properties, a fence was installed along the creek over seventy years ago, and the creek was considered the boundary until at least 2006. The boundary was not challenged until the Hudsons had a survey performed which indicated that 2.5 acres on the Dixon side of the creek were included in the Hudson deed. The Hudsons presented easement documents which the Dixon trustee and the Robbinses, who were purchasing the property on contract, refused to sign believing they already owned the property. The Dixon Trust and the Robbinses filed a complaint to quiet title to the disputed property on May 29, 2015. The Hudsons filed an answer and counterclaim seeking a prescriptive easement and an easement of necessity for access to a back portion of their property.

The Lawrence Circuit Court held a bench trial where it was determined that the owners of the Dixon Trust Property had satisfied all of the elements of adverse possession and that the Hudsons had at least one way to access their back property across their own land. The court thus ruled in favor of the quiet title action and against the Hudsons on their easement requests.

On appeal 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.

WHERE IS THE INDIANA-KENTUCKY BOUNDARY? THERE'S AN ONLINE FILE FOR THAT

By Mike Davis

When HWC Engineering survey manager Luke Jahn, PS, needed an electronic file that incorporated the coordinates of the Indiana-Kentucky State Line, as decided by the U.S. Supreme Court in 1985, Indiana Geographic Information Officer Jim Sparks stepped up to point the way.

Jahn, a member of the Central Indiana Chapter of ISPLS, explained that HWC Engineering was doing more work in Indiana's Floyd and Clark counties, which border on the Ohio River. He said paper documents had been found that listed the coordinates of the thousands of points locating the boundary line, but he couldn't find anything that mapped the court-approved line.

In his reply, Sparks said the late Robert "Bob" Wilkinson, a surveyor at the Indiana Department of Natural Resources, had scanned the court case files and created a shapefile of the line for the Indiana Geographic Information Council's cadastral workgroup. "Bob's work was excellent," Sparks said.

Data linked to the shapefile gives more information about the project, whose aim was to "provide a GIS representation of the Court's decision." Though original digital data existed in 1985, as indicated by copies of computer printouts on file in several locations, nothing in digital form could be found in 2003-2004. Paper computer printouts in Indiana and Kentucky were said to be in poor shape, but a U.S. Geological Survey office in Rolla, Mo., had an original printout of much higher quality that was then scanned and converted to a digital format. Latitudes and longitudes of the points were converted from North American Datum 1927 to NAD 1983 Universal Transverse Mercator Zone 16 coordinates, and these were used to generate a boundary line.

Wilkinson also reported finding what Sparks described as "a strange zig zag" between several points — but after verifying the information, he attributed it to a transcription error in the printed court case. Sparks said they talked to a few people to see what could be done to correct the error, but they were told that it probably would have to be refiled as a court case and decided that probably wouldn't happen.

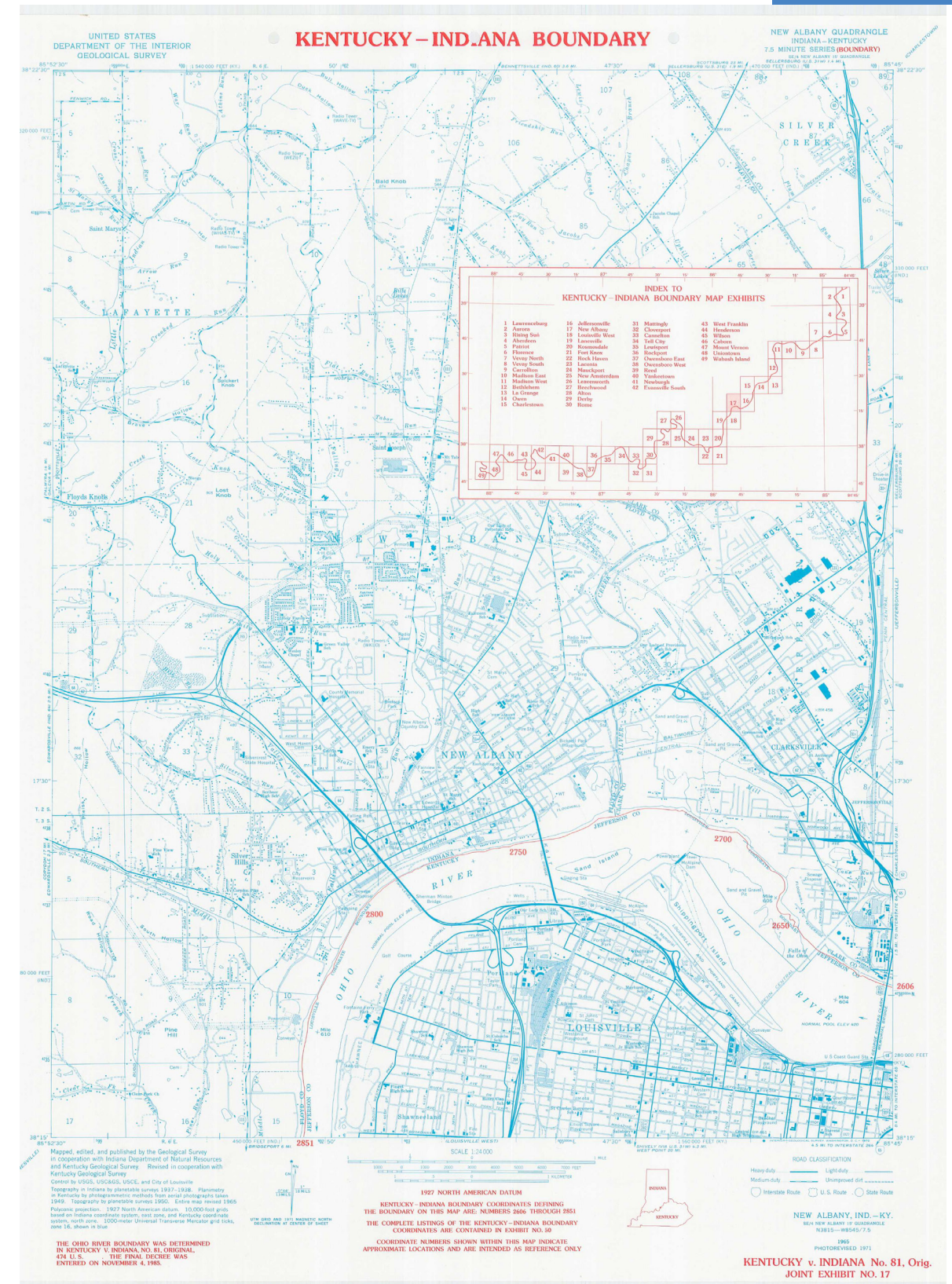
The boundary, as agreed upon by Indiana and Kentucky, was set at where the low-water mark on the northerly side of the Ohio River was in 1792, when Kentucky became a state, but it was altered where necessary to give Indiana control of at least 100 feet of the river from its shoreline.

Wilkinson, who died in 2013, worked as a licensed pro-

fessional surveyor for more than 32 years for the Indiana DNR's Division of Water.

To download the zipped shapefile, [follow this link](#) and scroll to the bottom of the page, below the heading "Indiana-Kentucky Boundary Resources."

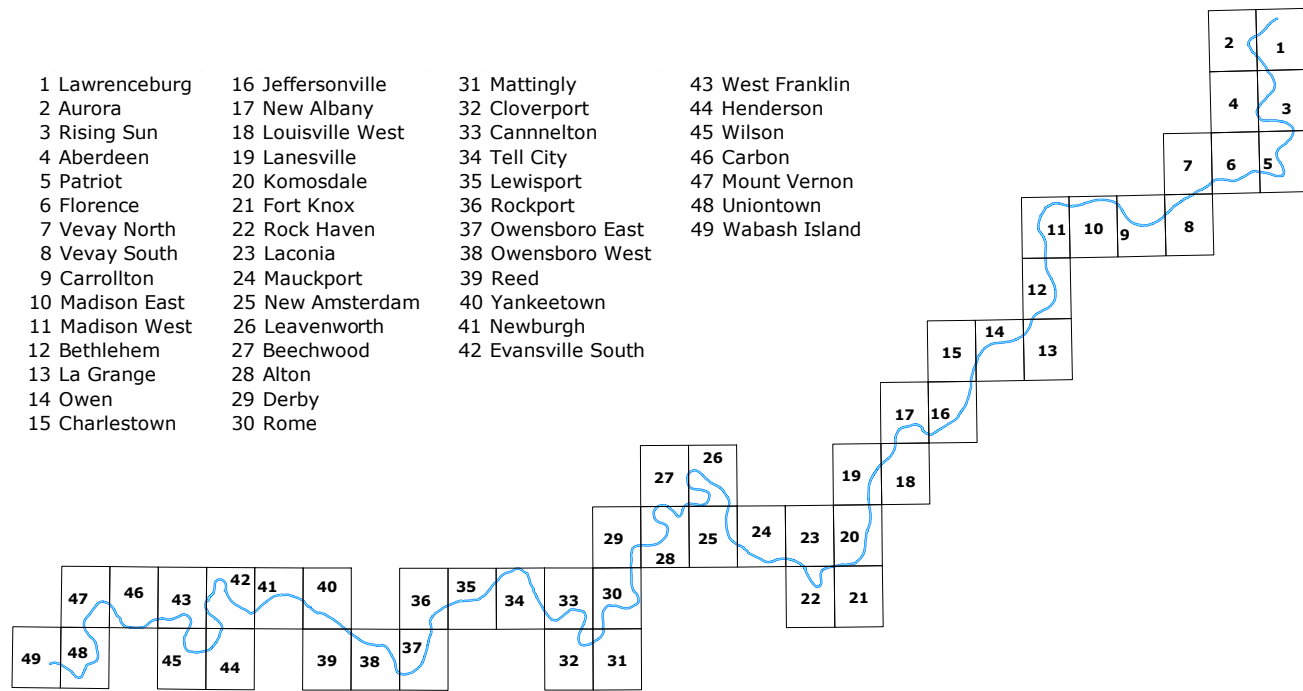
Links to copies of 1:24,000 USGS quad maps containing an overprint of the boundary (court exhibits 1-49) are also available there, along with an Index to the Indiana-Kentucky Boundary Map Exhibits, a copy of the Supreme Court's Final Order in the case, and 158 pages of data on the 7,808 coordinate points.



The Indiana-Kentucky boundary is shown as a red line along the northerly side of the Ohio River on this USGS New Albany quadrangle map, Exhibit 17 in the Supreme Court case. The red numbers alongside the line are approximate locations of coordinates that are detailed on 158 pages of data.

Index to Indiana - Kentucky Boundary Map Exhibits

- 1 Lawrenceburg
- 2 Aurora
- 3 Rising Sun
- 4 Aberdeen
- 5 Patriot
- 6 Florence
- 7 Vevay North
- 8 Vevay South
- 9 Carrollton
- 10 Madison East
- 11 Madison West
- 12 Bethlehem
- 13 La Grange
- 14 Owen
- 15 Charlestown
- 16 Jeffersonville
- 17 New Albany
- 18 Louisville West
- 19 Lanesville
- 20 Komisdale
- 21 Fort Knox
- 22 Rock Haven
- 23 Laconia
- 24 Mauckport
- 25 New Amsterdam
- 26 Leavenworth
- 27 Beechwood
- 28 Alton
- 29 Derby
- 30 Rome
- 31 Mattingly
- 32 Cloverport
- 33 Cannnelton
- 34 Tell City
- 35 Lewisport
- 36 Rockport
- 37 Owensboro East
- 38 Owensboro West
- 39 Reed
- 40 Yankeetown
- 41 Newburgh
- 42 Evansville South
- 43 West Franklin
- 44 Henderson
- 45 Wilson
- 46 Carbon
- 47 Mount Vernon
- 48 Uniontown
- 49 Wabash Island



An index traces the Indiana-Kentucky boundary (in blue) through 49 USGS quadrangle maps (Court Exhibit 1-49).

KENTUCKY V. INDIANA, ORIG. NO. 81, JOINT EXHIBIT NO. 50 PAGE 55

---	GEOGRAPHIC COORDINATE SYSTEM		USGS QUADRANGLE NAME	INDIANA EAST ZONE		KENTUCKY NORTH ZONE		---
	LATITUDE 1827 NORTH	LONGITUDE AMERICAN DATUM		X	Y	X	Y	
2701	38 17 0.163 N	85 46 31.595 W	NFW ALBANY, IN-KY	466774.92	286183.68	1562158.07	289806.33	2701
2702	38 17 0.341 N	85 46 31.595 W	NFW ALBANY, IN-KY	466775.07	286183.68	1562158.07	289806.33	2702
2703	38 17 0.519 N	85 46 31.595 W	NFW ALBANY, IN-KY	466775.22	286183.68	1562158.07	289806.33	2703
2704	38 17 0.697 N	85 46 31.595 W	NFW ALBANY, IN-KY	466775.37	286183.68	1562158.07	289806.33	2704
2705	38 17 0.875 N	85 46 31.595 W	NFW ALBANY, IN-KY	466775.52	286183.68	1562158.07	289806.33	2705
2706	38 17 1.053 N	85 46 31.595 W	NFW ALBANY, IN-KY	466775.67	286183.68	1562158.07	289806.33	2706
2707	38 17 1.231 N	85 46 31.595 W	NFW ALBANY, IN-KY	466775.82	286183.68	1562158.07	289806.33	2707
2708	38 17 1.409 N	85 46 31.595 W	NFW ALBANY, IN-KY	466775.97	286183.68	1562158.07	289806.33	2708
2709	38 17 1.587 N	85 46 31.595 W	NFW ALBANY, IN-KY	466776.12	286183.68	1562158.07	289806.33	2709
2710	38 17 1.765 N	85 46 31.595 W	NFW ALBANY, IN-KY	466776.27	286183.68	1562158.07	289806.33	2710

Page 55 shows expanded data on coordinates for points 2701-2750 on the Indiana-Kentucky boundary in the New Albany area. This is one of 158 pages listing a total of 7,808 coordinates that were combined by Robert "Bob" Wilkinson to create a map file of the boundary line.



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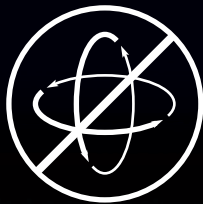
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