

46-3 Winter 2020

# HOOSIER SURVEY

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



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- Annual Convention Recap
- Legislative 'Halftime Report'
- Elevation Certificates



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## COVER PHOTO

Incoming ISPLS President Eric Banschbach presents Past President Todd Bauer with the ceremonial gavel in thanks for his service as the Society's president in 2019.

## 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 – STATE OF THE SOCIETY

By Eric N. Banschbach, PS, ISPLS President

**W**ell, another year is in the books with another convention behind us. I can't believe how fast the past year went by and how quickly the convention seemed to pass by, as well. Although, I must confess, I was on a lot of medication during the convention trying to recover from bronchitis, so much of it was kind of a blur for me.



In any event, it was my honor to take the gavel for this year and I hope you join me in offering a sincere thank you to our past president, Todd Bauer, as well as our leaving board members, Dave Myers, Ed Sweetland and Kurt Vonderheide, for a job well done. Also, join me in congratulating our newest board members, Matt Badger, Jacob Hoffman and Alex Daugherty. I look forward to another great year.

I would also like to thank all those involved in helping to make this convention a success, especially the Northeast Chapter as sponsor, and Executive Director Brian Lewis and his staff, Christen Martin and Evan Hoffmeyer, for all their hard work. It takes a considerable effort and a lot of hours to put on a successful convention each year and, despite some minor hiccups along the way, we pull it off each year. I hope everyone that attended enjoyed themselves and found the lineup of sessions informative and beneficial. And just a reminder for next year, we will be back in Indianapolis after going on the road for the last two. Hope to see you then.

So moving on to my thoughts for the new year. After just watching President Trump's State of the Union address, I guess it's my turn to review our "state" and my goals for the future. Similar to President Trump, I share a great deal of optimism and hope for *Keeping ISPLS and Indiana Great*.

If you attended the business meeting during the convention, and unfortunately that is a small percentage of you, we shared some good news regarding our financial status, both for the Society and the Foundation. Our investments continue to perform well and we continue to manage our annual budget efficiently and effectively. I was encouraged to see our increased efforts related to member education with webinar offerings, but we can do more. And while two-thirds of Indiana's Professional Surveyors are also ISPLS members, and that may be good compared to other organizations, we can do better. And our social media presence and activities are ever increasing and expanding. But again, this is another endeavor that we can easily improve with little to no costs. Share those posts. [The Board video profiles](#), which many of you may have already seen on social media, is just a first step. I look forward to seeing more, including the series on "The Women of Surveying." Look for these, and more, and make sure to like and share.

Our Career Fair and school outreach activities last year have been fantastic and I'm hopeful we can continue to expand those activities and perhaps reinvigorate the Trig-Star program across the state. If you didn't see the 3-D sandbox on display in the Exhibit Hall at the convention, this will be a great tool for our membership to use in getting kids intrigued with the profession. And we've compiled a number of resources to assist anyone in helping to reach out to youth to inspire them to look at surveying as a possible career. The investment we've made into the *Get Kids into Surveying* program is yet another resource we are looking to expand.

Moving forward, I plan to examine a few more opportunities that we can implement and/or expand and improve. I've identified four topics to focus on and tried to expand on them below.

### What do your field crews need?

My intent here is to try to determine and focus some of our efforts on what the Society can do or offer the survey technicians in our offices. They are (hopefully) the next generation of professional surveyors. What can we do to get them to participate with chapters, the society, conventions, etc? Are there workshops or seminars that firms would be interested in having their techs attend? What format or configuration would best be suited for that? Is the CST program something firms are interested in having their staff pursue?

### Increasing member involvement

What do our chapters need to do or offer to increase — or in some cases initiate — participation in meetings and events? Do some of our chapters need guidance or assistance in coming up with or planning events? What does the Society need to do to increase member enrollment and attendance at conventions? What would our current members be personally willing to do to assist their chapter, the society and/or the profession?

### Technology-focused education

The surveying profession has continued to evolve rapidly with advances in various technologies. Are there new or emerging technologies that you are interested in seeing offered in workshops, seminars or distance learning opportunities for any of these new technologies (e.g., UAVs, mobile 3-D mapping, drone-based LiDAR, Point Cloud data storage, advanced robotics, software)?



## Workforce Development / Career Fairs

We have been able to make some great strides this last year in promoting the profession at schools plus career and job fairs. We have some great resources for members to participate in future events, including the 3-D sandbox, *Get Kids into Surveying* program, promo giveaways and info booth setup equipment (tablecloth, pull up signs, etc.). We need volunteers to help out by attending future events and developing new opportunities for promoting the profession. What additional opportunities can ISPLS and/or NSPS be involved with to help grow the profession?

So looking over these four items, you can see a reoccurring theme: I need your help. It's going to take input and participation from our membership in order to accomplish some of these. We have some great people within our organization

who bust their butt and sacrifice a significant amount of their time and contribute resources in an effort to advance this profession. I'm hopeful that I can count on many of you to step up and participate as well. Please contact me with any information you can contribute to the above questions, or your comments and suggestions. Along with those, I will expect your commitments to participate as well.

I look forward to attending some of your chapter meetings throughout the year to discuss some of these opportunities in person.

Thank you. God bless you. And God bless America.

Eric N. Banschbach, PS  
ISPLS President

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# ISPLS 68TH ANNUAL CONVENTION HIGHLIGHTS

Grand Wayne Center | Fort Wayne, IN | January 22-24, 2020

## ISPLS 2020 AWARDS PRESENTATION



*Todd Bauer, center, presents Ed Sweetland, left, and Ryan Swingley, right, with the President's Award for their work at Career Fairs and similar events at schools across the state promoting the surveying profession.*



*Northwest Chapter representatives (L to R) Frank Walsko, Rich Hudson and Al Fabian present the chapter's inaugural Prism Lifetime Achievement Award to Tony Gregory.*



*Norm Hiselman, president of the Indiana Professional Land Surveyors Foundation, presents IPLSF's annual student scholarships to (L to R) Daniel Cinal of Purdue University, Cara Morman of Cincinnati State and Luke Brocksmith of Vincennes University.*



*2019 Board of Directors members (L to R) Rich Hudson, Ryan Swingley, Vince Barr, Norm Hiselman, Eric Banschbach, Ed Sweetland, Frank Walsko, Eric Meeks, Don Williams and Todd Bauer received the traditional wooden stake in honor of their service to the Society. (not pictured: Dave Myers and Kurt Vonderheide)*



## ISPLS 68TH ANNUAL CONVENTION HIGHLIGHTS

Grand Wayne Center | Fort Wayne, IN | January 22-24, 2020

### ISPLS 2020 AWARDS PRESENTATION



*Bob Vollmer was recognized for his decades of service to the surveying profession in Indiana. He'd recently announced his retirement for Thursday, Feb. 6 at the age of 102.*



Todd Bauer presented Bruce Feranke with the Atlas Award for his service to the Society and surveying profession.



*(above) Joel Edwards of Vincennes University was awarded the Wabash Valley Chapter's scholarship, presented by chapter president Rudy Vugteveen.*

*(left) Nolan Mark, left, and Cameron Beron, right, were recognized by ISPLS President Todd Bauer, center, as two of Indiana's newest Professional Licensed Surveyors.*



*all photos taken by Evan Hoffmeyer, ISPLS*

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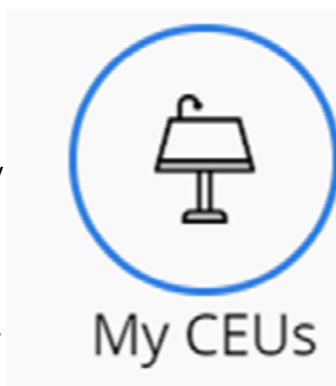
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## ISPLS MOBILE APP PROVIDES ONE-STOP SHOP FOR ALL CEU'S

By Evan Hoffmeyer, ISPLS

As Indiana's Professional Licensed Surveyors prepare to renew their licenses this summer, ISPLS' mobile app will make your renewal process simpler than ever.

Just login to the Membership App like you did at Convention. Instead of going to the 2020 Convention icon, though, tap on "My CEUs." It should be the icon on the far right in the fourth row. This will bring up a list of every CEU you've earned not just at the 2020 Convention, but also 2019 and 2018 as well as any ISPLS-sponsored webinars you attended in the past 2-3 years, giving you access to all the CEUs you've earned during the entire renewal cycle in one combined transcript.



As a quick reminder: Your CEUs all need to have been earned between Aug. 1, 2018 and July 31, 2020. One exception: If you earned more credits than you needed in the Aug. 1, 2016 - July 31, 2018 cycle, state law allows you to carry over up to four of those "earned but unused" credits into this cycle so you can still hit your 24 required credits.

Be sure to always use the ISPLS app at future conventions and attend webinars sponsored by ISPLS so you can continue tracking all of your CEUs in one place.

If you feel your app's transcript is missing relevant CEUs, contact Evan Hoffmeyer at [ehoffmeyer@ispls.org](mailto:ehoffmeyer@ispls.org).

## ISPLS ANNOUNCES INAUGURAL SPRING WEBINAR SERIES

By Evan Hoffmeyer, ISPLS

If you're coming up on license renewal and find you're a few credits short, ISPLS will host a series of 13 webinars this spring so you can rack up those last CEUs.

Every Friday this April, May and June, we will host a one-hour webinar from noon - 1 p.m. ET worth one CEU each.

**PLEASE REMEMBER:** Although we are offering 13 webinars in this series, Indiana law only allows up to 12 CEUs to come from distance learning in any two-year renewal cycle. You can find a full list of CEU requirements on [the Professional Licensing Agency's website](#).



Some of the offerings this year are abbreviated versions of sessions from Convention, so if you had to skip a class you were interested in because it was at the same time as another class you were registered for, this could be your chance to still catch it.

They have all been condensed into a single hour to make it easier to attend with the exception of the Wetlands session that had to be canceled. That course will be offered in its entirety, split up over three weeks: Wetland Identification, Wetland Regulation, and Changing Wetland Policy and Regulation. There is no restriction on these sessions, meaning you can attend just one week or do all three. The speaker did warn that the third week will build on the first two so you may have a hard time keeping up if you only do the third in that group.

Find a full list of this year's spring webinar sessions at [ISPLS.org](http://ISPLS.org).



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## LEGISLATIVE UPDATE 'HALFTIME REPORT'

By Evan Hoffmeyer, ISPLS

We've reached the halfway point of the 2020 legislative session, and the bill that could have the biggest impact on the surveying profession continues moving forward.

[HB 1008: Occupational License Endorsement](#) would make it easier for licensed professionals — including surveyors — who get their license in another state then move to Indiana, to then get licensed here. If the professional can prove they've passed a "substantially equivalent examination" to Indiana's exam and are in good standing, they would only need to pay a fee and complete an application form to get licensed in Indiana.

After passing out of committee 9-2, HB 1008 passed the full House 85-6. It now heads to the Senate.

[SB 71: Adverse Possession Statute of Limitations](#) was written by practicing land surveyor and ISPLS member State Sen. Blake Doriot, R-Elkhart. If passed, it would close a court-created loophole in the legal survey process.

Currently, results of a legal survey can be overturned by a neighbor's adverse possession claim even if that neighbor never appealed the results of the survey per the statute. This bill would require that if a neighbor is affected by a legal survey and they believe they have a valid adverse possession claim, they must file an affidavit of adverse possession or otherwise make their claim known before the statute runs out (90 days for in-county owners; 1 year for out-of-county owners). If no affidavit has been filed in that time, the lines would become binding on all owners.

SB 71 passed the Senate in a 49-1 vote. It now heads to the House where it has already been assigned to the Judiciary Committee.

Other bills ISPLS is keeping an eye on this session:

- [HB 1014: Plan Commissions](#)
  - Author: Tom Saunders, R-New Castle
  - What it would mean for surveyors: For the purposes of the advisory planning law, a county surveyor's designee must be a resident of the county to serve on the county plan commission, regardless of if they are a permanent designee or only filling a vacancy or serving as an alternate.
  - Unanimously passed the full House; sent to Senate and assigned to Local Government committee
- [SB 100: Right to Restore or Reconstruct a Dwelling](#)
  - Author: Blake Doriot, R-Elkhart
  - What it would mean for surveyors: Homeowners can restore/reconstruct nonconforming residential single-family homes within their existing footprint so long as it is only nonconforming as to lot size, setbacks or other dimensional requirements; is habitable as an assessed residential property; and has not been condemned.



- Unanimously passed the full Senate; sent to House and assigned to Local Government committee
- [SB 229: Maintenance of Regulated Drains](#)
  - Author: Victoria Spartz, R-Hamilton County
  - If approved by the House and signed into law, a permit would no longer be required from the Indiana Dept. of Environmental Management for the reconstruction or maintenance of regulated drains for purposes of the law concerning state-regulated wetlands.
  - Passed out of the Senate Jan. 21 in a 32-18 vote; sent to House and assigned to Local Government committee

There are four other bills the Society's Government Affairs Committee was watching that either failed or were never taken up for a vote by their full chamber. That means they are most likely dead for this Session:

- [HB 1061: Subdividing Land](#): would have allowed a property owner to subdivide a parcel by deed as long as it met certain requirements. This bill passed out of committee 9-2 but the full House never took a final vote on it, so it's not moving forward.
- [SB 52: Prevailing Wage](#): Among other provisions, would have guaranteed minimum compensation for work on certain public projects. This bill never made it out of the Senate Committee on Pensions and Labor.
- [SB 108: Income Tax Credit for Rail Improvements](#): Class II and Class III railroad carriers would have been allowed to claim a tax credit valued at up to 50% of qualified reconstruction and replacement expenditures made during that tax year. This bill never made it out of the Senate Committee on Tax and Fiscal Policy.
- [SB 210: Disposal of Land by Local Government](#): abutting landowners who submit lower bids for purchase of real property from a political subdivision would no longer have been allowed to submit a new bid after learning the amount of the highest initial bid received. This bill never made it out of the Senate Committee on Local Government.

*We include updates on all these bills in our weekly newsletters and on ISPLS.org throughout the legislative session.*

## LEGAL SURVEYS

By Bryan F. Catlin, PS, ISPLS Past President

**T**he 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](http://www.in.gov/judiciary). Comments or suggestions for future columns are welcome by email to: [Bryan.Catlin@indy.gov](mailto:Bryan.Catlin@indy.gov).



**Stephen J. Presley v. Daniel S. McCain and Joseph D. DeRozier, Indiana Court of Appeals Case No. 19A-MI-88, October 11, 2019**

From the Miami Superior Court comes this case where two areas of Presley's property per plat were awarded by adverse possession to neighboring owners. The "Dog Run" and "Flower Bed" were both used jointly by Presley and the respective adjoining owner. Significantly, the dual use of the "Dog Run" continued until November 2016, when DeRozier placed a lock on the gate to the area after his tenant notified him a man was using the area to access the Presley's back yard. McCain maintained a "Flower Bed" area next to Presley's garage but allowed Presley access. In the last ten years, McCain attempted to build a shed in the "Flower Bed" area. Presley contacted the City of Peru to prevent this. The City determined McCain could not build the shed. After that, McCain did not maintain the area and installed a planter box that interfered with Presley's maintenance and upkeep of the garage.

In May 2017, Presley filed a complaint for ejectment and damages against DeRozier and McCain. After several motions, etc., McCain and DeRozier ended up arguing they had acquired ownership through adverse possession. After a bench trial October 31, 2018, the court issued a November 2, 2018 order finding DeRozier and McCain had acquired title by adverse possession but granted Presley an easement to access the two parcels. Both sides moved to correct error, and the trial court granted DeRozier and McCain's motion and vacated the easement awarded to Presley. Presley appealed this ruling.

On appeal, the court found both DeRozier and McCain had not met the ten-year duration of exclusive adverse control to prove ownership. As such, the judgment of the trial court was reversed and remanded with instructions to enter judgment in favor of Presley.

**Andrew Patrick v. Painted Hills Association, Inc., Indiana Court of Appeals Case No. 19A-SC-936, October 22, 2019**

Here, Patrick acquired tax deeds to three unimproved parcels in Morgan County in 2016. The neighborhood association, the Painted Hill Association, later filed small-claims action against Patrick to collect unpaid dues for 2017 and 2018 to enforce restrictive covenants in place before the tax sale. Patrick argued before the Morgan Superior Court that per Indiana Code 6-1.1-25-4(f), a tax deed is free and clear of all liens and encumbrances created or suffered before or after the tax sale. However, the code continues to state the estate is subject to all easements, covenants, declarations and other deed restrictions shown by public records. The trial court ruled in favor of the association. Patrick appealed, but the court found the language of the statutes was unambiguous and affirmed the ruling of the trial court.

**Kathy Salyer v. Washington Regular Baptist Church Cemetery and Kristy Sams, Indiana Court of Appeals Case No. 19A-PL-243, October 30, 2019**

In April 1982, after the death of her first husband, Salyer purchased four contiguous gravesites comprising Lot 14 in the cemetery. In August 1982, Salyer purchased an additional gravesite to the north (Lot 15), contiguous to Lot 14. Salyer had Certificates of Ownership for these gravesites. Moving south from gravesite 15, Salyer's father was buried in the next site, her first husband was buried in the next, the next was empty, and Salyer's second husband was buried in the last gravesite. Salyer intended to bury her mother in gravesite 15 and to have herself buried between her first and second husbands.

In early 2014, Salyer noticed Lowell Johnson had been buried in gravesite 15. Salyer contacted the cemetery which eventually acknowledged it had made a mistake and sold the gravesite twice, first to Salyer and later for Johnson's burial. Salyer's purchase of gravesite 15 had not been properly recorded in the cemetery's records and had been overlooked. Salyer requested the cemetery relocate Johnson but they took no action.

On May 18, 2015, Salyer filed a small claims action against the cemetery requesting an order that Johnson be moved and gravesite 15 restored to her. Johnson's daughter intervened and did not want her father moved. While the action was pending, Salyer's mother passed away in December of 2015. Because Johnson was already buried in gravesite 15, Salyer had to make other arrangements. She had her mother's remains cremated and buried in the same gravesite as her father.

At a bench trial on April 15, 2016, the cemetery acknowledged it sold gravesite 15 twice. The small claims court did not order Johnson moved, but ordered the cemetery to refund the \$75 Salyer had paid for gravesite 15 and to give Salyer an open gravesite directly to the south of Lot 14.



Salyer filed a motion to correct error which was denied and Salyer appealed. On this first appeal, the court reversed and remanded for transfer to the court's plenary docket, holding the small claims court lacked jurisdiction to grant Salyer an adjacent gravesite or order Johnson be moved.

The Circuit Court of Ripley County held a bench trial on November 7, 2018 where, among other findings, cemetery officials testified Salyer had marked the gravesites. On January 15, 2019, the court concluded there was no showing who set the markers and therefore no showing who committed such wrongdoing. To "correct" this error, the court awarded Salyer the open adjacent burial site just south of her second husband free of charge and ordered it be duly recorded as such by the cemetery. Salyer again appealed. On appeal, the court decided this case is a matter of statutory interpretation. I.C. § 23-14-59-2 reads, in part:

*When a wrongful burial, entombment, inurnment, disinterment, disentombment, or disinurnment referred to in section 1(1), . . . of this chapter occurs, the cemetery owner shall: (1) at the expense of the cemetery owner, correct the wrongful burial, entombment, inurnment, disinterment, disentombment, or disinurnment as soon as practical after becoming aware of the error.*

The legislature also granted cemeteries immunity for any such wrongful burial. See I.C. § 23-14-59-1(1). The appeals court recognized this is a real estate transaction and the cemetery is required to "correct" a wrongful burial. On review, the trial court remedy was found not to be an abuse of discretion by ordering the cemetery to "correct" its mistake by giving Salyer the open, adjacent burial site, free of charge, and the judgment was affirmed.

Judge James Kirsch dissented, and would have required the cemetery to carry out its duty under the statute (apparently, to move Johnson).

**Kip Bergman, Scot Gasho, Jane Harper, Philip Overdorf, Brent Snow, and George Tebbe v. Big Cicero Creek Joint Drainage Board, Indiana Court of Appeals Case No. 19A-MI-1486, November 22, 2019**

Thanks to Jarrod Hahn for bringing this opinion to my attention. It includes a lot of detail and discussion on how drain reconstruction projects can be funded by drainage boards.

Here, various landowners filed a petition for judicial review of a decision by the Big Cicero Creek Joint Drainage Board, which is a multicounty joint drainage board. The Tipton Circuit Court affirmed the board's decision. The landowners apparently disagreed with a reconstruction plan adopted by the board, believing it would not address or alleviate flooding so they should not be forced to pay for it, and the board was not transparent with its intentions on how to fund a future reconstruction in 2014. The board's intention was to fund a future reconstruction via an increased maintenance assessment to create a surplus and then transfer 75% of that surplus as a down payment on a partial reconstruction

as allowed by statute. This was based on a report by the surveyors of Tipton, Hamilton, Boone and Clinton counties. The trial court held that the board was acting within the law.

The landowners appealed and raised three issues for review:

1. Whether the trial court erred when it found the board was not prohibited from funding a reconstruction project through a loan to be repaid with excess funds in a maintenance fund.
2. Whether the trial court erred when it found the board was not required to issue bonds to pay for the reconstruction project.
3. Whether the trial court erred when it found that the landowners' claim that the board was improperly formed (raised 27 years after it was formed) was barred under the doctrine of laches.

On the first two points, the court held the landowners were ignoring the clear meaning of the statute's wording. The judgment of the trial court was affirmed.

**Scott Shields v. Town of Perrysville, Indiana Court of Appeals Case No. 19A-MI-979, December 9, 2019**

This opinion is an example of how an expert opinion can be overcome by a non-expert.

Here, Shields has an interest in Lot 4. Shields obtained a Survey that shows a stone drive within Lot 4 running roughly north-south. The Survey shows an alley several feet west of the stone drive, running north-south, between Lots 4 and 5. The Survey shows an outbuilding on Lot 5 almost entirely obstructing the alley.

Shields built a fence along the purported western boundary of Lot 4 depicted in the Survey a few feet from the Lot 5 outbuilding and began parking on the stone drive east of the fence. Neighbors complained, contending Shields was parking in the alley. The Town filed action to quiet title, alleging Shields "erected a fence [that] has completely obstructed the believed location of the alley" in which the Town obtained interest through a platted and recorded deed. The Town also alleged it had an enforceable right to remove the fence due to the doctrine of title by acquiescence.

A bench trial was held in Vermillion Circuit Court that included testimony from Mike Bowman, president of the Town Council. Bowman testified that, as a child, he rode his bicycle down an alley east of the Lot 5 outbuilding. He testified the outbuilding was once used as a mechanic's garage, with the garage facing the alley. Bowman testified he went to the area and measured, and that if the alley was located where the Survey shows — west of the stone drive — the location would not accommodate the widths of lots to the west. He testified if one instead begins measuring at the edge of the stone drive — "where the old alley would have been" — and measures to the west, "there's enough footage for all [the] lots."

The surveyor who completed the Survey testified he used 170-year-old records and that there were no obvious "mon-

uments” or landmarks to use to correlate those records with the current observed conditions. His conclusion as to the location of the alley was his “educated opinion,” and he estimated the location of the property lines with a three-foot uncertainty in the east-west dimension.

The trial court entered judgment in favor of the Town, ordering “that the alley shall remain as designated by the Town and not by the [S]urvey,” and “that the Town has title to the area by acquiescence.” The trial court also ordered Shields to remove the fence.

Shields appealed this judgment. At trial, the Town introduced a recorded document that originated in the 1850s. The document describes the pertinent addition to the Town, depicting a 12-foot alley between Lots 4 and 5. Shields brought back the surveyor who put together the Survey. He testified he couldn’t find a stone monument on which he could base his measurements. He explained that he put together “170 years of puzzle pieces” to reach a “theory of location” of the alley. The surveyor also testified to “ambiguity in the east-west dimension,” in that a nearby street did not have a platted width. He testified the Survey was based, in part, on an assumption about the width of Jackson Street, a north-south road to the east of the subject lots. Shields argues the Town “did not offer any evidence to dispute the expert survey.” Shields invites the Appeals Court to ignore Bowman’s testimony, asserting Bowman had “a vested interest in

the outcome of the proceedings.” Shields further asserts that Bowman’s testimony is “self-serving and cannot be relied upon.”

Shields’s argument amounts to a request to reweigh evidence and reassess witness credibility. The Appeals Court declined to do so, noting, “**Moreover, to the extent Shields is arguing that a survey can be refuted only by another survey, he directs us to no authority for this proposition.**” [emphasis added] Ultimately, the Survey was cobbled together based upon numerous assumptions rather than monumentation in the field making the survey problematic at best. A party claiming title must do so on the strength of his own title. Here, the fact-finder was free to accept Bowman’s opinion and reject the surveyor’s as being so qualified as to be unreliable. Shields briefly argues the alley is abandoned. He directs (the Appeals Court) to ... an 1871 Indiana Court of Appeals case discussing abandonment of public roads through non-use. ... A few years later, however, the Indiana Supreme Court implicitly rejected common-law abandonment, instead holding that once a public way has been established, “[t]he rights of the public in the way can only be divested by proceedings authorized by law.” In 1945, the Indiana Supreme Court ... reiterated: The vacation of highways is not favored, and the rights of the public in and to a road can be divested only by some method authorized by law. There must be a full and substantial compliance with the provisions and requirements of that law to cause a

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vacation of an existing highway. Relying on this more recent case, this Court observed that a road can be "closed as against the public only by official action by the appropriate governmental authority." We apply the most recent approach articulated by the Indiana Supreme Court. Doing so, we observe that Indiana Code Section 36-9-2-5 permits the vacation of public ways. Here, however, there is no evidence the alley was vacated. Thus, the court did not clearly err in rejecting a claim of abandonment. The judgment is not clearly erroneous [and was affirmed]."

**Bart M. Betteau v. Robert Headrick and Karen Headrick, Indiana Court of Appeals Case No. 18A-MI-2610, October 3, 2019 - MEMORANDUM DECISION - not regarded as precedent**

Here is a case from the Floyd Superior Court concerning easement language.

The Headricks had purchased two tracts from Brian and Velinda Heasley in 2013 and used them as rental properties and for storage. The Heasleys retained two tracts immediately south and downhill from the Headricks. Access to the Headrick tracts was through ingress and egress over certain roads leading from said property to Paoli Pike.

In 2017, the Heasleys sold their two tracts to Betteau by deeds subject to the rights of others to use certain roadways and easements "both of record and as traveled and used."

Betteau unilaterally relocated the driveway, parked a truck across the prior driveway and erected a road closed sign. The new driveway required drivers to make a sharper turn to

get to the Headrick properties and the path was steeper. The local Chinese restaurant refused to deliver up the relocated driveway. Betteau filed for declaratory judgment asserting the original driveway impaired his enjoyment of his property and was outside the deeded easement. He sought an order declaring the existing driveway to be solely his private driveway and for the Headricks to establish their own driveway inside the deeded easement at their sole cost. The Headricks claimed that a prescriptive easement had been established and asked for the return of the original driveway path. After a bench trial, the court found the Headricks were owners of an easement for use of the roadway along its original path. Betteau was ordered to return the roadway to the original path at his sole expense, and the Headricks were responsible for one-half of the cost of upkeep on the portion used by them and Betteau and the full cost for the portion used only by the Headricks.

On appeal, Betteau argued the "as traveled and used" language is vague and insufficient to create an easement because the deeds do not identify a dominant or a servient estate. The Appeals Court noted the dominant and servient tenements are adequately identified, as long as it is clear upon whose property the easement is placed and that the evidence indicates the easement is the driveway that existed when the Heasleys owned the property. 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 BS Land Surveying Engineering and MS Engineering (Geodesy) degrees from Purdue University.*

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## THE ELEVATION CERTIFICATE

By Doug Wagner, CFM, DNR Division of Water

The Elevation Certificate is a form that most floodplain managers are familiar with. This simple six-page document is used or completed by several disciplines for a host of reasons.

Floodplain Administrators (FPAs) use them to fulfill compliance requirements in accordance with their local ordinance. They must also maintain this information in the permit file permanently. FPAs in Community Rating System communities must also keep this information on file and maintain a 90% accuracy requirement of the program in order to receive full credit points in this area.

FPAs need to keep in mind that although the Elevation Certificate will provide most compliance information, nothing substitutes for a physical inspection of the site to verify conditions match what is presented on the certificate. Insurance agents must have a completed Elevation Certificate to properly rate a Post-Flood Insurance Rating Map (Post-FIRM) or substantially improved Pre-FIRM structure for flood insurance. It may also be advantageous for a property owner with a Pre-FIRM structure to have their property rated by using an Elevation Certificate rather than the Pre-FIRM rating.

The Elevation Certificate may be completed by an engineer, architect or surveyor who is professionally licensed in each state by FEMA regulations. In Indiana, only an engineer or surveyor may complete the certificate verifying the elevations by statute.

There are many sources of assistance for local officials reviewing the Elevation Certificate and the professionals completing it. The first source is [the instructions](#) that accompany the certificate itself. This is a fillable PDF form that will assist any professional and can be found on FEMA's website. The next source is [FEMA 467](#), the flood-

plain management bulletin on elevation certificates that answers many questions on the certificate.

There are also independent self-study courses offered by the Emergency Management Institute. These courses are:

- IS-01102: The Theory of Elevation Rating;
- IS-01105.a: EC Made Easy: Elevation Certificate Overview; and
- IS-01103.a: Elevation Certificate for Surveyors.

The courses can be found by doing a search of the EMI Independent Study website. You will need to register for a [FEMA student ID](#) before taking any of the courses.

The independent study courses go into a little more detail than even the instructions for the Elevation Certificate. One example of this is the allowance to omit the garage floor on an attached garage as the lowest floor, but **only if it is compliant construction**. Compliant construction, if below Base Flood Elevation, means being constructed of flood resistant materials, properly vented and used only for parking, access to the structure and/or limited storage. FPAs should keep in mind that the allowance of not providing the attached garage floor elevation as the lowest floor does not remove the requirements under the Indiana Floodplain Rules ([312 IAC 10-2-28](#)) and the elevation of the lowest floor for new construction. Another example is the suggestion of using the guidance of the [Flood Insurance Manual](#) in the determination of the building diagram for a structure. At the site, you can download and view current and historic manuals.

Although the current Elevation Certificate form expired Nov. 30, 2018, FEMA guidance has been to continue use of the form until the new form and instructions are published. It is our understanding the new form will only have a few minor changes or additions.

## Free Resource: Land Surveying Career Brochure



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To request physical copies of the brochure, send an email with the quantity to [Evan Hoffmeyer](#). Want to share it online? [Download a digital copy here.](#)

## **WEIHE ENGINEERS ACQUIRES MASSMANN LAND SURVEYORS**

Weihe Engineers, Inc., an Indianapolis-based civil/site development firm, has acquired St. Louis-based Massmann Land Surveyors. The acquisition strengthens both companies' local operations in the St. Louis Metropolitan Area.

Massmann Land Surveyors started in 1977 providing land surveying services to five counties in the Greater St. Louis Metropolitan Area (St. Louis, St. Charles, Jefferson, St. Clair and Madison). Bill Massmann, PLS, founder and former owner, along with all current staff will be retained and continue in their roles. The company will remain under the Massmann Land Surveyors brand name.



"This is a great day for Massmann Land Surveyors and its clients," said Bill Massmann. "Weihe Engineers is a highly reputable land surveying, civil/site engineering and landscape architecture firm in the Midwest with lots of resources and technology to accelerate our growth and better serve our local clients."

Weihe Engineers, which opened an office in St. Louis in 2018, sees this merger as an important component towards being a full-service firm. Brady Kuhn, PS, Vice President of Land Surveying at Weihe Engineers, said, "Our local and national clients in this area need responsive and quality land surveying services for their land development initiatives. By teaming with Massmann Land Surveyors, we will be able to bring a single-source offering to better meet quality standards as well as stay ahead of deadlines."

## **STATEWIDE ORTHOIMAGERY PROGRAM UPDATE**

**By Indiana Geographic Information Office**

The Indiana Geographic Information Office and Indiana Office of Technology opened a Request for Proposal in November for the next statewide orthoimagery program. That RFP was closed in January with no award. The decision to close the RFP was due to the timing of the flights for 2020. The project would not have had adequate time to acquire data for the leaf-off program before spring growth began or to allow time for counties to incorporate the ortho delivery schedule or potential buy-ups into their business process.

The next statewide orthoimagery program is now planned to begin in 2021. Based on GIS community input and requests, the GIO plans for a statewide six-inch program, a nice upgrade for counties and other end-users from the previously provided one-foot imagery resolution.

The project plan period will be for four years (2021-2024), with one-third of the state being acquired each year and the fourth year offering an opportunity for additional product purchases from counties and clean-up if necessary.

A new RFP will be released in the second quarter of 2020 to select a vendor for the program. Please watch for more information about ancillary products and buy-up opportunities from the statewide contract in the third quarter of 2020. Agencies or organizations interested in contributing to the cost of the statewide six-inch orthoimagery program are asked to contact the GIO.

If there are any questions or comments, please email [gio@iot.in.gov](mailto:gio@iot.in.gov).



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## COMPLETED CAREERS

### Howard Robert McCaslin

**H**oward Robert McCaslin, 90, of Indianapolis passed away Saturday, Nov. 16, 2019.

McCaslin was a Location Land Surveyor for the State of Indiana, retiring in 1994 after 50 years of service. He was a member of Chapel Glen Church of Christ, an antique glass collector and an Army veteran of the Korean War.



Born Nov. 2, 1929 in Moreland to the late Harold and Mary (Shore) McCaslin, he is survived by his wife Mary (Stevens); sons Bob (Beverly) McCaslin, David McCaslin, Mike (Peggy) McCaslin and Dan (Trina) McCaslin; brother Ken (Sally) McCaslin; eight grandchildren and six great-grandchildren.

Services were held Nov. 20 at Conkle Funeral Home's Avon Chapel with burial at West Ridge Cemetery.

*(Photo and obituary provided by Conkle Funeral Home)*

### Raymond Scott Beagles

**R**aymond Scott Beagles, 63, of Dupont, Indiana died in a car accident Wednesday, Oct. 9, 2019.

Beagles earned his bachelor's degree in land surveying from Purdue University. His career took him to North Dakota, Arizona, New Mexico, California and Illinois, before returning to Dupont in 2011. He most recently worked with Pettit Contracting in Hanover and was currently working with Riverside Contracting.



son, U.S. Navy AT1 John W. (Savannah) Beagles; his sister, Jane Blakely; his former wife of 40 years, Angela G. Bruner Beagles; and several cousins.

Services were held Oct. 13 at the Morgan & Nay Funeral Centre in Madison, Indiana.

In lieu of flowers, memorial contributions may be made online to the [Scott Beagles Remembrance Fund](#).

*(Photo and obituary provided by Morgan & Nay Funeral Centre)*

Born March 5, 1956 in Plymouth, Indiana to the late Dr. R. W. and Kathryn Updon Beagles, he is survived by his





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# WHAT FAA REMOTE ID RULES MEAN FOR LAND SURVEYORS

By Logan Campbell, Aerotas

The FAA recently released its [proposed rules for the "Remote Identification"](#) of drones and UAS.

There are lots of news stories covering different aspects of this massive, 319-page document, most of which applies to very specific niches. At Aerotas, we work with land surveyors and civil engineers, so here we summarize how this rule will impact those of you using drones for surveying and engineering applications.

**FAA'S UAS REMOTE ID, IMPACT ON SURVEYORS**

- No action required for 4+ years
- Overall impact on surveyors will be minor
- Some older drones will have to be retired

## WHAT IS REMOTE IDENTIFICATION?

The best way to think about remote identification is to think of it as a license plate for your car, except it is broadcast over the internet. It is a way for police and government agencies to know who is flying a drone, and track down pilots who fly illegally.

The ID is a string of digits specifically for your drone or flight that is sent over the internet and can be read by a smartphone since you couldn't actually see any numbers on the side of a drone. The info that is broadcast specifically DOES NOT contain any personal information like your name, phone number or email address; it is just an ID number. Police and federal agencies will have the ability to look up this personal information to hunt down irresponsible pilots, but it will not be available to the general public.

It is worth noting that this is a completely new system and totally separate from [the current ADS-B system](#) used by manned aircraft. In fact, part of the new rule specifically prohibits the use of ADS-B-out transponders on UAVs. The new Remote ID system is designed specifically for use on UAVs.

## WHEN WILL IT TAKE EFFECT?

We expect the rule will come into full effect in 2024 or later.

What was just published is an "NPRM" (Notice of Proposed Rulemaking), and not a final rule. That means the rule needs to go through a very long public comment and review period before a final rule is published and implemented. For example, the Part 107 NPRM was published

in February 2015, and the final rule wasn't published until June 2016, a full 16 months later, so expect it to be a while before we even know the final rule. Once finalized, it will be 3 years before the majority of the requirements take effect. A few requirements will take effect sooner but those are focused on making sure manufacturers build compliant drones.

Overall, this rule will not have any impact on users for a long time. And in the coming 4 years, most commercial operators will have already replaced their drones with new ones that are already compliant.

## WHAT IT MEANS FOR SURVEYORS

Once the new rule comes into effect, your drone must be equipped with the proper technology to broadcast its remote ID. The broadcast will be made over the internet using a cell phone or a WiFi hotspot, which many users already connect to their drones on a regular basis. We know that many surveyors work in rural areas without an internet connection. The good news is that you can fly if the internet is unavailable. If there is not an internet connection, then the drone will simply broadcast a local signal and that will be in perfect compliance with the rule.

This issue is addressed specifically in [Section 89.110](#):  
*"If the internet is unavailable at takeoff, or if during the flight, the unmanned aircraft can no longer transmit through an internet connection to a Remote ID USS, the UAS would have to broadcast the message elements directly from the unmanned aircraft from takeoff to landing."*

Because of this, there will be basically no disruption to current drone workflows. The technology is not crazy complicated and is unlikely to dramatically increase the cost of drone hardware, or increase their size or weight by very much. DJI is starting to equip nearly all of its drones with ADS-B In capabilities and that did not result in a price increase. The burden of the Remote ID rules falls mainly on manufacturers, like DJI, over the next 4 years, and if what's past is prologue, then we should not anticipate a large increase in cost.

The biggest impact on surveyors is that drones in use today would have to be retrofitted or retired by the time the rule comes into use. As discussed, this likely won't be until 2024 or later, so you still have a lot of time to use your drone before that is required. Also, most drones purchased in the coming 4 years will likely be built to be compliant already, so there is definitely no need to panic or worry about whether to buy a new drone right now based on this rule.

## EXEMPTIONS AND FINE PRINT

For all practical purposes, surveyors and other commercial operators will fall under a section of the rule called “Standard Remote Identification UAS.” There are numerous other categories like Limited Remote ID UAS, or FAA compliant sites, that don’t apply to surveyors. They are designed for users of model aircraft, research aircraft, toys, etc., so they aren’t discussed here. There is also a very long discussion of the requirements for drone manufacturers that are not summarized here. The full rule is absurdly long and complicated, but if you want to read through it yourself, you can find [the full rule here](#).

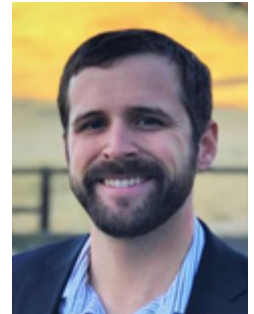
### SUMMARY

As a commercial user of drones, there is nothing you need to do or worry about with the publishing of this rule. Most of all, don’t panic. Many model aircraft pilots are making a big deal of this rule as it does put a lot of difficult restrictions on hobby flyers, but that doesn’t apply to surveyors. At

Aerotas, we believe that this is a well-written rule that will help enhance the overall capabilities of drones in the long-run, and we fully support it, even if it will take 4 years to actually happen.

### About the Author

*Logan Campbell is the founder and CEO of Aerotas, and he is an American Society for Photogrammetry and Remote Sensing Certified UAS Mapping Scientist (certification UAS 002). He began his career as a statistician and went on to found Aerotas in 2014.*



*It provides human-in-the-loop drone data processing for surveyors and freely shares guides, instructions, checklists and best practices developed with hundreds of surveyors over thousands of drone survey projects. Campbell holds an MBA from Harvard Business School. As a recognized industry expert, he regularly speaks at survey and drone conferences and regularly writes in various land surveying publications.*

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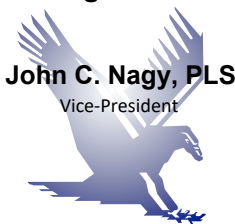
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