

# HOOSIER SURVEYOR



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PROFESSIONAL LAND SURVEYORS, INC.

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## 2002 SOCIETY OFFICERS INDUCTED

Incoming I.S.P.L.S. President William Clark, left, Vincennes, presents the past president's gavel and plaque to outgoing president, Tony Gregory, Hobart, at the January annual convention held at the new Marriott Downtown Hotel in Indianapolis. New ISPLS B.O.D. and other coverage inside.



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## HOOSIER SURVEYOR

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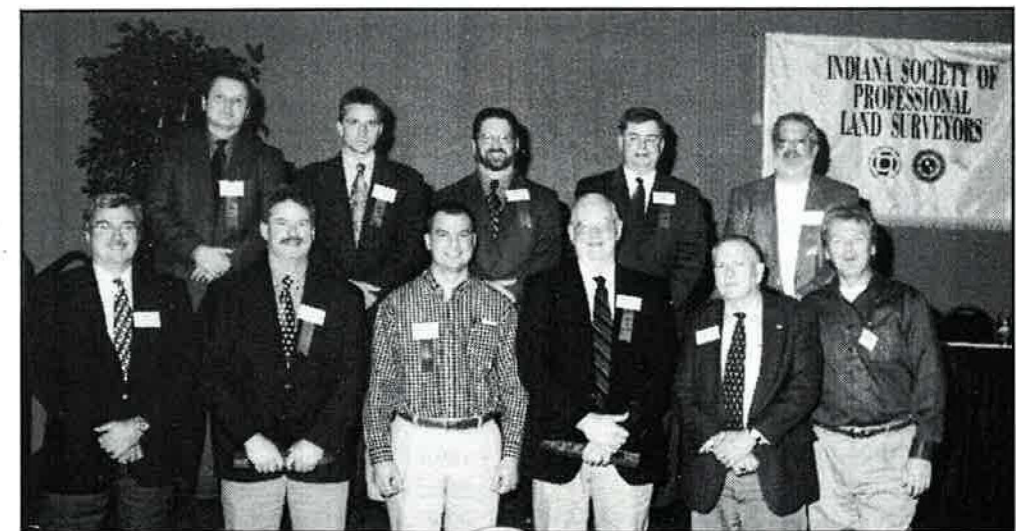
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## ISPLS BOARD OF DIRECTORS (2002)

l to r, first row, John Updike, Fort Wayne; Rich Hudson, Valparaiso; Bradley Ott, Franklin; John McNamara, South Bend; Don Bengel, Valparaiso; Frank Ballintyn, New Albany; second row, Perry Cloyd, Edinburgh; Ted Darnall, Edinburgh; Anthony Gregory, Hobart; Richard Miller, Indianapolis; William Clark, Vincennes; Absent from picture was Greg Garrison, Boggsstown.



## PRESIDENT'S THOUGHTS

by William Clark, PLS, -Vincennes Indiana



Greetings from the great southwest, it is an honor to be serving as your president. I promise to all society members, that I will give you my best.

Congratulations to the CIC chapter on hosting the most attended convention to date. The facilities

were outstanding, the food and services excellent and the programs diverse and interesting. Kudos to Vince Barr, Rick Rayback, Doug Herendeen, all the CIC members and of course our Executive Director Dianne Bennett. Thanks to all of you.

I'd like to recognize Tony Gregory for an outstanding job as President in 2001. Tony's thoughtful and professional manner allows for discussion without losing focus. Thanks to outgoing board members John Stephens, Les Weber and Ron Wharry, I hope to be able to continue to benefit from your counsel. Welcome to new board members Frank Ballintyn, Brad Ott and John Updike. I look forward to working with you as well as with the returning board members.

So what's the plan for 2002? There are several areas we will be directing our efforts. First, we will re-structure the way committees operate. There will be four groups that committees will fall under. Each group will have a director, who will oversee and directly participate in the committees under their umbrella. The groups with their respective director are Communications: Perry Cloyd; Professional Development: Tony Gregory; Internal Affairs: Rich Hudson; Government Affairs: Rick Miller. The committees and their chairmen are listed in this issue of the Hoosier Surveyor. Committee appointments and charges are ongoing. If you wish to participate or have an idea for a committee, please contact myself or a group director or committee chair.

An important goal to achieve this year is to have statewide chapter representation. There are two areas that are currently without a chapter, the southeast and west central. Letters have been mailed to surveyors in these areas and plans are underway to form chapters. In addition, Jay and Randolph counties will become a part of the Wabash chapter and Martin County will become a part of the Southwest Chapter.

At the annual business meeting a potential By Laws change was presented that would require a local chapter member to be a member of the state society. This has been discussed for some time by the ISPLS board of directors. The debate on the board seems to have narrowed to the amount of the dues. But at the business meeting a show of hands reflected a need to further the discussion. There are significant issues involving insurance matters that can't

be ignored. There will be more information on this matter, forthcoming. Although it may seem we are divided on this issue, in the words of the great philosophers John Lennon and Paul McCartney, "We can work it out."

Mandatory continuing education was the obvious single biggest change to our profession in the past year. As with any new program, some tweaking is required. The ISPLS will be sponsoring eight seminars in 2002. The plan is to have three mandatory sessions in three parts of the state in the spring and again in the fall. There also will be a summer elective at Turkey Run and a late fall elective at Vincennes University. The mandatory seminars will generically follow a Level I, II, and III format, with this past year having been a Level I. Discussions with Dr. VanGelder to present GPS I and II at Turkey Run and Mr. Pat Cunningham to present a two day Small Site Stormwater Drainage Design Seminar at Vincennes University are underway. Seminars will be posted on the ISPLS web page. Chapters are encouraged to host a seminar. It would be to everyone's advantage if the chapter seminars are scheduled as to not conflict with the ISPLS seminars. Rule 13 allows for no "rollover" hours, that is if you accumulate extra hours in one renewal period, to be able to use them in the next period. We will be asking the board of registration to consider a change in the rule to allow such. Finally, a lot of effort went into getting mandatory continuing education, let's not do anything to lose before we see the positive results, I am convinced will develop from its implementation.

Being an educator, it is important to me to provide opportunities to those who seek knowledge. With the help of Ed Sweetland, Tony Gregory and others, we are planning to offer one-day reviews for the SIT and LS exams at Vincennes University on April 5th and 6th. We are still in the planning stages, putting together topics and speakers, so if you would like to assist please contact one of us. It is our intention to repeat the review in the fall and then offer annually. Also, we intend to expand our Trig Star efforts. There will be a Trig Star Committee led by Chairman Jeff Gustke. Each chapter will have a coordinator that with the aid of other chapter members attempt to involve as many high schools as possible. The technicians committee chaired by Dave Lauer, will continue the outstanding program started by Ed. Indiana is one of the leaders in the nation in the number of ACSM certified technicians. Along with the review sessions, the committee has begun offering regional seminars for technicians. I have asked the Honors and Awards Committee chaired by Dan Pusey, to develop a Distinguished Technician Award.

There is a long list of things to talk about. I have heard many exciting ideas that I hope we can develop this year. We have an abundance of talented members who want to participate in their society's success. You are all appreciated and vital to the health of the ISPLS. I look forward to serving with you, and by all means let's remember to have some fun along the way.

## A SURVEYOR'S LIFE CAN GET COMPLICATED!

by Richard E. Ward, PLS, Anderson, Indiana

I am writing this letter not for sympathy but hopefully for information to surveyors who have a small business or are thinking of starting one. I am very fortunate to have a loving and very understanding wife, a great attorney, a caring accountant, and a wonderful office staff. About a year ago a fellow surveyor and friend was having some difficulty with his business, and we offered to help. Little did he know how much that experience helped me. It let me know that other surveyors have business problems too.

Several years ago in December, I received an early morning call from my secretary that our office in Marion was on fire. One of my office staff and I rushed to that office to find the building that housed our office and other small offices was in flames. The fire department was fighting the fire, and all we could do was watch! To this day I am grateful to the Marion fire department and Randy Miller, now a registered land surveyor, who was one of the firemen. He helped us save our records and equipment. We were taking things out the front door as flames were coming in the back of the building. We survived!

On August 30, 2001, we were confronted with another fire! My wife and I received an early morning call that the attorney's office next door to our office was on fire and that we needed to get there right away. When we arrived, flames were shooting from the roof of the attorney's office. These buildings were built as one large building in 1888 in downtown Anderson. The three businesses in this half block were separated by 18-inch brick firewalls. They were grandfathered and had no sprinkler systems. This time it was the Anderson fire department that saved our building and the building on the other side of the fire, but the building where the fire started was destroyed. Our building and the other building suffered heavy smoke and water damage. The real tragedy with this fire was that a young person lost his life in the apartment above the attorney's office where the fire originated.

Because of the death, a full investigation was made, and we were not allowed into our building for two days. We did manage to have enough work for our two field crews, but our office staff had nothing. They made the best of a bad situation by checking the hard drives of our computers, the only thing the firemen were able to take out of the building for us, while I arranged for temporary office space. Insurance covered our down time, but I know now that I did not have enough. When we rented our temporary office space, I thought we would get new telephone service right away. Ameritech said only doctors or hospitals were allowed emergency status, and we would have to wait 10 days for service like everyone else. When that time finally came, they forgot to look at their records to see what services we had, so no fax line or computer line was reestablished. We waited another five days for those lines.

Then came the real tragedy.....September 11th.....9-11. We had just gotten our temporary office set up and ready to go, and the telephone stopped ringing. At first I did not know what to think! The City of Anderson had lost 23 businesses this year after losing all our General Motors plants the years before. Magnequench, a General Motors spin off plant, was closing its doors, and Delphi,

another General Motors spin off plant, was laying off a third of its work force indefinitely. Then I started to think how lucky I was. I still had my wife, family and friends, and my health. The building was still standing and was repairable.

I haven't had to lay off anyone, and our business has picked up. I've learned the importance of various types of insurance not only on property, but on equipment, business, and down time. Insurance coverage needs to keep up with business growth. It is important to know the type of business next door and if their insurance coverage is adequate. I know to beware of contractors who specialize in fire and storm insurance losses because they tend to show up when you are most vulnerable. If you need to find temporary office space, find something close to your old location with no extras. You will be called on frequently and will want to check on how things are progressing.

In closing, I hope this is of some help. Tragedies do and will happen. Last, stay as positive and upbeat as you can for yourself, your family, and your employees.

## 21 Reasons Why English is Hard to Learn

1. The bandage was wound around the wound.
2. The farm was used to produce produce.
3. The dump was so full that it had to refuse more refuse.
4. We must polish the Polish furniture.
5. He could lead if he would get the lead out.
6. The soldier decided to desert his dessert in the desert.
7. Since there is no time like the present, he thought it was time to present the present.
8. A bass was painted on the head of the bass drum.
9. When shot at, the dove dove into the bushes.
10. I did not object to the object.
11. The insurance was invalid from the invalid.
12. There was a row among the oarsmen about how to row.
13. They were too close to the door to close it.
14. The buck does funny things when the does are present.
15. A seamstress and a sewer fell down into the sewer line.
16. To help with planting, the farmer taught his sow to sow.
17. The wind was too strong to wind the sail.
18. After a number of injections my jaw got number.
19. Upon seeing the tear in the painting I shed a tear.
20. I had to subject the subject to a series of tests.
21. How can I intimate this to my most intimate friend?



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## ISPLS BOARD OF DIRECTORS MEETING HIGHLIGHTS

by Dianne Bennett, Executive Director

September 15, 2001

The ISPLS Board of Directors held a meeting on Saturday, September 15, 2001 at headquarters. President Gregory called the meeting to order at 9:27 a.m. The meeting was started with a moment of silence and respect for the victims of the tragedy that had happened this past week. The minutes and treasurer's report were reviewed and approved.

**Staff Activity Report** - A written report was submitted for board review. The report is stated under individual topics listed below.

**By-Laws** - A written report was received from Don Bengel, chairman, which gave the committee's recommendations for the changes to the By-Laws on the relationship with chapter and state membership and the dues structure. An e-mail was also received from a member that strongly recommended the change. The board felt that the recommendations should be considered by the general membership and not just a board action even though it is allowed according to the by-laws. Discussion followed on what dues would be collected by the state for the chapters and the wording of the changes. The comments and suggestions were sent back to the by-laws committee for review.

**Membership** - Ruth Kelly, Agency Associates, presented a plan for a health insurance program by Medical Mutual as another membership product. After discussion a motion was made and passed to indorse the medical program.

**Chapters** - The Northwest chapter met last Thursday and had an annual plat review session. Next meeting is 2nd Thursday in October.

The Northeast Chapter held their golf outing/picnic on August 17th which was well attended. Their standards committee has met and reviewed surveys over the summer and sent letters to those practitioners. Their October 20th workshop has 35 registered. Recommendations for their scholarship choices will be made at their next meeting on September 25th.

The Wabash Chapter had their meeting last Wednesday and are finishing work for the seminar by E.R. Gray on December 7th. Their next meeting will be December 12th.

The C.I.C. Chapter will meet September 18th at Sokkia discussing GPS. The November meeting will be at USI Consultants on the 15th with the subject on flood elevation certificates. A golf outing will be on the 5th of October and Joel Frost can be contacted for any information.

The St. Joe Chapter met and discussed the membership from chapters and state and funding scholarships. The next meeting will be September 27th.

The Southwest Chapter met last Tuesday and had a seminar on Friday. One hundred twenty-five attended. Bill Clark is meeting with the Martin County commissioners on providing office space for their county surveyor position and what is their role.

**Convention** - Vince Barr reported that at the last convention meeting on August 28th everything was moving forward with no problems.

ACSM National Convention in 2006 will be April 6-12 in Louisville. ISPLS was asked if we would like to co-sponsor. This will be discussed at the next board meeting.

The Northwest Chapter will be hosting the 2003 state convention.

**Education** - Bill Clark, chair, recommended 2 CEH on a talk from CDI Technologies, being a vendor, on Remote Sensing, during the state convention. Bill also stated changes for the 6 CEH elective for the Dennis Moulard seminar. It will now be 4 CEH elective on Wednesday and Thursday 4 CEH elective and 2 CEH Mandatory. A motion was made and passed to approve the committee's recommendations.

The seminar E.R. Gray presented has been previously approved so it would not have to be voted on again for approval at this time.

The workshop by Walt Robillard at Purdue on October 13th was presented for 8 elective hours. A motion was made and passed to approve the committee's recommendation.

At the next committee meeting Bill will discuss ways on how to get more cooperation in planning workshops and getting a calendar of events for members. Concern was also directed that the chapters need to know the policy of approval by the board of ISPLS and the rules of monitoring the workshops.

The income/expense report on the July 27th workshop was presented.

**Ethics** - There are two cases they are working on in committee.

**Business Management** - The annual financial statement for ISPLS was submitted from Capin Crouse.

Circle Tower submitted an agreement for office space for the next three years. A motion was made and passed to accept the lease arrangement of \$12 per square foot as the maximum. Dianne will try to negotiate on a lower lease amount.

**Government Affairs** - A motion was made and passed for Tony Gregory to write a letter to Fulton County to change the wording on a statement on "As-Built drawings".

Rick Miller said that the issue of needing signatures on workshop certificates by presenters was brought up at a recent Board of Registration meeting and is being reviewed.

A meeting with John Greg is being planned before next session.

**Hoosier Surveyor** - Any articles needs to be in by October 15th for the next issue.

**Membership** - The following applications were reviewed and approved: Professional - Frank Alig, Donald Andrews, James Burlage, John Kimpel, Stephen Noelle, Michele Slack, Marvin Stoner and Lee Utt; Associate - Daniel Meuser, Jason Miller and Michael Stevenson; Sustaining - Sokkia Measuring Systems; Student - Jason Armstrong, Chris Binkley, Brandy Brown, Bob Collins, Eric Dickerson, Sandra Huisinga, Martin Jones, Joe Kiesel, Greg Loveless, Sean Roach, Rob Collins, Zach Sublett, Austin Yake, Valerie Zurcher, Jason Sluzas, Heath Titzetz, Matthew Healy, Dwayne Harris, Brandon Edwards, Bradley Eckerle, Patrick Williams, Drew Barth, Devin Keller, Jennifer Hanigosky, Julian Simela, Tim Allen, Bryant Hottel, Scott Thompson, Paul Aikins, Jason Clearwaters, Matthew Knoy and Luke John.

One application was sent back stating that a student must be

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### MINUTES

continued from page 5

registered in school full time.

A list of current delinquent members was presented.

PS Business Consultants would like to offer our members a Prepaid Legal Service plan. Membership committee will review this plan.

Nominations - Nominees for President Elect were John McNamara and Greg Garrison.

Professional Practice - Randy Miller stated that he had been to some of the chapters to discuss their committee actions on the technical assistance program.

Public Relations - Letters will be sent out to high schools regarding the Trig Star program.

Scholarships - The committee will interview for any of the chapters scholarships or the chapter may handle it themselves.

County Surveyor - IDEM has two proposed rules being considered. One is on Rule 13 and comments on this rule are being taken for their next meeting. The Farm Bureau presented a workshop, "Drainage 101", August 30th which was well attended.

NSPS - The "Careers in Surveying" brochures are now available from NSPS.

New Business - The grants program committee has requested to continue with CICF. A grants advisory board will be made up with at least five members. We will continue to form our own foundation. Discussion followed on how much we should appropriate for grant amounts. It was agreed on that \$25,000 would be added as a line item in each years budget.

Announcements - The next meeting will be Friday, October 26, 2001 at the Ramada Inn on Thompson Road. The board meeting will be after the goal setting session.

### October 26, 2001

The ISPLS Board of Directors held a meeting on Friday, October 26, 2001 at the Ramada Inn, Indianapolis. President Gregory called the meeting to order at 3:58 p.m. The treasurer's report was reviewed and approved. The minutes from the September 15th meeting were not available so they will be reviewed at the next board meeting.

Staff Activity Report - A written report was submitted for board review. The report is stated under individual topics listed below.

Dianne reported that Frank Ballintyn has asked the board to help with the cost of the mailing for the ISPLS picnic. A motion was made and passed to pay the postage for the ISPLS picnic.

By-Laws - Don Bengel gave a report from his committee recommending changes to the by-laws on the relationship with the chapter and state membership and dues structure.

Convention - Vince Barr stated that the 2002 program committee met on October 24th and the contracts have been received from several session providers.

The contract for the 2003 convention at the Marriott is ready to be signed. A motion was made and passed to sign the agreement.

Education - The income/expense report for the September 28th workshop was presented.

A letter from Tony Gregory was sent to all chapters regarding the requirements for presenting workshops. This letter should be

sent to all chapters each year.

A letter was received regarding the workshop at Purdue sponsored by the Purdue Student Chapter and Tecumseh Chapter with Walt Robillard. The letter reported that there were several problems in the creation and performance of the meeting. Several items were presented to dispute the list given the known facts. More information needs to be gathered. The education committee will be discussing if student chapters should be participating in co-sponsoring workshops as fund raisers or the proper guidelines for them to work under.

Bill Clark asked for approval to submit to the Board of Registration a workshop by Sterling Systems as 1 CEH elective and for AutoDesk as 1 CEH elective. A motion was made and passed.

A motion was made and passed to refund a registrant registered for the Southwest Chapter workshop on September 14th because of the unique circumstances beyond the registrants control of travel arrangements to get to the meeting because of the September 11th tragedy.

Business Management - Tax returns were presented and we will owe lobby tax of \$2779.00 with a penalty of \$74. A motion was made and passed to continue to pay that small penalty next year because the penalty fee is less than the cost of preparing quarterly submittals for 2003.

Dianne has negotiated with Circle Tower to secure the lease space at \$11/sq. ft for 2002, \$11.50/sq. ft for 2003 and \$12 for 2004. A motion was made and passed to accept the lease.

Government Affairs - The fall legislation is getting ready to start. The organizational meetings will start the third week of November. Access to the bill tracking software is available. Rick Miller will check if the County Surveyors Association needs support regarding wetlands and drainage issues.

Membership - The following membership applications were reviewed and approved: Professional - Larry Cramer, Gregory Eveslage, Anthony Higbie, Joel Hoehn, Steve Manich, Michael Ruff and Jeffrey Stahl. Also the new LS registrants which passed the exam will be presented a free membership in ISPLS. Associate - Bryan Moll, Mark Hennessey and Keith Van Wienen.

PS Business Consultants presented a letter asking if we would like to offer pre-paid legal services to our members. The board requested that she attend the next board meeting in December to inform the board of the program.

Port-To-Port presented a statement saying that we need to buy Microsoft Access 2000 package to have our database work properly. A motion was made and passed to have Ted Darnall call Port-To-Port, and explain the problem and authorize Ted to work out the matter or buy the new 2000 package.

It was also stated that we do not have a counter on our web site.

Nominations - John McNamara was elected as President Elect. A motion was made and passed to accept the results and to destroy the ballots.

Publications - Dennis Grump submitted a report recommending we hire Tom Dinwiddie of Wooden & McLaughlin to update Manual #3. A motion was made and passed to allot \$4000 to get the

...continued page 9



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## MINUTES

...continued from Page 7

Manual done taking \$2500 from the Manuals budget and \$1500 from the Library budget.

A letter request from Jack Irwin, Marion County Surveyor, was discussed with a motion being made and passed to have all files that we have from the donated records of George Schmidt that is clearly marked property of Marion County be given back to them.

Scholarship - V.U. and Purdue quarterly reports were presented and reviewed.

Board of Registration - The next certificate presentation will be November 16th. Rick Miller reported that there is an error in the web site of the Board of Registration which gives January 3, 2002 as the expiration date applicants for the SIT can qualify to take the exam under current minimum education requirements. The date should be January 3, 2003.

NSPS - The ACSM meeting was last week and a report will be in the Hoosier Surveyor.

New Business - NGS - Berntsen is donating a monument to each state to identify the center of that state based on the 2000 census which will be set by NGS. Gary Kent will be sending a letter to the Governor on this program. Gary would like to work with the Government Affairs Committee and make this a Public Relations event.

There has been trouble with the answering machine in the office so a motion was made and passed to purchase a new machine.

NSPS has set up a Trig Star foundation started by a donation from Larry Doss. Don Bengel has requested we provide a donation of \$100 from ISPLS to the foundation.

Chapters - C.I.C. met September 18th and their next meeting will be November 15th at USI to talk about flood hazard certificates. The golf outing for October 5th was rained out and was held on the 12th. Ballots for their next years elections will be going out soon.

Northeast discussed local issues at their last meeting.

Northwest met and had Randy Miller give the main discussion on professional practice. Their next highway cleanup will be 2nd Thursday in November.

### December 8, 2001

The ISPLS Board of Directors held a meeting on Saturday, December 8 at headquarters. President Gregory called the meeting to order at 9:30 a.m. The minutes from the past two meetings and treasurer's report were reviewed and approved.

Staff Activity Report - A written report was submitted for board review. The report is stated under individual topics listed below.

Adjustment to Agenda - Susan Thompson of PS Business Consultants from Elmhurst, Illinois, presented a program she is marketing for Pre-paid Legal Services, Inc. This program was created for 80% of the population of the country which does not have affordable access to legal services. The program has several plans available for individuals and businesses in Indiana and could be another benefit to the membership.

Officers Activity - Tony Gregory presented a letter by our attorney, Ron Hansell, stating that he will be moving out of the state at the end of the year.

A letter was received commending the efforts of Ron Wharry

in regards to the support and guidance of the student chapter at Purdue.

After consultation with Gary Kent and Rick Miller a letter was sent by Tony Gregory to Fulton County Commissioners regarding the as-built surveying requirements be done by only engineers. In the letter he outlined in their ordinance what we objected to. He also sent along the opinion of the Attorney General and copies of the State Code regarding surveyors and what we can do. It was mentioned that this material should be given to all chapters or a flyer given out at the convention so all members can be prepared if this issue is being addressed in their area. Bill Clark said a notice was sent to him regarding a DNR requirement that a land surveyor cannot certify to the physical location of monitoring wells in a coal mine but only by an engineer or geologist.

By-Laws - Don Bengel reported on the changes and recommendations that came out of their committee meeting. After discussion a motion was made that the By-Laws should not reflect dues collection by the State. After more discussion, the question was called and the motion was defeated. Another motion was made to make the ISPLS dues \$200 and have \$20 of it given to the Chapters. An addendum to the motion was made to strike the statement "if one is available" and change "availability" to assignment in-line two of Item 9 of Section 3 of the proposed By-Laws. The question was called and the motion passed with one nay vote. A motion was made to inform the membership of the changes and if adopted during the convention it will go into effect July 1, 2002 and that any local Chapter By-Laws will become void because they will be under the same By-Laws as ISPLS. The motion was passed with one nay vote.

Adjustment to the Agenda - Frank Ballintyn asked if the scholarship forms could be changed to allow the forms to be sent to the local chapters for consideration of their scholarships. Also, could all applicants come to ISPLS headquarters for their interviews because it is centrally located, more locally accessible and shows some commitment by them in becoming a land surveyors by coming here.

Frank also stated his concerns about the state picnic in regards to the lack of vendor support if it was turned into a local chapter picnic instead. The board stated their full support for the choosing the location for the picnic and that it will continue to be a state picnic. Next year the picnic will be on the last Saturday at Clifty Falls State Park.

Chapters - The speaker at the Northwest Chapter's last meeting was a bass fishing champion. Their annual Christmas meeting will be next week on Thursday.

Southwest Chapter met on the second Tuesday in November with two guest speakers talking about their County Corner Perpetuation status and office work. New elected officers are : Steve Sherwood, President; Scott Buedel, Vice President; Mark Chamness, Sec./Treasurer.

The Northeast Chapter's last meetings were September 25 and December 4th. A \$500 scholarship was awarded to Patrick Loeffler

...contined Page 10



and a donation was made to the 911 Fund and IPFW Future City Competition 2002. A workshop at IPFW in Fort Wayne had about 50 in attendance. Applications for the spring scholarship is being accepted. The chapter elected Bill Boyer as the new Sec/Treasurer for 2002.

The Wabash Valley seminar with E.R. Gray was held yesterday and had 85 in attendance. Their next meeting will be December 12th in which they will be electing officers.

C.I.C. Chapter had their last meeting November 15th at USI on the National Flood Insurance program. The C.I.C. scholarship believed to be \$500 was awarded to Adam Berry. They also had nominations for officers.

Education - The committee met November 9th and stated the ISPLS spring workshop places are set up and will be over a mandatory topic. The locations will be in Columbus on the last Friday in March, Anderson on the 2nd Friday in April and Warsaw on the 3rd Friday in April. Speakers are Perry Cloyd at Columbus, Tim Warner at Anderson and Tony Gregory at Warsaw. The ISPLS June workshop for the summer will be at Turkey Run State Park and the topic may be on GPS. The ISPLS Fall workshops will have mandatory topics and will be in Warsaw, Lebanon or Anderson and Evansville.

Topic for the fall seminar may be on small subdivisions and commercial hydrology design and could be held at the Vincennes University. On evaluations received last year, attendees wanted to see more on GPS and corner restoration and hydrology for subdivisions. Small business techniques was also requested as topics.

There was discussion about the continuing education rules not allowing for any carry over of hours.

Government Affairs - No new laws at this time have been heard.

Membership - The following applications were reviewed and approved: Professional - William Dougherty, Richard Lewis, Paul Moffitt, Robert Nowicki, Brad Paris, Ronald Reed and William Saegesser. Associate - Matthew Bertsch, Ross Frank and Gregory Williams. Student - Jonathan Sprinkle; Affiliate - James O. Russell. Firm - Emil Beeg Land Surveying, Inc.

Ethics - There are two cases currently being reviewed.

Nominations - Ballots for Board of Directors are in the mail.

Board of Registration - Governor Frank O'Bannon has asked all boards to increase their renewal fees. For surveyors it would go from \$70 to \$100 plus the fee of \$42 for the CEH's as required. Changes to the C.E. rules are also being considered by the board after which a public hearing will be set.

Indiana Historical Landmarks - John McNamara is working on the remonumentation of the Indiana-Michigan Boundary.

New Business - IUPUI has dropped its Surveying Degree program for the lack of instructors. The program currently has 9 students. If enough instructors will be available they could look at the issue again.

Next meeting will be Wednesday, January 23, 2002 at 1:00 p.m. at the Marriott Downtown during the 2002 convention.

## RTK RADIO ETIQUETTE

by John Minor, PLS

GPS technology has been around for about twenty years now, and most of its novelty and aura of magic has pretty well worn off. The majority of surveyors don't give it any more thought than they do their total station. It is simply another tool to help get the job done.

It is this same complacency that could lead to a very costly mistake. Several weeks ago, Doug Divine, of Pacific Survey Supply, contacted me about a class action lawsuit he was threatened with. Because Pacific Survey Supply sold GPS equipment, they could possibly be enjoined in the suit. It seems that some GPS practitioners utilizing the RTK techniques have not been abiding by the FCC rules. As I am sure most surveyors are aware, RTK utilizes a base radio, normally 35 watts, to broadcast correction values to a roving receiver, usually 2 watts. The FCC requires radios of 5 watts or more to be licensed prior to broadcasting. Obtaining a license for a private frequency can be very time consuming and costly. The FCC has set aside a handful of frequencies that are classed as "itinerate" and can be used by the general public, provided users follow the rules. One of those rules state that voice transmissions have priority over data transmissions. Another important rule is that radio modems broadcast a call sign periodically. Make no mistake, the FCC takes this matter very seriously, as evidenced by the penalties that can range from large daily fines (\$82,500), equipment confiscation, civil liability, and/or criminal prosecution. Voice users of the itinerate frequencies are becoming increasingly more frustrated about infractions and are threatening legal action through the class action suit mentioned above.

I believe the new radio modems shipped with GPS receivers, as well as upgraded modems, are designed to test the frequency prior to broadcast to insure no voice users are on the air. The modem will monitor the frequency, then send a burst of data, then monitor again prior to sending another burst of data. The older systems simply sent a stream of uninterrupted data that could potentially walk on a voice user.

Copies of the FCC regulations [Title 47 Code of Federal Regulations (CFR) Part 90] can be obtained from the US Government Printing Office at 1-202-512-1800, or from the FCC web site at [www.fcc.gov/wtb/rules.html](http://www.fcc.gov/wtb/rules.html). The three primary rules relating to data transmission are:

- \* 47 CFR 90.173: Obliges all licensees to cooperate in the shared use of channels.
- \* 47 CFR 90.403: Requires licensees to take precautions to avoid interference that includes monitoring prior to transmitting.
- \* 47 CFR 90.425: Requires the stations identify themselves prior to transmitting.

Additional information can be found at the Trimble web site: [www.trimble.com/survey/fcc.htm](http://www.trimble.com/survey/fcc.htm) and Pacific Crest Corp. [www.paccrest.com](http://www.paccrest.com). Pacific Crest also offers a free downloadable "Guide to Wireless GPS Data Links" that I found to be very informative.

Please take the time to review these references, then check your RTK system to ensure compliance. This is a very serious issue that could have dire consequences to you as an individual surveyor as well as to our profession.

...Reprinted as seen in *The Oregon Surveyor* - October/November 2001 and *Benchmarks* (New Mexico) January 2002.

## WORKING WITH ATTORNEYS

by Knud E. Hermansen, P.L.S., P.E., Ph.D., Esq.

As a surveyor, engineer, and attorney, I often find myself working with attorneys on engineering and surveying legal problems. Without doubt there are some members of the Bar that I have clearly enjoyed working with. Bright, intelligent, knowledgeable, good listeners, eloquent, logical, and capable are among a few of the attributes that these attorneys share. However, not all interaction with attorneys has been enjoyable. For those engineers and surveyors who have not worked with attorneys or within the legal system, I would like to share some frustrations and advice about working with certain attorneys and the legal system.

### What's Good for the Goose is Good for the Gander

- One time I had the pleasure to listen to a justice of a state supreme court speak. During the course of his speech, he remarked that he was recently involved as a party in a lawsuit. He made a very appropriate remark by saying that every attorney should be sued at the beginning of her or his career in order that they may approach the practice of law with humility and some common sense. Unfortunately, few attorneys have been sued and many opt for the shotgun approach to litigation. In other words, sue everyone that was ever involved with the project and let the legal system sort out the negligent parties. I have always been very frustrated with the shotgun approach to litigation that some lawyers adopt and employ. I've heard one lawyer justify the process by saying the approach is necessary to bring all relevant persons before the judge and let the judge decide who is at fault. I would opine that those attorneys that employ this tactic have never been a party in a lawsuit and undergone the agony, apprehension, and emotional trauma involved with litigation not to mention the expense, time, and resources required to defend against a frivolous complaint. Furthermore, for those trying to operate a consulting firm, there is the stain on the reputation of the firm every time a lawsuit involves the firm. As a consequence, I believe it would be in the best interest of surveying and engineering firms if a system was adopted that requires the loser pay the legal expenses of the winner. This system would reduce litigation faced by engineers and surveyors. I know a few victims will go uncompensated under this policy. However, under the present policy a lot of innocent firms become victims of frivolous lawsuits.

**Procrastination and Negligence** - Without doubt, we have all procrastinated from time to time. However, when we procrastinate to the point that our client's position or project are jeopardized, we are negligent. Procrastination to the level of negligence seems to happen so frequent in legal practice that I am appalled by its common occurrence. For example, I will get a call the day or night before trial asking if I would be an expert witness. (Let me make it clear that a week before trial is no less negligence in my opinion.) I am bothered by this behavior for three reasons. First, there is the inference that the engineering or surveying testimony that I will be presenting is so simple that it does not require any preparation time. Second, there is the attitude from the attorney that their client should immediately take priority over my existing clients. Third, there is the unquestionable inference that I will give testimony that helps the attorney's client. In other words, as an engineer or surveyor I am a hired gun and can be expected to provide only

favorable testimony without knowing or analyzing the facts and the situation. If engineering and surveying firms were to operate in a similar manner on behalf of their client, I have little doubt attorneys would find it very easy to convince the court the engineer or surveyor is liable for negligence. I would advise engineers and surveyors to avoid situations where an appearance in court will occur without adequate and thorough familiarity with the facts and probable questions that will be asked.

**Learning Curve** - Before attending law school, experience taught me that there are three types of attorneys. First, there are attorneys who simply do not want to listen or learn. These attorneys are easily identified because they prefer to argue some unrelated legal concept or go to great lengths to settle rather than litigate the question (but settle only after great expense to their client). This attorney tends to be arrogant or subject to unreasonable procrastination. Second, there are some attorneys that, try as they might to learn, will not be able to understand because they lack the fundamentals required to understand the problem. Let me explain this category by way of selected experiences. I went to law school in the era when the HP-41 was just making its appearance, so as most of the readers know, calculators had been around for some time. (So much so that I had long since gotten rid of my log tables and slide rule.) Nevertheless, when the instructor announced that everyone would need a calculator for tax class, I was shocked to learn that many of my classmates had never owned a calculator. The instructor, seeing the student's consternation at the suggestion of using a calculator for the first time, tried to reassure the class by stating that only rudimentary calculations were going to be performed such as adding, subtracting, multiplication, division, and percentages. Again, I was shocked to hear many of my fellow law students start asking me if I could show them how to do a "percentage". I was incredulous that any person could have earned an undergraduate degree without owning a calculator or knowing how to do a percentage - yet these people exist and many are now attorneys practicing law. Now the purpose for this discourse is not to make light of all the attorneys with B.A.'s in political science, art history, English, social work, etc. who don't understand simple math yet practice law. No doubt, they are familiar with many seemingly simple subjects that I am unfamiliar with. My point for recounting the experience in tax class is to convey some idea of the frustration I often face when explaining to certain attorneys an engineering or surveying problem requiring far more mathematics than simple percentages. To present the problem in other terms, it takes at least 30 credit hours of course work to bring engineering students with SAT scores of 1400 or better to some level of understanding - surely not every attorney is up to the task after only an eight hour session. This brings me to the last category of attorneys. In this category fall those attorneys who take the time to learn, listen to you when you explain, and do learn what it takes to understand and present the surveying or engineering problem in an intelligent and accurate manner. Unfortunately, when I have the pleasure to work with these attorneys, more times than not this

...continued page 21



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## I.S.P.L.S. 50th ANNUAL CONVENTION HIGHLIGHTS

Indianapolis Marriott Downtown, January 23-25, 2002

(Hosted by Central Indiana Chapter)

Attendance: 420 full time; 99 one day; 43 students; 32 spouses

Photos by Henry Aldridge; Layout by Ken Curtis



Gary Kent, left, Indianapolis, President of the American Congress on Surveying and Mapping, receives a special recognition for his outstanding contributions to the profession.



E. R. Gray III, Columbus, chairman of the Indiana State Board of Registration for Land Surveyors, presented two separate six-hour sessions on "Rule 12: The Process of Compliance".



Richard Miller, Indianapolis, right, receives the annual ISPLS Polaris Award from President Tony Gregory, Hobart.



Rich Hudson, Valparaiso, right, receives a President's Award from President Tony Gregory, Hobart.



Bill Clark, Vincennes, right, receives a President's Award from President Tony Gregory, Hobart.



## PROGRAM HIGHLIGHTS



Land Description Systems  
Ethics for Surveyors  
Dennis Mouland



Surveyor's Safety Concerns  
Ron Koons



National Flood Insurance  
Gregory Main



"Staying Flood Smart"  
Anita Nance



Advanced GPS for Surveyors  
Boudewijn van Gelder



Title Insurance for Surveyors  
Alan Kolb and Christopher Dunlavy



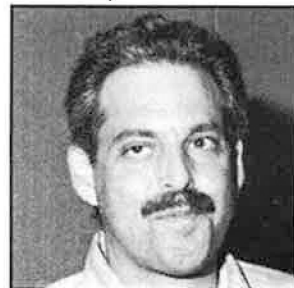
Walt Robillard plugs the latest edition of one of his books to some student attendees.



Randy Miller say: "Hit me!"  
Las Vegas Style Casino Party



CYRAX Laser Scanning  
Anthony Bruno



Survey Process Automation  
Robert Mellis



Marketing  
Gerald Speth



Rule 12 - Sequential  
Conveyances  
Gary Kent



Retracement and  
Priority of Calls  
Walt Robillard

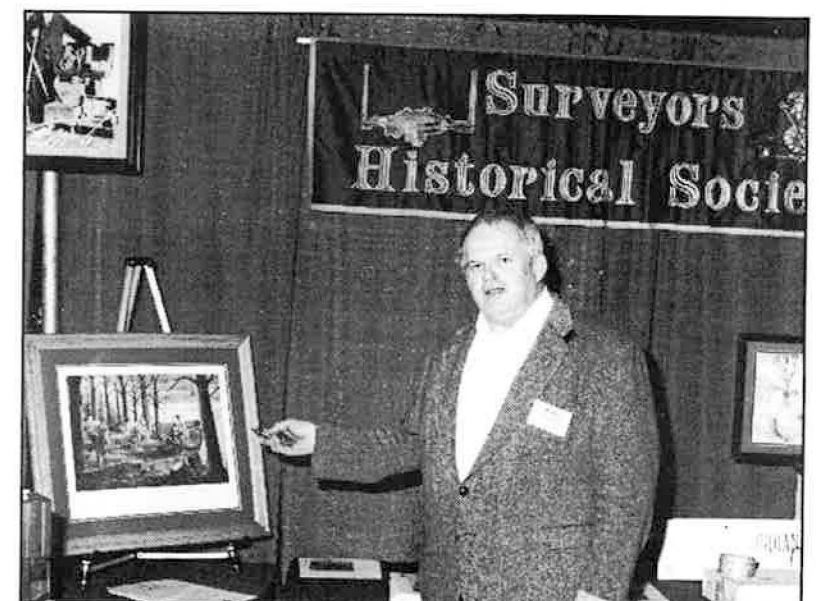


Adjustment Computations  
Jim Bethel



Hydraulic Modeling  
David Knipe

## SUPPORT OUR EXHIBITORS





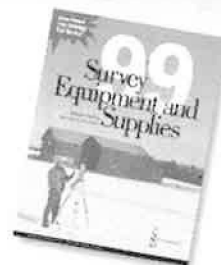
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## The \$1.7 Million Manhole

A Court Case Hinges on Interpretation of the ALTA/ACSM Standards

By Gary R. Kent, P.L.S., Zionsville, Indiana

In February 2000, a complaint was filed in a United States District Court for breach of contract and professional negligence against a surveying firm for a survey and plat that failed to note the existence of a 54-inch combination sewer for which there was no recorded easement.<sup>1</sup> The Federal Court had jurisdiction over the case since the parties were citizens of different states.

At issue in the complaint was simply whether or not the surveyor had performed his survey in accordance with the 1997 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys.

Attorneys for both the plaintiff and the defendant contacted the author in April 2000 regarding his opinion on the matter. After several discussions, he was hired by the plaintiff's attorney to provide an expert report with the potential to be subsequently deposed or called as an expert witness at the trial.

The purchaser/developer (plaintiff) had contracted with the surveying and engineering firm in April 1998 to provide an ALTA/ACSM Land Title Survey. The contract specifically noted that the surveyor would "Reconnoiter site to check for any changes to site improvements from our 1986 survey and remark or reestablish lot corners"; "Prepare a Boundary and Improvement/A.L.T.A. Survey Plat" and "Examine title report and locate easements described on the site." The contract was on an hourly basis and did not make any mention of optional Table A items.

The survey was completed and delivered the following month. A certification on the face of the survey stated that it had been made in accordance with "minimum standard detail requirements for ALTA/ACSM land title surveys" adopted in 1997. In addition, a note on the survey stated, "No certification is made as to the locations of underground utilities such as, but not limited to, electric, telephone, cable TV, gas, water, sanitary and storm sewers. Only above-ground visible features are shown. Other utilities may exist of which [surveyor] has no knowledge."

The buyer and title company relied on the survey in completing the closing.

After purchasing the property, the developer hired another engineering firm to conduct a topographic survey of the site in preparation for a design of a new office complex. The August 1998 site survey showed a 54-inch combination sewer running directly under where one of the new buildings was to be placed. The sewer entered the property on the south, ran north through the

real estate and exited at the north line of the property.

A search by the title company confirmed that there was no recorded easement for this sewer and, since the Land Title Survey had not shown evidence of it, the title policy contained no exception for it in Schedule B2. The title company's policy provided that it would either correct the deficiency or pay damages, but only if same could not be obtained from the surveyor who had prepared the Land Title Survey on which the policy was based. Thus, action was filed against the surveyor and his errors and omissions insurance company was thereby pulled into the case.

There was no disagreement that the manhole was visible at the time of the survey (it fell in the middle of an entrance drive). There was no vehicle parked over it nor was there any snow on the ground. No reasons were offered to the author as to why the manhole was not shown on the survey plat. There could be several excuses. Perhaps the field crew was untrained and did not know that locating

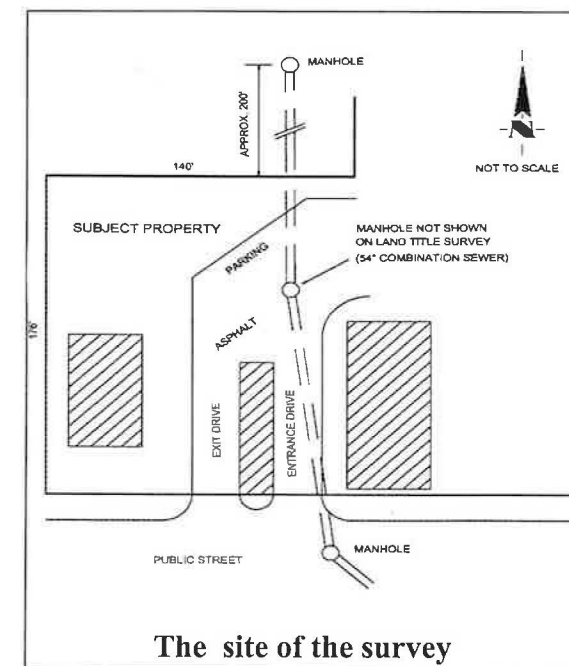
the manhole was important. Perhaps the field crew just "missed it." Perhaps the crew in fact did locate the manhole in their notes and the draftsman made a decision to not show it—not recognizing its importance. Or, perhaps, the registrant made the decision. In any case, the reason the manhole was not shown is irrelevant.

The first count of the complaint alleged that the defendant surveyor had "negligently performed the survey and/or negligently prepared the survey plat by failing to locate and note observable evidence of easements and/or servitudes, such as the above referenced sewer line," and by failing to "locate easements and/or servitudes on the site." In essence, the claim was that the visible manhole was a surface indication of an underground easement and that as such, it was required to have been shown on the survey.

The second count alleged that the defendant had breached the contract by performing a survey and providing a survey plat that were not in accordance with the 1997 ALTA/ACSM requirements.

The complaint claimed \$1.7 million in damages resulting from the costs for designing and relocating the sewer, and to recover value paid for the real estate in excess of its worth due to the sewer's existence.

The plaintiff's complaint relied on paragraph 5h of the 1997 ALTA/ACSM Minimum Standards which states "Observable evidence of easements and/or servitudes of all kinds, such as those created by roads; rights-of-way; water courses; drains; telephone, telegraph, or electric lines; water, sewer, oil or gas pipelines on or across the surveyed property and on adjoining properties if they



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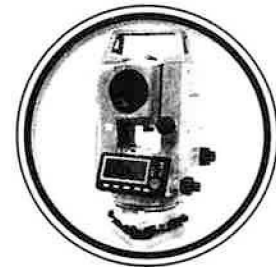
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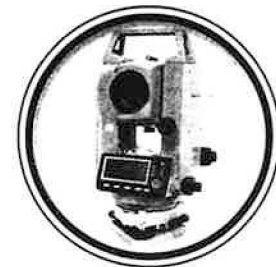
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## MANHOLE ...continued from Page 17

...bear to affect the surveyed property, shall be located and noted.”  
The defendant’s response was that since Table A item 11 was not contracted nor certified to there was no obligation to show the manhole. Item 11 of Table A in the 1997 standards states, “Location of utilities serving or existing on the property as evidenced by on-site observation or as determined by records provided by client, utility companies and other appropriate sources (with reference as to the source of information) (for example): (a) railroad tracks and sidings; (b) manholes, catch basins, valve vaults or other surface indications of subterranean uses; (c) wires and cables (including their function) crossing the surveyed premises, all poles on or within ten feet of the surveyed premises, and the dimensions of all crosswires or overhangs affecting the surveyed premises; and (d) utility company installations on the surveyed premises.”

The defendant’s claim was (apparently) relying on the fact that “manholes” are specifically mentioned in Item 11, but not in paragraph 5h.

After being qualified as an expert witness under Rule 26 of the Federal Rules of Evidence, the author submitted a written report summarizing paragraph 5h and Table A item 11 in the ALTA/ACSM Minimum Standards and how they related to the claim.

The primary emphasis of the report was to explore the defendant’s claim that since the location of utilities under Table A item 11 was not requested nor certified to, depicting the manhole on the survey plat was not required.

The fact that Table A item 11 was not addressed (and that there was note on the survey regarding the location of underground utilities) does not dismiss the burden on the surveyor under paragraph 5h to show the manhole. Paragraph 5h and Table A item 11 address two entirely different issues.

Under 5h, a manhole is clearly “observable evidence of an easement and/or servitude” unless further investigations were to reveal that it was not. For example, a manhole for a storm sewer that drains a parking lot to on-site detention might very well not be evidence of an easement.

It is an aside that as *evidence of a sewer*, the manhole did not have to be shown on the survey because Table A item 11 was not included. But as *observable evidence of an easement* under paragraph 5h, it did have to be shown.

The case was settled out of court.

[Gary Kent, Director of Surveying with the Schneider Corporation in Indianapolis, Indiana, is the President of the American Congress in Surveying and Mapping and serves from March 2001 – March 2002].

<sup>1</sup>Note: Certain non-essential facts related to this case, such as names and location, have been eliminated or altered to protect the parties involved.

...Reprinted by permission of the author, from *ACSM Bulletin*, March/April 2001.

## County Surveyor Update

by John Stephens, PLS, Wabash, Indiana

### FUTURE EVENTS

Road School

March 26<sup>th</sup>. - 27<sup>th</sup>.

Purdue University, W. Lafayette

Affiliate meeting—March 27<sup>th</sup>.

Association of Indiana Counties Fall Conference

September 23<sup>rd</sup>. - 26<sup>th</sup>. , 2002

### RULE FORMULATION UPDATE

Rule 13 for municipalities affected by the MS4’s in the Phase II implementation process has been amended to the satisfaction of the County Surveyor’s Legislative Committee. Current information regarding the rule is posted on the I.D.E.M. web site.

The County Surveyors Association did not fair as well with the Wetlands Advisory Committee Group and has been active in various proposed legislative bills to either amend or stall the proposed rule in its present form..

The CSA has been very active this year for a short legislative session. There are presently many active bills in progress and various CSA representatives have been active in committee hearings and meetings with the involved State departments. Following is a brief list of the legislation.

HB1138-Authorizes a county other than Marion County to establish a department of storm water management. This would permit counties to establish drainage fees which could be used to finance the Phase II implementation.

HB1306-Isolated private wetlands. Specifies the type of private ponds and wetlands that are not considered waters of the State. Prohibits the adoption of administrative rules concerning wetland issues until the environmental quality service council (EQSC) has completed a study during 2002.

SB439-County ditch maintenance permits. Provides that the DNR must issue a county drainage board a permit for the reconstruction or maintenance of a regulated drain within 150 days after a complete request is submitted to the department. Provides exemption from certain permit requirements for all reconstruction or maintenance projects on a stream or an open regulated drain (repeals the 10 mile total length definition).

A special thanks to Steve Murray, Tippecanoe County Surveyor and the CSA legislative committee representative, and all other county surveyors who have been active in the various committee meetings.





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## ATTORNEYS

...continued from Page 11

attorney has to argue before a judge who falls in one of the first two categories. The bottom line is that because of the learning curve among some members of the Bar, there really is no logical defense engineers and surveyors can use to counter frivolous litigation or prevent illogical verdicts from occurring. As a result, it is not enough that an engineer and surveyor know they are correct in their analysis and opinion when it come to litigation. The engineer or surveyor that becomes involved in litigation must meet four criteria to stand a chance of success: 1) the practitioner must be thoroughly familiar with the facts and engineering or surveying principles relevant to the problem, 2) the practitioner must have the skill, resources, and time to adequately educate the attorney and judge on the relevant engineering or surveying principles, 3) the client's attorney has to have the ability and be willing to devote his time to learn, and 4) the judge must have the ability and be willing to devote the time to learn. Seldom are all four criteria present. My advice is to encourage alternate dispute resolution to resolve engineering and surveying problems whenever possible. Encourage your client to compromise rather than litigate.

**Speedy Justice or Litigation** - Flowing from the last category of frustration, is my latest frustration with certain members of the Bar. I have been a zealous proponent of alternate dispute resolution, also known as ADR, for solving engineering or surveying problems. Frankly, I have had little success in convincing other attorneys that ADR is an acceptable alternative to litigation. I will accept some of the blame because I am usually pushing for engineers and surveyors to be arbitrators and mediators rather than attorneys - not a smart political move when many attorneys can't find work or enough billable hours as it is. In my defense, I feel if there has to be some ignorance in the system, justice is better served when the arbitrator or mediator understands the problem, rather than the law. For my efforts, I hear comments from attorneys such as "without the rules of evidence my client won't stand a chance," "I need the time to beat my client on the head with his wallet," "I won't put my kids through college that way," etc. As a consequence of this disdain for ADR, I see people win judgments of \$100,000 and have a \$120,000 legal bill after spending five years in litigation. Of course, it has been pointed out to me by several engineers and surveyors that even ADR falls prey to the ills surrounding litigation if enough attorneys get involved.

In spite of the few frustrations I have been allowed to vent, I find practicing law in conjunction with engineering and surveying a very rewarding experience. A good deal of credit goes to the many exemplary attorneys, engineers, and surveyors I encounter and work with in my practice. To these individuals I offer a heartfelt "thank you." There is always an outstanding offer to work with you as a team in order to remove these frustrations from your practice and mine.

*And Hermansen is an Assistant Professor at the University of ... and a private consultant. He is a licensed surveyor, engineer and attorney in several states.*

*Reprinted from the California Surveyor, Spring 2001 and as seen in the Ohio Surveying News, September-October 2001.*

## POSITIONS AVAILABLE

### Instructor, Land Resources and Planning Technology

(Programs in Architectural Drafting, Construction and Surveying)

Vincennes University, a comprehensive community college is seeking applicants for the position of Instructor in the AAS/AS Degree Technology Program. This is a nine-month, non-tenure track position with full benefits.

Position responsibilities are:

- \* Deliver primary CAD instruction in the Commercial Architectural Drafting Program.
- \* Be able to deliver additional instruction in one or more of the following areas: surveying, survey drafting, AutoCad, SurvCadd or related software and/or construction.
- \* Teach 22 contact hours
- \* Coordinate a successful recruiting/marketing plan for the program.
- \* Provide academic advising to students.
- \* Assist graduates with job placement.
- \* Foster an alliance with educational & professional community
- \* Develop new courses and upgrade existing curriculum as required by the profession.
- \* Other duties as directed by the Program Coordinator.

Qualifications:

- \* Minimum of an AS Degree in Architectural Drafting or Surveying field is required. A BS and/or MS Degree is preferred.
- \* At least four years intensive AutoCad and/or related software experience at the professional level in the Architectural/Surveying production environment.

Interested applicants should submit a cover letter, college transcripts, and resume to Gazella A. Smmitt, Director of Human Resources, Vincennes University, 1002 North First Street, Vincennes, IN 47591. Applications will be accepted until the position is filled. Interviews may be held concurrently with advertising period. Vincennes University is an Affirmative Action/Equal Opportunity Employer.

**New Office Manager:** This opportunity is for a licensed P.E. and/or L.S. with 5-10 years of experience in design. This individual will be responsible for the development of a new office in the Noblesville area. Must have client interaction experience with recent design experience. Most of the design work will be supported by another office but must be able to get hands on if needed. Must be energetic, have a great personality, and be able to sell the company's services. Position will provide strong growth potential, with competitive salary and excellent benefit package.

**Site Design Engineer:** This opportunity is for someone with a B.S.C.E. and 3+ years of site design experience to be a Design Leader. This individual will be responsible for the design and preparation of construction documents for commercial, municipal, industrial, multi-family, and single family projects. Must have at least 1 year of subdivision design experience and a P.E./L.A. would be preferred. Position will provide strong growth potential, with a competitive salary and excellent benefit package. Any interested individual can respond to the contact information listed below.

Tom Roberts  
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## ARE YOU PAYING TOO MUCH FOR YOUR INDIVIDUAL OR GROUP HEALTH INSURANCE?

We are proud to announce that ISPLS is expanding the insurance program to include a group health plan for ISPLS members. We will be introducing the plan at the ISPLS Convention in January so be sure to stop by the Agency Associates booth and find out all of the details.

### Highlights of the plan include

- ✓ Available for groups of 1 to 100+ (That's right, individuals can get group rates!)
- ✓ Reduced rates for ISPLS members
- ✓ Enhanced coverages

The ISPLS Insurance Program also includes the following insurance plans that have been specifically designed for ISPLS members and their employees to provide the highest possible coverage at the lowest possible cost.

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Business Owner's Policy

Umbrella Liability

Long Term Care Insurance

Voluntary Employee Benefits

- Short Term Disability
- Term Life
- Universal Life
- Cancer Plan
- Section 125 Flex Plan

#### Life Insurance

Homeowners/Auto

Workers' Compensation

Professional Liability

Employment Practices Liability

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*Indiana Society of Professional Land Surveyors Insurance programs for personal, business and health insurance are coordinated for ISPLS by Ruth Kelly, Agency Associates, 4545 Northwestern Drive, Zionsville, Indiana 46077*

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## A LEARNING EXPERIENCE

by Ronald E. Koons, RoSaKo Enterprises  
Safety consultants, Middletown, Indiana

Sandee and I were very honored to be a part of the great ISPLS Convention this year. It was obvious that a lot of planning and hard work went into the preparation for this event. It was our first experience staying at the Marriott and Indianapolis should be proud of the newest hotel in its downtown lineup. I always learn a lot when we provide a presentation. When you ask questions I continue to "tweak" my presentation to add the things that are on your mind for the next group. As we have traveled throughout the United States we hear some of the same concerns, but we also get new ones occasionally. For example, we just returned from a trip to California where we did a presentation for the ACEC committees COPS (Council of Professional Surveyors) and SFC (Small Firm Council). We had attendees from 14 states and the District of Columbia. Two of the surveyors were from the Boston area. When a discussion during one of the breaks carried over to the next segment of our presentation we got into some truck safety items. Just about every firm was using some type of 4 wheel drive vehicle, a full size van, full size pick up, or in short, a fairly hefty vehicle. Two surveyors from the Boston area commented that they are lucky to get their S-10 size pickup trucks through many of the narrow streets in Boston and other Massachusetts cities. During our traffic safety seminar the same two surveyors from Boston commented about the flagging requirements. It seems that in the Commonwealth (you don't call it a state) of Massachusetts only sworn police officers are permitted to direct traffic. During the course of a job if you need to move traffic around the work area you must contract ahead of time for the local law enforcement agency to send out an officer. They commented the average cost is around \$ 35.00 to \$37.00 per hour. On top of that if an emergency comes up they may have to leave. They also commented that if you aren't using a police officer your chances of getting cited are fairly great; after all they are the ones making the money and they are also the ones who issue the citations for non-compliance. A built in guarantee of job security!

We were discussing cold weather safety and some of the surveyors stated that when they get a major snow (4" and up) their crews are generally off until things can get cleaned up. Surveyors from certain portions of Washington and Wyoming commented that if they let a little snow like that get in their way they wouldn't work most of the winter. They said about the only snow that deterred them is when a blizzard or winter storm warning was in effect. In fact, several of them commented either they had used snowmobiles or know surveyors that did on a regular basis.

Just like the California seminar, the ISPLS convention this year gave me fodder for future presentations. We had some comments about mold on some of the drain structures that a crew was working around. It seems they had to get in close proximity for a period of time and they wondered what protection they might need. That was a new one for me, but very timely since mold has been in the news a lot over the past couple of years. We discussed some potential PPE items they could use to protect themselves.

During our ISPLS Roadway Safety Seminar we discussed how well some of the governmental agencies comply with the MUTCD (Manual on Uniform Traffic Control Devices) manual for worksite safety. Someone commented that if they put all of the safety

requirements in their bid they would never get a job. During our discussion I suggested that they conduct a roadway safety seminar for their employees, and then invite some of their regular customers at no charge. This is a good way to get your employees trained on traffic safety and get some good will with your customers. On top of that you will be educating your customers why some of your expenses may be higher than the "other guys".

Another surveyor commented they were doing a large project on a major interstate highway. They were working directly for the General Contractor on the job. The GC had a safety person that was very emphatic about everyone wearing hard-hats, safety glasses, and safety vests anytime they were on site. Sounds to me like an employee who was really trying to keep everyone safe. (My kind of guy!)

I had at least three surveyors come to me during the breaks and ask about a requirement to have Written Safety Programs. It seems all of them have run into situations in the past few months where either the property owner or contractor required they show them their Written Safety Program. I can tell you this is an item that is occurring with greater regularity throughout the country. Many companies are so strict that you aren't even permitted to come on site until your safety program has been reviewed and accepted. If you are doing confined space work you may also have to show proof of training. Some insurance companies are giving credit against policy costs if you take the time to put together an effective Written Safety Program and perform safety training.

We sincerely thank everyone who attended our three presentations. There were many great questions and the breaks always turned into extended question and answer sessions. We look forward to seeing many of you again down the road. In the meantime, remember;...SAFETY FIRST!!

## NEW REGISTERED LAND SURVEYORS IN INDIANA

The Indiana State Board of Registration for Land Surveyors held the certificate presentation for new professional land surveyors on Friday, November 16, 2001. The ceremonies were held at 1:30 p.m. at the Government Center South Auditorium, Indianapolis. The following land surveyors were awarded certificates.

David Barnhart	Springboro, OH	20100042
Timothy Beyer	Lafayette, IN	20100036
Daniel Bordenet	Indianapolis, IN	20100044
Marinus Botterman	Crete, IN	20100052
Donald Demkovich	Hammond, IN	20100043
Robert Foster	Columbus, OH	20100049
Brent Friend	Franklin, IN	20100039
Dirk Gowin,	Louisville, KY	20100041
Thomas Hagensee	Elmhurst, IL	20100048
Timothy Higbie	Indianapolis, IN	20100067
John Nagy	Lafayette, IN	20100040
Mark Neal	Lebanon, IN	20100046
Todd Shelly	Howell, MI	20100045
Alvin Skoog, Jr.	Carmel, IN	20100037
Gary Witty	Evansville, IN	20100066
Amy Woodall	Crawfordsville, IN	20100038
Gary Yellig	Evansville, IN	20100047



# CONTINUING ED APPROVAL FOR ISPLS WORKSHOPS

The Indiana State Board of Registration for Professional Land Surveyors has approved the following ISPLS courses for continuing education:

**March 29, 2002**

"Rule 12 - The Next Step" 6 CEH Mandatory (Limit 100 People)

Speaker: Perry Cloyd, PLS

Description: Rule Application to Retracement, Record Document, Original Surveys

Where: Holiday Inn Conference Center, 2480 Jonathan Moore Pike, Columbus, IN (I-65 & S.R. 46 Exit 68)

**April 12, 2002**

"The Indiana Land Surveyor's Registration Act" 6 CEH Mandatory

Speaker: Timothy Warner, Esq.,PLS (Limit 100 People)

Description: The seminar will discuss The Indiana Land Surveyor's Registration Act. Indiana Code 25-21.5

Where: Holiday Inn Anderson, 5920 Scatterfield Rd., Anderson, IN

**April 19, 2002**

"Rule 12 - The Next Step" 6 CEH Mandatory (Limit 100 People)

Speaker: Anthony Gregory, PLS

Description: Rule Application to Retracement, Record Document, Original Surveys

Where: Ramada Plaza Hotel, 2519 E. Center Street, Warsaw, IN

## SEMINAR(S) PENDING APPROVAL

**June 28, 2002**

"GPS Workshop I" (a.m.) 4 Elective (Pending)

Description: GPS for beginners

"GPS Workshop II" (p.m.) 4 Elective (Pending)

Description: GPS for moderately experienced GPS surveyors

Speaker: Boudewijn van Gelder

Where: Turkey Run State Park, Marshall, Indiana

## SIT REVIEW SEMINAR

An SIT Review Seminar is being prepared by ISPLS. The Seminar will be held April 5th at Vincennes University. More details coming.

## LS REVIEW SEMINAR

A LS Review Seminar will also be held at Vincennes University on April 6th. Check the ISPLS Web Page (ISPLS.org) for further details or contact either:

Bill Clark (812) 888-5865 or

Ed Sweetland (317) 547-5580

# A Summary and Comments on KHLH, Inc.

## v. Wisconsin Land Surveyors, Ltd.

**239 Wis.2d 232, 619 N.W. 2d 307 (2000)**

by Knud E. Hermansen, P.L.S., P.E., Ph.D., Esq.

Wisconsin Land Surveyors had a contract with a landowner to survey property prior to the erection of a house. The original contract with the landowner did not require the surveyor to place building stakes. While at the site surveying the property, the general contractor asked and the surveyor agreed to set building stakes. The surveyor made an error in their placement. (The surveyor claimed the stakes were fraudulently moved but the court did not give credit to this argument). The house's foundation was constructed using the stakes. The building was found to be in violation of the building set back requirements. The contractor paid damages to the landowner as a result of the error. The contractor then sought and was awarded damages from the surveyor (indemnification damages).

Two relevant principles were discussed by the Wisconsin Supreme Court that may be of interest to surveyors.

**Economic Loss Doctrine:** The economic loss doctrine limits recovery in tort actions (e.g., negligence) initiated by third parties where the defense of privity of contract is not followed or allowed. The economic loss doctrine denies damages beyond the value of the work and materials actually furnished. It limits damages to direct damages. Consequently, lost rents, future earnings, etc. are not recoverable. One basis for the economic loss doctrine is to prevent endless complications in following out cause and effect and provide some stability to contracts and their negotiation. Another basis for the economic loss doctrine is that a practitioner should not be expected to assume liabilities to others they would not ordinarily assume by contract with their client. The damages resulting from constructing the building within the setback was determined by the court not to be excluded by reason of the economic loss doctrine.

**Contribution:** It is often thought unfair that a surveyor can be held responsible for costs that were established by other parties without the surveyor having "their day in court" to contest the costs. The principle of contribution allows such an unfair result. Contribution arises where there was payment either by: 1) judgment, or 2) a reasonable settlement agreement. Contribution requires the party who contributed or helped cause the loss to pay damages to other negligent parties. Contribution is often confused with indemnification. Indemnification shifts the monetary loss from one person who is required to pay as a result of a judgment or settlement with another person as a result of equity or contract. Insurance is one form of indemnification based on contract. Because the contractor constructed the building based on the negligently placed stakes, equity required the surveyor indemnify the contractor for the costs.

There are several lessons to be learned from this case:

Recognizing that the stakes or monuments could be fraudulently moved, a surveyor should either make it difficult to move monuments or stakes without detection or take steps to make it easier to prove monuments or stakes were fraudulently moved. In the first instance, use caps solidly fastened to the monument that will be damaged or destroyed if the monument is removed and an attempt is made to reuse the monument. In the second instance, purchase a digital camera and take a picture of the monuments and its position or for that matter any surveying service performed that is not otherwise documented.


There is often some increased risk taken on when the scope of surveying services are expanded while at the site. In some cases,

the field crew is unable to adequately prepare beforehand to do the type of work requested. In a case similar to this case, a field crew may not be familiar with the municipality set back distances or have to calculate measurements in the field rather than rely on information loaded into the total station or data collector back in the office. In other cases, the field crew may not be familiar or as experienced with the type of surveying services requested. For example, an experienced retracement surveyor may not know how to properly mark construction stakes to convey the proper information. Avoid performing work that time will not allow adequate preparation.

Always be cognizant of the possibility that surveying services may create liability exposure far in excess of the fee earned. Staking out a residential building during the course of a boundary survey may be done for less than \$100 in some cases but the increased liability exposure could easily exceed several thousand dollars as occurred in this case (i.e., \$30,000). In cases where the surveying services expose the practitioner to liability far in excess of the fee sought, an indemnification agreement should be sought from the client to reduce the surveyor's exposure to out-of-pocket damage awards.

...reprinted from *Treasure State Surveyor* (Montana) January 2002

There is often increased risk taken on when the scope of surveying services are expanded while at the site



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CST Optima Single Tilting Prism	115.00	3.31
8ft Prism Rod, Quik-Lok™ or Tru-Lock™	79.00	2.27
<b>Total</b>	<b>\$6,864.00</b>	<b>\$197.66</b>

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## CALENDAR

**March 29, 2002**

"Rule 12 - The Next Step" 6 CEH (M), Holiday Inn Conference Center, Columbus, Indiana; Speaker: Perry Cloyd

**April 5, 2002**

SIT Review Seminar, Vincennes University, Vincennes, Indiana Contact Bill Clark 812-888-5865 or Ed Sweetland 317-547-5580

**April 6, 2002**

LS Review Seminar, Vincennes University, Vincennes, Indiana Contact: Bill Clark 812-888-5865 or Ed Sweetland 317-547-5580

**April 12, 2002**

"The Indiana Land Surveyor's Registration Act" 6 CEH (M), Holiday Inn, Anderson, Indiana; Speaker: Tim Warner

**April 13, 2002**

ISPLS Board of Directors meeting, 10:00 a.m. Headquarters, Indy

**April 19, 2002**

"Rule 12 - The Next Step" 6 CEH (M), Ramada Plaza Hotel, Warsaw, Indiana; Speaker: Tony Gregory

**April 19-26, 2002**

FIG/ACSM/ASPRS Spring 2002 Conference, Washington, D.C. Check ACSM's web site: [www.acsm.net](http://www.acsm.net)

**May 18, 2002**

ISPLS Board of Directors meeting, 9:30 a.m. Headquarters, Indy

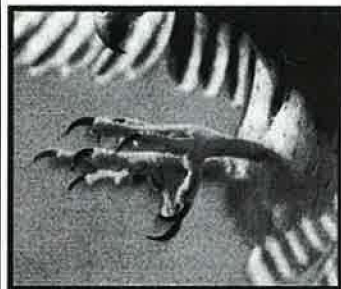
**June 28, 2002**

"GPS Workshop I & GPS Workshop II", 8 CEH (E) Pending Approval, Turkey Run State Park, Marshall, Indiana

**January 15-17, 2003**

ISPLS Annual Convention, Marriott Downtown Hotel, Indianapolis, Indiana, Host: Northwest Chapter ISPLS

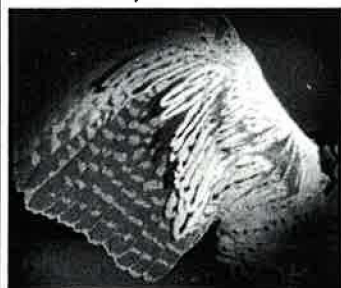
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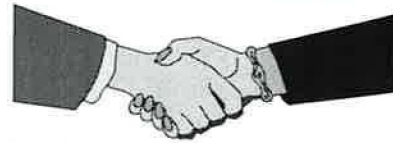
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## WELCOME NEW ISPLS MEMBERS



**September 15, 2001**

Paul Aikins - Student  
Frank Alig - Member  
Tim Allen - Student  
Donald Andrews - Member  
Jason Armstrong - Student  
Drew Barth - Student  
Chris Binkley - Student  
Brandy Brown - Student  
James Burlage - Member  
Jason Clearwater - Student  
Bob Collins - Student  
Eric Dickerson - Student  
Bradley Eckerle - Student  
Brandon Edwards - Student  
Jennifer Hanigosky - Student  
Dwayne Harris - Student  
Matthew Healy - Student  
Bryant Hottel - Student  
Sandra Huisinga - Student  
Luke John - Student  
Martin Jones - Student  
Devin Keller - Student  
Joe Kiesel - Student  
John Kimpel - Member  
Matthew Knoy - Student  
Greg Loveless - Student  
Daniel Meuser - Associate  
Jason Miller - Associate  
Stephen Noelle - Member  
Sean Roach - Student  
Julian Simela - Student  
Michele Slack - Member  
Jason Sluzas - Student  
Sokkia Measuring Systems - Sustaining  
Michael Stevenson - Associate  
Marvin Stoner - Member  
Zach Sublett - Student  
Scott Thompson - Student  
Heath Titzel - Student  
Lee Utt - Member  
Patrick Williams - Student  
Austin Yake - Student  
Valerie Zurcher - Student

**October 26, 2001**

Larry Cramer - Member  
Gregory Eveslage - Member  
Mark Hennessey - Associate  
Anthony Higbie - Member  
Joel Hoehn - Member  
Steve Manich - Member  
Brian Moll - Associate  
Michael Russ - Member  
Jeffrey Stahl - Member  
Keith VanWienen - Associate

**December 8, 2002**

Emil Beeg Land Surveying - Firm  
Matthew Bertsch - Associate  
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