

HOOSIER SURVEYOR

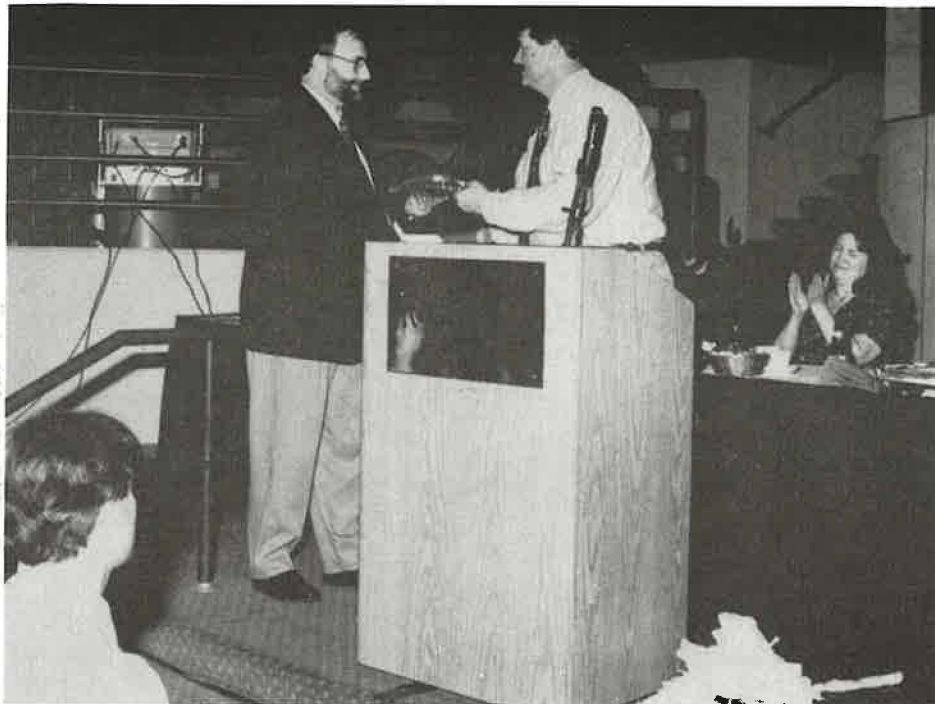
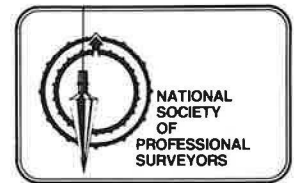


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PROFESSIONAL LAND SURVEYORS, INC.

VOLUME 22
NUMBER 3
WINTER 1996



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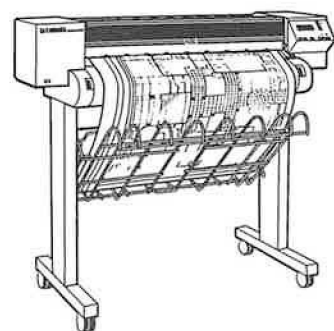
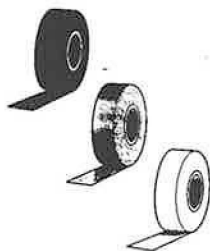
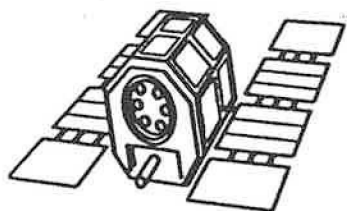
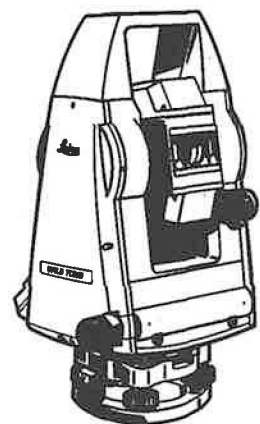


Rich Hudson, ISPLS President-Elect (right) presents E.R. Gray, III, ISPLS President with Past Presidents plaque at the 1996 Convention.



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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 THOUGHTS

by Richard L. Hudson, Valparaiso, IN

Another annual convention has come and gone and what a success it was. It started Wednesday with a temperature of sixty degrees and ended Friday with a mere six degrees and vehicles



unable to start without a boost. The temperatures outside had things warm and full on the inside. We were everywhere and full to capacity, the largest attendance for an annual convention. There was literally standing room only for all sessions, and we even had a presenter cancel his presentation at the last

minute. The Convention Program Committee was ready for this and able to fill the spot. A change from past conventions was holding the banquet and award presentation on Thursday evening instead of Friday, and we packed the hall.

I would like to thank Danny Woo, Doug Herendeen and the Central Indiana Chapter for their countless hours of planning and coordinating, and all ISPLS members and spouses who attended for making the 1996 convention the success that it was.

Plan now to attend the 45th annual convention to be held in South Bend, Indiana on January 15, 16, and 17, 1997. I hope to see everyone there.

With every convention there is an end and there is a beginning. I would like to thank E.R. Gray for his leadership and friendship during the past year. It was a pleasure to have served with E.R. on the Board of Directors. The membership of ISPLS was in good hands.

As the New Year begins so does the process of establishing committees to continue the work of ISPLS. If you have a desire to work on a committee or have indicated on the Dues Renewal Application your desire to serve but have not been contacted, please notify Dianne at Headquarters.

The work of the Society can only continue with the help of you, the member. Your involvement on the various committees will allow us to achieve the goals established for 1996/1997 that are as follows:

- Goal Number One:
Establish the HARN (High Accuracy Network) for Indiana by the end of 1997 with publication by 1999.
- Goal Number Two:
Mandatory Continuing Education
- Goal Number Three:
Service To Members
- Goal Number Four:
Improve Public Relations
- Goal Number Five:

University Cooperation

Please volunteer and help strengthen ISPLS.

In closing, I would like to thank Dianne for her kind encouragement and help in getting my first letter to the Society penned. "I will try to get the next one to you on time". I look forward to serving as ISPLS President, and with the help of all members, we will have another successful and productive year.

Professionally,

Richard L. Hudson, P.L.S.

1996 ISPLS BOARD OF DIRECTORS SCHEDULED MEETING DATES

DAY	DATE	TIME	LOCATION
SATURDAY	FEB 24	10:00 A.M.	HEADQUARTERS
SATURDAY	APR 13	9:00 A.M.	THE TRAILS 325 BURNETT RD W LAFAYETTE
SATURDAY	MAY 18	10:00 A.M.	HEADQUARTERS
SATURDAY	JUNE 29	10:00 A.M.	HEADQUARTERS
SATURDAY	AUG 10	10:00 A.M.	HEADQUARTERS
SATURDAY	SEPT 21	10:00 A.M.	HEADQUARTERS
SATURDAY	OCT 19	10:00 A.M.	HEADQUARTERS
SATURDAY	DEC 7	10:00 A.M.	HEADQUARTERS
WEDNESDAY	JAN 15, '97	TBA	SOUTH BEND

**CHANGE OF ADDRESS?
PLEASE LET US KNOW!**

ISPLS BOARD OF DIRECTORS MEETING HIGHLIGHTS

by Dianne Bennett, Executive Director

October 27, 1995

The ISPLS Board of Directors held a meeting on Friday, October 27, 1995 at the Holiday Inn Southeast. President Gray called the meeting to order at 5:13 p.m. Guests present were Ron Vuckson, Gary Kent and Dale Grimes. The minutes and treasurers report were reviewed and approved.

Government Affairs - Gary Kent reported on the Indianapolis/Marion County legislation issues on sewer/drainage design. Tom Dinwiddie is on the case and is pursuing action.

The legislation requested by the Initial Point Chapter on two items 1) Issue of indexing and 2) Right of Entry/Trespass laws. Gary Kent will investigate and report on the above issues. He will also check on legislation for lien rights.

Under the staff report the following was discussed:

Headquarters - A motion was made and passed to renew our lease for our current space and to lease storage space.

Publications - A motion was made and passed to contact the authors of Manual 1-6 for permission to copyright.

Professional Practice - A motion was made and passed to send information on United Parcel Service, UWI Programs and Agency Associates, Inc., association programs to the professional practice and membership committee for review.

Officer's Activity - President Gray reported visiting Purdue Student Chapter and explaining the Indianapolis/Marion County situation.

Chapters - Ron Vuckson updated the board of a joint meeting between the Initial Point Chapter and the Hoosier Hills Chapter.

Chapter Chairman, David Blankenkoper provided a written report for the boards review. A motion to follow recommendations #1 "Revise model by-laws to say that all voting members of local chapters be ISPLS members" and #2 "Ask local chapters to adopt model by-laws". A motion was made to send item #6 "Change the revenue split on seminars with chapters from 10 percent to 25 percent if the chapter does most of the legwork in organizing the seminar" to the Education and Convention Committee for a recommendation.

Convention Coordination - Doug Herendeen reported on the '96 Convention.

Education - The board reviewed and discussed the October 13th GPS seminar.

Ethics - Two cases recommended by ISPLS Board of Directors are on the agenda.

Finance - The money manger information has been sent to the Finance Committee for recommendation.

Membership - The following membership applications were reviewed and approved: Member - Roger Nawrot; Associate - Walter Evans; Student - Steven Casterline; Junior -Anthony Kollack (New SIT).

Nominations - The committee reported that Perry Cloyd has been elected President Elect for 1996.

Scholarship - A motion was made and passed to make revisions to the Purdue University agreement and submit as revised.

GIS/LIS - An update was given on the October 25th meeting. Next board meeting will be January 17, 1996.

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WELCOME NEW ISPLS MEMBERS

as of October 27, 1995

Roger T. Nawrot, South Bend, IN - Member
 Walter A. Evans, Mooreland, IN - Associate
 Steven K. Casterline, W. Lafayette, IN - Student
 Anthony M. Kollak, Cedar Lake, IN - Junior (New SIT)

PROFESSIONAL DEVELOPMENT "DISTINGUISHED SURVEYORS" (1994-1995)

The following land surveyors, having completed the Voluntary Professional Development Program as outlined by ISPLS, are hereby granted the membership class of "Distinguished Surveyor" by the Indiana Society of Professional Land Surveyors. Said professional development was obtained by these professional land surveyors as a result of the efforts a participant makes to grow as an individual and as a professional in the practice of land surveying. It involves education, self-study, research, participation, contribution and service.

This Certificate of Achievement was presented to the following at the ISPLS 1996 Annual Convention:

Kenneth Anderson	Bedford, IN
Michael Arena	Bedford, IN
Frank Ballintyn	New Albany, IN
John Bauer	New Castle, IN
Gordon Bell	French Lick, IN
Donald Biggs	Vincennes, IN
David Blankenkober	Jeffersonville, IN
Thomas Boofter	New Albany, IN
Bradley Cramer	Elkhart, IN
Mark Gardner	Austin, IN
James Gorski	Westville, IN
James Granger	Cheboygan, MI
E.R. Gray, III	Columbus, IN
Stuart Hein	Evansville, IN
Richard Hudson	Valparaiso, IN
Jack Irwin	Indianapolis, IN
Gary Kent	Zionsville, IN
Christian Marbach	Elkhart, IN
William Pettitt	Hanover, IN
Paul Primavera	Corydon, IN
John Silnes	Indianapolis, IN
Jeffrey Souder	Pekin, IN
John Stephens	Wabash, IN
Roger Woodfill	Lawrenceburg, IN

ISPLS MISSION STATEMENT

Established October 27, 1995

As a not-for-profit service organization, we seek for the growth and development of our profession. Our primary mission is to provide our membership a professional identity, professional guidelines and direction, and educational services and to promote the interests of the profession. The philosophy of ISPLS is to encourage all who are in the surveying profession to value professional ethics in thought and deed, to maintain competency in performance of duties, to insure trustworthiness, to provide quality of work, and to constantly protect the public interest.

ISPLS INAUGURAL MAP/PLAT COMPETITION

This year ISPLS held its first Map/Plat competition. Thanks goes out to Bryan Catlin for volunteering to coordinate this event. The application and information for the contest was published in the Fall edition of the "Hoosier Surveyor". All entries were judged on adherence to the minimum standards as set forth by the State of Indiana and NSPS. The winners of the contest were displayed at the Annual Convention in Indianapolis. These winners will be forwarded on to the ACSM/NSPS '97 national competition at ISPLS expense. The winners are as follows:

Type of Entry:	Boundary/Cadastral Maps
Sponsor:	Alan B. Cleveland
Entrant's Name:	Patrick A. McCallister
Company:	MTA, Incorporated
Type of Entry:	Topographic Maps
Sponsor:	Richard L. Hudson
Entrant's Name:	Richard L. Hudson
Company:	PTGR
Type of Entry:	ALTA/NSPS Survey Maps
Sponsor:	Thomas A. Randall
Entrant's Name:	Thomas A. Randall
Company:	Indiana Gas Company
Honorable Mentions were given to the following:	
Subdivision Plats	Jonathan Isaacs E.R. Gray & Associates
ILTA/Misc. Maps	Godon Bell Bell Surveying & Mapping

RIGHT OF ENTRY - A PROBLEM

by Gary Kent, P.L.S., Zionsville, Indiana

Every year the Board of Directors of ISPLS considers priorities for our Government Affairs Committee legislative effort. Virtually every year the subject of right of entry is brought up as an item to be addressed legislatively.

For those surveyors who may be having a problem, there are several state statutes which exempt the surveyor from trespassing laws and which may provide relief in some situations.


A surveyor performing section corner perpetuation under the Corner Perpetuation Act is not subject to trespass, but is subject to any actual damages. This statute might be applied in some situations, but obviously there are serious problems related to its use in any situations other than corner perpetuation.

A second statute - regarding Legal Surveys - also provides that the surveyor is not subject to trespass, but is responsible for actual

damages caused. Theoretically, the Legal Survey could be used to bypass virtually any right of entry problem; however, there is at least one substantial problem which might preclude its use.

Notice of a legal survey must be sent to adjoining owners of the property being surveyed at least 15 days prior to the survey. Often, however, a survey must be completed and out the door long before the required 15 day waiting period is past.

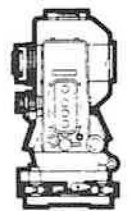
With these thoughts in mind, the ISPLS Government Affairs committee is asking the surveyors of Indiana to report any intractable access situations they may have been personally involved in so the right of entry can be considered in appropriate light as a potential legislative goal.



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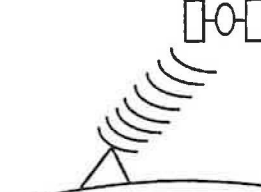


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
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STATE GEODETIC ADVISOR LEGISLATION CREATES THE OFFICE OF THE STATE GEODETIC ADVISOR

The Indiana State Legislature recently enacted legislation establishing the Indiana Office of the State Geodetic Advisor (IOSGA). The office will operate under the auspices of HERPICC and will be responsible for a number of surveying related tasks. Of those tasks the most immediate is the implementation of the Indiana Federal Base Net (FBN)/ Cooperative Base Net (CBN), formerly known as the High Accuracy Reference Network (HARN). This article provides a brief introduction to the new office and briefly describes its effort to establish the Indiana FBN/CBN.

Responsibility for the new office will lie with the State Geodetic Advisor. Dr. Boudewijn H.W. van Gelder, assistant professor in the School of Civil Engineering and expert in the area of Geodetic Sciences and Surveying will serve as the State Geodetic Advisor. He holds a doctorate in Geodetic Sciences from The Ohio State University and was on the faculty of Delft University of Technology in the Netherlands before returning to the United States in 1992. He can be reached at (317) 494-2165.

Assisting Dr. van Gelder with day to day office duties will be Thomas Mahon. Mr. Mahon has been with HERPICC for three years during which time he has studied under Dr. van Gelder. He can be reached at (317) 494-7704. Messages can be left for either one of them at the HERPICC toll free (Indiana) number, 1-800-428-7639.

The Indiana Office of the State Geodetic Advisor will have a number of responsibilities in addition to implementation of the FBN/CBN. Four of those responsibilities are:

1. Maintaining a database containing details of geodetic reference stations;
2. Establishing and implementing a quality control and quality assurance program for the net;
3. Assisting and training users in the proper use of the geodetic reference network and;
4. Acting as liaison between the State and the Federal Government on all geodetic matters.

If you should have any questions concerning the FBN/CBN or any other geodetic issue for that matter, please call HERPICC at 1-800-428-7639 and ask for Tom Mahon.

Reprinted from the HERPICC Pothole Gazette, November 1995, Vol 13, No. 3

LOVERS OF SURVEYING HISTORY!

The Professional Land Surveyors of Colorado are publishing a second book by C. Albert White entitled Initial Points containing a thorough and fascinating historical documentation, supplemented with photos and accounts of each monument in the federal public lands in the U.S. Pre-publication prices (by May 1st 1996) are available by calling 303-428-9529.

IRS WILL APPLY ECONOMIC REALITY TO AUDIT PROCEDURES

Computers will soon be helping the IRS in its search for unreported income on taxpayers' returns. The Service's Tax System Modernization (TSM) program will automate indirect methods of reconstructing income (such as computations of net worth and statements of revenue and expenditures). Where this computer analysis suggests underreported income, the IRS will investigate further.

What this means for taxpayers is that the IRS will not ignore *economic reality* when conducting audits. Audits will no longer be limited to a single year's tax return. When reported income is inconsistent with a taxpayer's lifestyle (type of automobile the taxpayer drives, neighborhood he or she lives in, college expenses paid for children, etc.), the IRS will ask the taxpayer to explain the discrepancies.

When the TSM program is fully operational, revenue agents will have the following information in the case file for each taxpayer they audit:

- * Three years of tax return data
- * Form 1099 information
- * Applicable motor vehicle records
- * Data on real estate transactions
- * Certain currency transaction reports
- * Any applicable filings from the Securities and Exchange Commission

The IRS emphasizes that all of the data involved are within the public domain and that privacy concerns have been considered in developing the new economic reality process.

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TAX DEADLINES

MARCH 1, 1996	Farmers & fishermen who did not make 1995 estimated tax payments must file 1995 returns and pay taxes in full.
MARCH 15, 1996	Calendar-year corporation income tax returns are due.
APRIL 15, 1996	Deadline for making 1995 IRA contribution. Partnership returns are due. Individual income tax returns are due. First '96 estimated tax payment is due.

NSPS GOVERNOR'S REPORT by E.R. Gray, III, P.L.S., Columbus, Indiana

The fall GIS/LIS Annual Conference was held in Nashville Tennessee. Sponsoring associations include the American Congress on Surveying and Mapping (ACSM), 8,000 members; the American Society of Photogrammetry and Remote Sensing (ASPRS), 8,000 members; AM/FM International (AM/FM), 1,700 members; The Association of American Geographers (AAG), 7,200 members; the Urban and Regional Information Systems Association (URISA), 3,600 members; and the American Public Works Association (APWA), representing over 25,000 public works professionals.

GIS/LIS '95 provided over 97 technical sessions and workshops. Over 100 vendors displayed their products in the exhibit area. GIS/LIS '95 marked the first time for APWA to participate in a GIS/LIS conference.

I attended the following business meetings:

- Saturday, November 11
Great Lakes Regional Council
NSPS Board of Governors
- Sunday, November 12
NSPS Board of Governors
- Monday, November 13
Surveyors Historical Society Meeting
- Tuesday, November 14
NSPS Board of Directors Meetings
- Thursday, November 16
ACSM Board of Direction Meeting

The following briefly describes some of the topics and issues discussed:

SURVEYORS HISTORICAL SOCIETY (SHS)

An amendment to the by-laws will be sought to increase board of directors terms from 2 years to 3 years. A policy statement will be prepared for public release regarding SHS support of surveying history as acceptable continuing education units. The current officers are William Soderburg, Chairman; E.R. Gray, III, Vice-Chairman; and Russell Kastle, Secretary-Treasurer will be retained for 1996.

A contract for Roger Woodfill to be retained as the Executive Director was approved for 1996.

Clifford Lewis, Mickey Shackelford, and E.R. Gray, III were re-elected to the SHS Board of Directors by the general membership.

INTERNET

The NSPS Board of Governors (BOG) passed a motion asking ACSM to investigate the development of an internet home page and to report to the BOG at the April meeting. The BOG is encouraging its members to go on-line to promote more efficient communications.

SURVEY TECHNICIANS CERTIFICATION BOARD (CST)

CST took action to establish a trial testing program with Vincennes University. Vincennes University has a two year surveying program.

FEDERAL SURVEYING AND MAPPING FUNCTIONS

ACSM met in Washington D.C. in June of 1995 and agreed to support an objective study of federal surveying and mapping functions. An unbiased organization from outside of government, would provide ACSM and Congress with credible recommendations on key surveying and mapping programs by late spring of 1996.

ALTA/ACSM/NSPS STANDARDS COMMITTEE

The committee discussed changes to the ALTA/ACSM/NSPS survey specifications from specification based requirements to positional tolerance requirements. The committee is still working on the revisions to the specifications and welcomes comments on their proposals. If you have specific concerns or wish a copy of the proposed revisions please contact me.

ACSM STRATEGIC PLANNING

Strategic plan review committee chair, Chuck Tapley, reported that many plans have been drafted in the past. NSPS's vision of ACSM direction in the future is that ACSM should function as an administrative organization. Chair Tapley requested assistance with drafting a vision statement. NSPS President, Jim Granger, will appoint three NSPS Governors and three NSPS Directors to assist Tapley.

COUNCIL OF PROFESSIONAL SURVEYORS (COPS)

Discussion at the BOG meeting centered around NSPS's concern that the Council of Professional Surveyors (COPS), a division of the American Council of Engineering Consultants (ACEC), would dilute efforts and divert money from the ACSM government affairs committee and COFPAE, the present lobbying format and face of the national surveyor's voice to Congress. COPS made a concerted effort to ease concern and stated they exist to provide a forum for the private surveyor's business interest, and to assist by lending the large lobby force of ACEC, not to conflict or compete with the lobbying effort of ACSM. There was also concerns that COPS would duplicate NSPS programs rather than working with them.

NEW ACSM MEMBER ORGANIZATION GLIS

A proposed new ACSM member organization (MO) failed to gain support at the NSPS Board of Governors meeting. The proposed new MO GLIS now has over 800 members and is looking to attach to ACSM. NSPS expressed that the new MO will dilute NSPS membership rosters. It should be noted however that the new MO did muster the support needed for an affirmative vote at the ACSM board meeting. Welcome to the new GLIS organization.

ACSM/NSPS HANDBOOK

Funding was approved by the NSPS Board to create a hand-

...continued Page 9

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GTS-303DPG	1,200m (3,900 ft.)	5"	\$12,190	\$7,595

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Description	Distance Meas. w/ 1 prism	Angle Accur.	List Price	Sale Price
GTS-201D	900m (3,000ft.)	5"	\$9,790	\$6,595
GTS-202	900m (3,000 ft.)	6"	\$8,190	\$6,250
GTS-203	600m (2,000 ft.)	10"	\$6,990	\$5,895



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BOARD OF GOVERNOR'S REPROT

...continued from Page 7

book that is to include by-laws, organizational structure, vision statement, etc., to be distributed to the governors, affiliate directors, affiliate presidents etc., to promote better communication between NSPS, ACSM, and affiliates.

ACSM EXECUTIVE DIRECTOR CONTRACT

The ACSM board approved the extension of John Lisack, Jr's contract as Executive Director for one year.

Thank you for the opportunity to serve as your NSPS Governor. Please contact me at 1-812-370-1525 if you have any questions or comments.

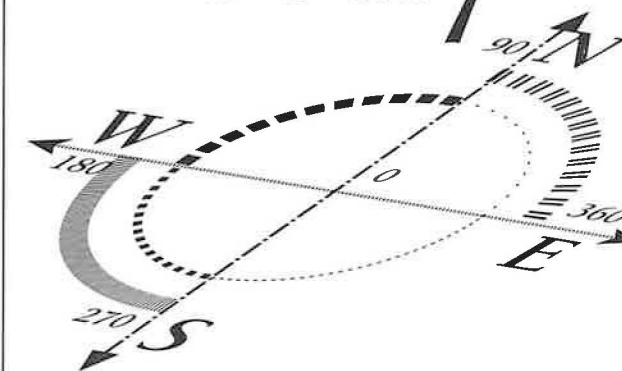


Pictured (left to right) Dianne Bennett, ISPLS Executive Director, Jud Rouch, ACSM Vice-President, and E.R. Gray, III, ISPLS President and NSPS Governor at the Fall GIS/LIS Conference held in Nashville, Tennessee.

LAND SURVEYING FIRM HONORED

"Marbach and Brady Land Surveying, Inc. was recently honored as Small Business of the Month for December by the Business Recognition Council of the Greater Elkhart Chamber of Commerce. The firm was recognized for its devotion to quality and community involvement. Marbach & Brady and its President, Chris Marbach, have been long, loyal supporters of IRWA Chapter 10. The firm was saluted in the December 19, 1995, issue of The Elkhart Truth newspaper. Congratulations, Chris" taken from the International Right of Way Association Chapter 10 newsletter.

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PURDUE STUDENT CHAPTER HIGHLIGHTS

taken from "The Blunder" January 1996, Volume VII

THANK YOU

The members of the Purdue student chapter of the American Congress on Surveying and Mapping and Indiana Society of Professional Land Surveyors would like to sincerely thank our two guest speakers of this last semester. Our thanks goes out to a member of the Board of Registration, Pat Cunningham, PLS, and the current President of ISPLS, E.R. Gray, III, PLS.

Pat, a local surveyor in Tippecanoe County, and a teacher of Legal Aspects of Surveying at Purdue University, visits almost every function of the Purdue student chapter. At our first meeting Pat gave a great motivational speech on becoming involved in the profession of Land Surveying. As always Pat inspired us with the importance of our involvement in our local society as well as the state society. He also generously extended an offer no surveyor could refuse. He offered to get each person in the meeting started on their membership with ISPLS by paying the ISPLS member fees. He probably was not expecting a turnout of about 20 potential new members. Hats off to Pat Cunningham we all appreciated the offer and enjoy his presence at each of our events. He is a great aspiration and mentor to our future surveyors.

Also we want to thank E.R. Gray. Mr. Gray attended our second chapter meeting and spoke to us on the current topics in ISPLS. All of the topics that E.R. Gray mentioned affect many of us as future surveyors. The impacts of the topics he mentioned are all being handled through ISPLS. It was astounding to hear of some of the issues that could change the status of the surveyor both economically and professionally. Without ISPLS and a great leader such as E.R. Gray the surveyor's voice in Indiana might go unheard. Mr. Gray was a great speaker making us all aware of the importance of our professional society.

He also had some ideas and compliments to add to our local student chapter meeting. We have already begun putting into action his ideas and for his contributions we extend our gratitude. Thank you E.R. Gray.

The Purdue Student Chapter of ISPLS always enjoys learning from the people who are involved in ACSM or ISPLS. We understand how difficult it can be to take the extra time to speak to the younger generation of surveyors. When we interact with people who set such great examples, we will learn more about what it takes to be a really great surveyor.

Fun at Summer Camp

During May of 1995 ten junior and senior surveying students in the LS400 summer surveying field project class tackled two separate boundary survey projects. The West Lafayette Parks Department and the Town of Rossville each requested boundary surveys of local parks, Mascouten Park in West Lafayette and Rossville Town Park. The Town of Rossville also requested a topographical survey to aid in the design of possible future park improvements.

G.P.S. surveying techniques were used in order to bring State

Plane Coordinates to each of the project sites. Many students were involved in every phase of the project including field data collection and monument location, least squares data adjustment and analysis, and generation of the final boundary and topographical maps.

Even though the students were not always happy to be spending their summer in class, they found ways to have fun. During break times in the field, some students occasionally used survey instruments to view the latest summer swimsuit fashions. Lunches were sometimes spent at a student's apartment where students watched cable programs. Nights were times of socializing and watching NBA playoff games at Harry's Chocolate Shop. Ultimately, since golf was a priority, the students finished the projects early and golfed on their final day of class.

Overall, the course was a definite success as a learning experience, but there were some drawbacks. Just ask the two students who struggled through the irritating itch of poison ivy.

Written by: Tim Beyer and Jim Kapustiak

Letter From the Chapter Advisor:

Boudewijn van Gelder

ISPLS Purdue Student Chapter Advisor

Traditions

Vauvenargues, French writer and friend of Voltaire, seemed to have made the critical observation that "...People put more faith in the customs and traditions of their ancestors than in their own common sense...".

Of course, traditions are not meant to cherish the past, but to help guide us responsibly into new directions. In this time of acronyms as GIS, GPS, HARN it is not surprising that old habits are revived. After several years of dormancy, for instance, the Tecumseh chapter of ISPLS is alive and exchanging ideas again. This happens while Indiana is reflecting on its wishes to support modern demands to develop and sustain a geometric reference of high integrity. The students of programs at Purdue and Vincennes have a unique opportunity to participate in a statewide effort to give Indiana its long needed reference network. Being part of the painstaking preparations of such a large survey project, the diligent field measurements and the corresponding careful analysis gives a large contingent of students the chance to say for decades to come:

"I was part of this project, from which many generations have benefited, and are still reaping its fruits."

In this light, I am going to utter a most surprising remark as a Survey Faculty advisor: "I am extremely happy to announce that also the students of the Purdue's ACSM Chapter are reinstating an old tradition: at long last - and I wish them lots of success with this endeavor - , they started making BLUNDERS again!"

Your Input is Needed

If you would like to be a guest speaker at one of our meetings, have any suggestions to help our organization, or just want to know what we are about feel free to contact us at:

AM CONGRESS SURVEYING & MAPPING

1284 CIVIL Building

West Lafayette, IN 47907

Contact Tim Higbie, editor of the BLUNDER, by e-mail: thigbie@ecn.purdue.edu

Also if anyone has any additions to be added in next month's Newsletter please mail them to me before Feb. 1 deadline.

RESUME BOOKS ARE IN !!!!

Once again the resume books were a huge success and have forced us to print more. They can be picked up at our table at the State Convention. More will be taken with us to the National Convention. The books make a great contribution to the Professional Land Surveyor's office. They are a great way for the Surveyor to shop for his or her needs for future employment. If you are in need of one of these books for your office please contact us and we will gladly rush one off to you.

Welcome Back to the BLUNDER!

This first issue published in over a decade will hopefully bring back some fond memories for those graduates of the Land Surveying program at Purdue University who were involved in either the preparation or the reading of this fine publication. For those of you who have never heard of the BLUNDER, outside of the usual connotation of a mistake, a quick walk through history by way of the files(file) of the Purdue University student chapter of ACSM (American Congress of Surveying and Mapping) and ISPLS (Indiana Society of Professional Land Surveyors) has proven that the BLUNDER was no mistake.

It is not now known exactly when the first and last issues were published, as we have lost our cage to progress and first rate classrooms. However, we were fortunate to have run across a few issues that date 1977 through 1979. Reading these issues reveals that a few changes have taken place over the years.

The cage, as mentioned above, and all of it's contents are now only in our memories as of the fall semester 1995. Many land surveying students are seen wandering the halls and walkways of the Civil Engineering Building and campus these days in search for a place to call home. The fourth floor offices housing our faculty have been filled with many new faces. Although from time to time one can spot Professor McEntyre or Professor Curtis if one knows who to look for.

The content of a typical monthly issue generally consisted of short discussions concerning the activities of the student chapter and of the land surveying students. Items covered included: spring banquet, Lambda Sigma, an editorial known as the Circular File, summer camp (aka LS 400), officer elections, committees, SIT updates, quiz and stumpers, leaf and constellation identification, constitution ratification, new logo adoption, and so on.

We will try to produce this publication with the same basic information. At first we probably won't make the monthly deadlines, as evidenced by this first issue for the school year 1995-1996 not published until now, January, 1996.

So welcome back to the BLUNDER. We hope it will prove be informative and fun.

A Few Words From the President

This school year has been an exciting one so far, as evidenced by the team leader list and their accepted tasks, along with active members participating on those teams. We are doing the same few things that have been done by this chapter in the past, such as organizing and planning monthly meetings with interesting speakers, planning the spring banquet recognition of graduating seniors and incoming officers, T-shirt sales, and resume books. However, we have also taken on some new and exciting challenges.

This is the first year, to my knowledge, that the student chapter will have an entire page devoted in the Debris yearbook.

We are also looking into making available other merchandise beyond shirt sales. Finally, this will be the first year that the student chapter has organized sending students to the National ACSM Convention at Baltimore in April, 1996.

Attendance at the meetings by students has nearly doubled this year over past years. This year has seen a few students step up and accept the challenge of making this chapter work. They are not all listed by name in this issue, but they know who they are, and I am very proud to be associated with such energetic and productive people.

National Convention:

This year the American Society For Photogrammetry & Remote Sensing / American Congress on Surveying and Mapping Annual Convention & Exhibition entitled "The Universe of Users - Sharing Information, Technology and Ideas," will be held at the Baltimore Convention Center, Baltimore, Maryland, from April 21 through April 24, 1996. The student chapter decided this year, for the first time - I believe, to organize a campaign that would enable interested students to attend.

The cost of attendance is prohibitive to most students, therefore we turned to you, our mentors. We sent mailings to various Land Survey Professionals requesting assistance in enabling our students to attend the convention. So far, the response has been tremendous!

We believe that a student attending this convention will enjoy many benefits, including enhanced understanding of the Land Surveying Profession, opportunities to meet with professionals, and an increased knowledge of new technologies and developments. Also, we are looking into the possibility of staffing a booth representing the program at Purdue University. We hope to be able to organize and host a social event for the students, alumni and those who helped to sponsor our students' attendance.

Thanks to all who have contributed to the success of this endeavor. We believe that the Land Surveying Profession can only benefit from this kind of support and involvement.

Sincerely, Brad Ott

PURDUE STUDENT CHAPTER OFFICER

1995/1996

Bradley P. Ott, President
Tim Beyer, Vice President
Timothy Higbie, Treasurer
Jim Kapustiak, Recorder

WAS IT A CONVENTION OR REUNION?

by Alvin L. Paul, P.L.S., Evansville, Indiana

How many of us ran into people we have not seen in a year or so? We are all so busy that we sometimes forget about the rest of our associates. I ran into lots of associates that I had not seen in a year or two.

This years convention was an excellent springboard of new ideas and old ones that needed to be remembered. We all need to participate in this exchange of ideas. So we can see that we as professionals move on in our endeavors to educate ourselves and others.

Why did I attend this years convention? Because my boss was kind enough to pay for it. No, but it helps. I would come on my own and have in the past. We all make an investment in ourselves and our profession when we support and endeavor to keep in touch with the changes that are happening at an unbelievable pace. We meet with our favorite vendor and talk with others to learn about a new piece of equipment or talk to an associate who has some excellent ideas on improving our profession.

We all are busy at times but is two days too much for us to sacrifice so as to pick up only one piece of information that may save countless hours of indecision later on?

This years convention I feel was one of the finest in a long time, what will not be forgotten is the time we have spent together. There was ample time to visit with the vendors from all over and for all of us to ask what can they come up with next. Only our imagination can conceive what is in the future, maybe a Dick Tracy link to the home office to transmit instant field information and communication with maps and data available on demand. With GPS growing more and more accessible for us all it will become an ever increasing part of our profession.

We need not lose sight, that all the fancy equipment in the world cannot replace the exchange of knowledge and decision making that we as professionals have to make.

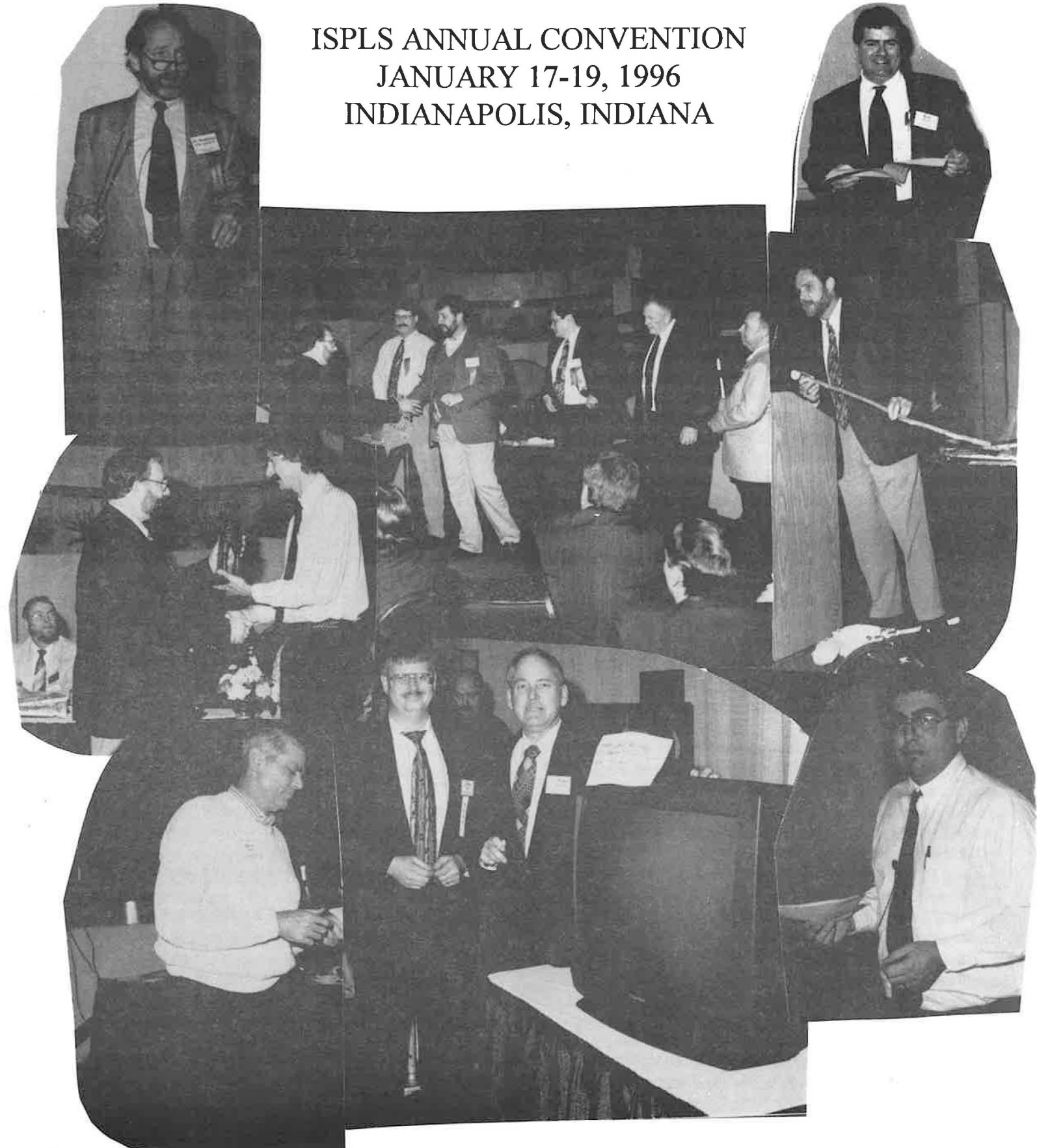
We all learn from others whether it is reading articles or attending seminars that teach us and open our minds to the many decisions that we have to make.

I have never been more reminded of the past then this year, running into fellow professionals that I have known or worked with at different times. I still ask you was IT A CONVENTION OR A REUNION with old faces or the meeting of new ones?

Looking forward to seeing you at the next one.



ISPLS ANNUAL CONVENTION JANUARY 17-19, 1996 INDIANAPOLIS, INDIANA



CERTIFICATIONS AND SURVEYORS NOTES

by R. Stephen Hansell, P.E., P.L.S., Attorney at Law
Indianapolis, Indiana

Discussion of the seminal boundary survey case *Essex v. Ryan* and its implications at the Annual Meeting of ISPLS in January raised a number of questions and concerns about the effect of the Land Surveyor's certifications and plat notes on his exposure to liability claims. The Indiana Land Surveyors' Registration Statutes provide:

"The granting of registration extends to the registrant the authority to use a seal of a design authorized by the board bearing the registrant's name and the legend 'registered land surveyor'. During the time that a registrant's certificate is valid, the registrant is authorized to apply the registrant's seal to plans, specifications, plats, drawings, and reports prepared by the registrant and by the registrant's regularly employed subordinates. The act of affixing the seal attest to the registrant's acceptance of full professional responsibility for the sealed documents. It is unlawful for a person to stamp or seal a document with a seal after the certificate of the named registrant has expired or has been revoked unless the certificate has been renewed." -IC 25-21.5-9-1 (underlining supplied for emphasis).

Subsequent Statutes require preparation or certification as to the correctness by a registered Land Surveyor of plats showing streets, lots, blocks, or subdivisions of land in Indiana as a prerequisite to approval by county planning or zoning authorities and as a prerequisite to acceptance for transfer or recording by the county auditor or recorder's office. All maps showing underground mine workings in Indiana must be "prepared, certified, and sealed by a professional engineer or Land Surveyor".

Administrative Rules and Regulations (865 Indiana Administrative Code "IAC" 1-7-1 through -3) provide additional more specific guidance to the Land Surveyor in the use and implications of the seal and signature on documents and instruments:

"Sec. 2 (a) The seal shall be affixed to documents and instruments only during the time the certificate of registration is current and has not been suspended or revoked and then only on such documents and instruments which have been created by the registrant or by the regularly employed and directly supervised subordinates of the registrant. The registrant shall be responsible for seeing that the seal, however, affixed, shall be legible on the document.

(b) Whenever a registrant affixes the seal, it shall have:

- (1) the registrant's signature; and
- (2) the date the seal is being affixed;

directly adjacent to the seal, but not across the seal.

(c) As an alternative to placing items required by subsection (b) directly adjacent to the seal, the items may be at another location on the sheet provided the sheet is inscribed as "This document is certified by _____".

(d) When a registrant is in responsible charge of land surveying work for which one (1) or more: (1) specifications; (2) plans; and (3) drawings; are required to be submitted for review by a state building commissioner or other governmental body, the registrant shall apply the seal in the full manner required by this section on each page of all drawings or plans and on the title page of all specifications.

(e) A registrant who is not in responsible charge of the entire work, but assumes responsibility for portions of the work included on any page of: (1) specifications, (2) plans; or (3) drawings; shall affix the seal in the manner required by this section on all title pages and on all pages on which the registrant's work appears.

(f) When affixing the seal under the requirements of subsection (e), the registrant shall denote the registrant's part of the work by inserting below the registrant's signature and date, the following: "COVERING _____ DESIGN".

As they say: "It's not just a good idea; it's the Law." A registrant is required to eliminate from his certification that portion of work for which he or she does not claim responsibility. They get you coming and going--in the first instance you are not permitted to certify that which you did not prepare or supervise, and you may not affix your seal and certification to work you do not claim. To that we can say: "It's not just the Law (and Regs); it's a good idea."

Section 3. adds: "(a) The seal and signature of a registrant on any drawings, documents, or instruments signifies the registrant's acceptance of full professional responsibility for the professional work represented thereon, except as another registrant shall have assumed a limited responsibility for portions of the work in accordance with the provisions of section 2 (e) of this rule.

(b) A registrant may include in the registrant's plans certain predesigned manufactured equipment or products which have become established as acceptable for the proposed use when such items:

- (1) meet standards established by nonprofit trade organizations
- (2) meet the requirements for the proposed use as indicated by tests performed by a competent, unbiased testing agency; or
- (3) are mechanical or other types of machinery or systems guaranteed by a reputable manufacturer; or
- (4) do not affect the structural safety of the project."

(Emphasis added, and NOTE: the "ors" in subsection 2 and 3 above are in the Rule, but it appears to be an error and not to impose subsection (1) on all such equipment or products. Similarly, subsection (4), while stated in the alternative, probably would be interpreted: "and do not adversely affect the structural safety of the project." It's hard to believe that improved structural integrity and

safety would be penalized.)

Some of the contractual language--"weasel words" in trade jargon--one might use to avoid unnecessarily enhancing your exposure to malpractice and breach of contract claims include the following, which the author has collected and/or authored but does not claim as proprietary. Use them freely for your benefit and at your peril:

- * Except as specifically stated or indicated on this [plat], this survey does not purport to reflect any of the following which may be applicable to the subject real estate: easements, other than possible easements that were visible at the time this survey was made; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land use regulations, and any other facts that an accurate and current title search may disclose. (I particularly like the use of "may disclose" here.)
- * Plat represents a boundary survey of parcel described in [Deed Record Book].
- * Plat represents an original survey of the parcel shown. It is part of a parcel described in [].
- * Declaration made to original purchaser of survey. It is not transferable to additional institutions or subsequent owners.
- * Survey is valid only if print has original seal and signature of surveyor.
- * All certifications and warranties, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, are withheld unless and until the within work product has been paid for in full.
- * No attempt has been made as a part of this [boundary survey] to obtain or to show data concerning the existence, size, depth, condition, capacity, or location of any utility or municipal or public service facility. For information regarding these utilities or facilities, please contact the appropriate agencies.
- * The locations of underground utilities and features as indicated herein are based on above-ground structures and record drawings provided to the surveyor. Locations of underground utilities, structures, and features may vary from locations shown hereon, and additional buried utilities, etc., may be encountered. No excavations were made during [the field work for] this survey to locate buried utilities, etc. (In Indiana, we must contact the Indiana Underground Plant Protection Service, Inc. (a/k/a "Holey Moley People"), and such investigation is *prima facie* evidence of reasonable investigation.) Optional language: "Before excavations are begun, the following offices should be contacted for verification of type and precise location(s): Telephone; Electric; Water & Sewer; Cable TV; 'everyone else; and Surveyor."
- * **Dates of field work:** [].
- * This survey meets current [ILTA Minimum Standards for Property Boundary Surveys, 865 IAC Rule 12 standards, Contractual Agreement] requirements.
- * This survey does not constitute a title search by Surveyor.

All information regarding record easements, adjoiners, and other documents that might affect the quality of title to the tract(s) shown hereon was obtained from title commitment No. _____ prepared by _____ dated _____ (effective: _____).

The following commitments correspond to the items numbered in the above referenced commitment. Schedule _____, Item No: Comment:

Possible comments: "Easement noted does not affect tract shown hereon." "Surveyor did not examine (or address, or investigate) this item." "As shown hereon." "Adjoining properties and features are shown for reference only." "Except as indicated herein (and/or in Title Commitment)."

- * Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.
- * Every document of record reviewed and considered as part of this survey is noted hereon. Only the documents noted hereon were supplied to the Surveyor. No abstract of title, title commitment, or results of title searches were furnished to the Surveyor. There may exist other documents of record that would affect this parcel. Adjoining property owners and/or occupants were/were not interviewed for survey.
- * All buildings, surface, and subsurface improvements on and/or adjacent to the [property/site/project] may not necessarily be indicated hereon.
- * The location and/or existence of utility service lines, accessibility, and capacity with respect to the property surveyed are unknown and are not shown hereon.
- * Subsurface and environmental conditions were not examined or considered as part of this survey. No statement or representation is made concerning the existence of underground or overhead facilities, resources, or conditions which may affect the ownership, use, alienability, value, or development of this tract.

As you pick and choose between the items on the cafeteria menu above, and as you modify the phrases to suit your needs, never lose track of the necessity to honor your commitments to the client. Exposure to professional liability claims cannot and should not be eliminated, but they can be limited to what you bargained for and intended to be compensated for. If the client needs a certified plat, for the environmental hazards to be identified and located, or for precision to forty seven decimal places and you are competent and willing to supply those services, go for it. The emphasis here is upon improving the understanding between Surveyor and client and upon claiming responsibility for that which you are contractually and ethically bound to be responsible for, and nothing else.

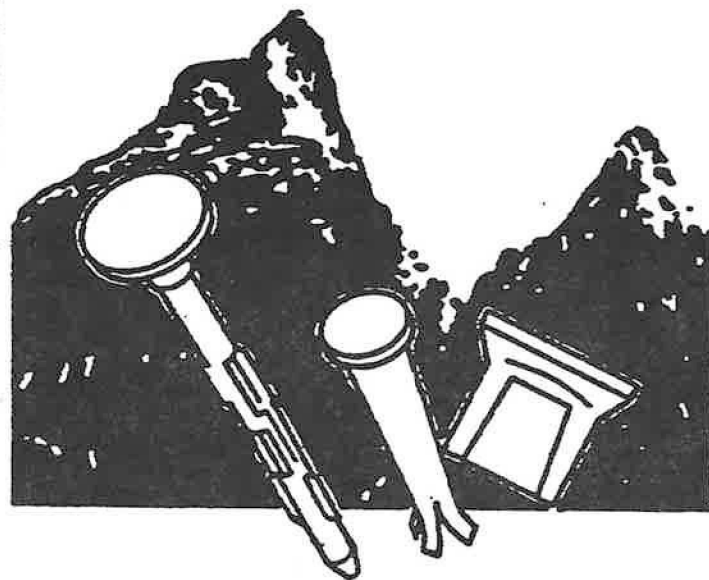
Credit is given to Richard L. Elgin, Gary R. Kent, and Ken McComb for many of the concepts and practical applications contained in this article. Comments and questions should be directed to R. Stephen Hansell, Attorney at Law, BeechBank, 1205 West 64th Street, Indianapolis, Indiana 46260-4409. Phone: (317)253-9624 Fax: (317) 253-9776.

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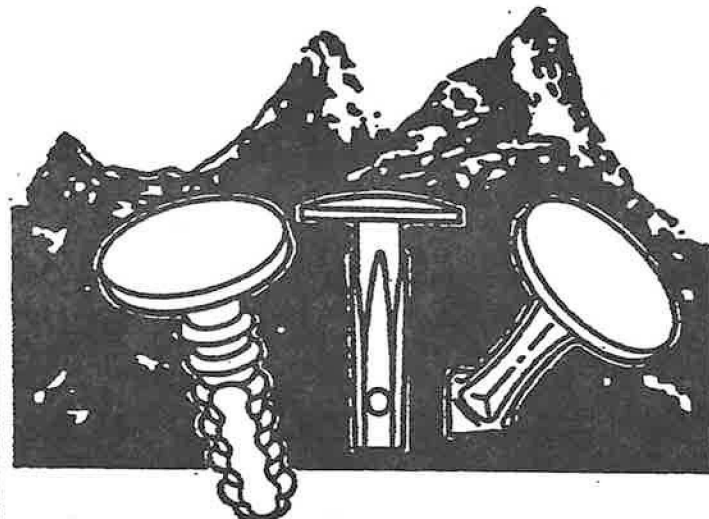
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Border Music--Harmony and Noise in Bounday Law in the Ohio River Valley

Compiled by R. Stephen Hansell, P.E., P.L.S., Attorney, and adapted from the Indiana Society of Professional Land Surveyors, Inc. Annual Meeting 18 January 1996

After the first permanent settlement of the North American continent by the Spaniards in Florida, about 1568, by the French in Nova Scotia in 1605, and again at Quebec in 1608, and by the English in Virginia in 1607, the French, with the aid of the Catholic Church through its Jesuit missionaries, succeeded in gaining control of the country between the Great Lakes and the Ohio River.

In 1672 several of these missionaries traversed that portion of Indiana lying north of the Kankakee River.

About the year 1712, Post Vincennes on the Wabash River was established by the French.

The lands northwest of the Ohio River, while under the protection of the French, were first a part of the province of Louisiana, and as such governed by the officers of the French crown; afterward by the representatives of the Western Company, and subsequently by the Indies Company; but government was again resumed by the crown in 1732, and administered for a short time by the officers of the province of Quebec.

In 1763 the French possessions north of the Ohio River were ceded to the British, who retained control until, by the Treaty of Paris in 1783, they surrendered their supremacy over the country south of the Great Lakes to the United States of America.

As a province of Great Britain, Virginia laid claim to greater part of the land northwest of the Ohio River, but on March 1, 1784, the State of Virginia transferred all right, title and claim in said lands to the United States. Among the conditions of the cession was the following: "That the French and Canadian inhabitants, and others of Post Vincennes and the neighboring villages, who have professed themselves citizens of Virginia, have their possessions and titles confirmed to them," etc.

Prior to this transfer of its claims, the General Assembly of Virginia had passed an act for laying off the town of Clarksville, Indiana, at the falls of the Ohio River.

Subsequent to the transfer referred to, the territory "Northwest of the Ohio River" was formed.

By an act of Congress, approved March 7, 1800, the country northwest of the Ohio River was divided into two territories, the line dividing them being the present eastern boundary of Indiana. By subsequent acts the tracts now known as Illinois and Michigan were detached, giving to Indiana its present shape and size.

Indiana was admitted into the Union of States in 1816. After the assumption by the United States of the government of the territory northwest of the Ohio River, war with the Indian tribes ensued, which resulted in various treaties of cession and peace. By virtue of the treaty at Greenville, Ohio, in 1795, all lands lying east of a line drawn from Fort Recovery on the Wabash River, in Ohio, to a point on the Ohio River, opposite the mouth of the Kentucky River, were forever ceded to the United States. The line referred to forms the present western boundary line of Dearborn and Ohio

Counties in this State.

By virtue of the treaty at St. Mary's, Ohio in 1818, all lands in central Indiana, with certain exceptions, were ceded to the United States, the territory thus acquired included the present boundaries of Marion County.

By act of Congress the United States granted to the State of Indiana four sections of land for a state capital, the donation consisting of sections 1, 2, and 12, and part of sections 3 and 11, in township 15 north, range 3 east, containing in all 2,560 acres, the surveys being made in 1819.

The town of Indianapolis was laid off in 1821. The original survey of 101 squares, of which some were subdivided into lots, embraced an area of one square mile near the center of the four sections comprising the donation. The remaining portion of the donation was surveyed and platted in 1831.

While the titles to the lands outside of the donation were patented by the United States to those entering the same, or their assignees, the lots and outlets within the boundaries of the donation were sold by an agent of State for the town of Indianapolis, duly appointed by an act of the State Legislature.

Without being distracted by the political correctness or lack thereof of the foregoing recitation, we assume that title devolved from God to Adam to certain occupants who maintained only general "property" lines, to the French and English and the Union of States--whose title ownership was contested by possessory interests in the Miami and Delaware Indians and others. Not many privacy fences were being erected, nor were specific claims being made successfully by individuals, but the chain of title is relatively clear to the point of the Indianapolis donation, survey, and platting.

The States were then subdivided into counties (Louisiana, into parishes) and County government authorized to maintain records of the alienation (transfer) and ownership, and other interests in, lands--real estate. Indiana also adopted a Statute:

"No title of any resident inhabitant of this state who was in actual possession of any lands on the first day of November, 1851, or at any time previous, nor of any person holding under such resident, shall be defeated on account of his own alienism or the alienism of any other person through whom his title may have been derived." (IC32-1-2-3)

The priority of claims further is established by another Statute, codified in IC 32-1-2-16:

"Every conveyance or mortgage of lands or of any interest therein, and every lease for more than three (3) years shall be recorded in the recorder's office of the county where such lands shall be situated; and every conveyance, mortgage or lease shall take priority accord-

...continued Page 18

BORDER MUSIC

...continued from Page 17

ing to the time of the filing thereof, and such conveyance, mortgage or lease shall be fraudulent and void as against any subsequent purchaser, lessee or mortgagee in good faith and for valuable consideration, having his deed, mortgage or lease first recorded."

Thus, Indiana is a "first-in-time, first-in-right" State, with the triggering event the proper recording of the conveyance, rather than the time of execution of the conveyance. (Title 32 of the Indiana Code also provides for substantial penalties for the destruction of County records, with an apparent unstated exemption for the original owner/Creator, as the White County Recorder's office and records were virtually destroyed by a tornado and yet there is no evidence of any punishment being meted out in connection with the destruction of the Monitcello Court House or the public records contained therein.)

The interests in lands in addition to ownership (in fee simple absolute, remainder and reversion interests, future estates, life estates, as joint tenants, tenants in common, or tenants by the entirety) include the mortgage and leasehold interests previously mentioned. They also include recorded interests such as easements, rights of way, mechanic's liens, UCC-1 filings for fixtures attached to real estate, *lis pendens* notices, and unrecorded interests such as adverse possession, prescriptive easements, and unrecorded lawful rights of possession under written or oral lease. Rarely anymore do we encounter recorded legal descriptions which overlap or otherwise exhibit an ambiguity as to the border line between two or more property ownerships, which compel litigation or alternative dispute resolution to resolve the "actual" line of ownership, except when one or more parcels have been partitioned off a larger tract and the description was insufficiently clear at the time of the partitioning. Boundary line disputes now arise most frequently as a result of adverse possession by one party on the lands of another, or by prescriptive easement to the use of (a portion of) such lands.

ADVERSE POSSESSION

The State of Indiana imposed an additional condition to the historical five requisite aspects of Adverse Possession, which are:

1. Actual
2. Open and Notorious,
3. Hostile or Adverse,
4. Exclusive, and
5. Continuous.

and which historical aspects are applied by every State jurisdiction.

Indiana further requires evidence of "color of title" by requiring the claimant to establish that he "shall have paid and discharged all taxes and special assessments of every nature falling due on such land or real estate during the period he claims to have possessed the same adversely" after 16 May 1927. (IC 32-1-20-1)

Case law, however, has recognized that sometimes the apportionment of taxes and special assessments is not sufficiently clear-cut to impose this apparent condition precedent in a "hard and fast" way, and claimants have been successful by showing that they have paid some taxes on adjacent property. Because virtually all adverse possession claims involve the extension of ownership claims over

adjacent lands beyond the title boundaries, this apparently compelling requirement may be practically worthless alone to defeat claims.

It is axiomatic that the claimant must recover on the strength of his own title. It also is statutory (IC 32-1-48-15). The court, motion and after notice to the opposite party may, for cause, grant a party an order "to enter upon the property in controversy, and make survey and admeasurement thereof for the purposes of the action." (IC 31-1-48-16). The legal action taken to resolve the controversy is the "Quiet Title" action by a person whether in or out of possession who claims an interest in real estate against anyone claiming title to or interest in such real estate, whether or not in possession of the lands.

Color of title may be shown by purchase in good faith at a judicial or tax sale (IC 32-1-49-7), or by the occupant of land who can show a connected title in law or equity, derived from the records of any public office, or who holds the same by purchase or descent from any person claiming title derived as aforesaid or by deed duly recorded. (IC 32-1-49-8)

See also: ISPLS Surveying Series Manual No. 6. Establishment of Boundaries by Unwritten Methods by Darrell R. Dean, Jr. and John G. McEntyre (June 1976), 171 pages.

There was a man who acquired land real cheap "because it was on somebody else's property". This adage doesn't apply to lands acquired by adverse possession, as the investment in time is ten (10) years of continuous possession, meeting all the open, hostile, exclusive, and notorious possession requirements as against the title owner. The common basis of modern-day adverse possession claims usually arises around established fences and lines of apparent possession on farms and ranches, and on other (usually) large tracts being transferred or subdivided. The smaller tracts usually become more valuable per acre or per square foot, improvements may approach property lines or building setback lines, and the precision of the demarcation lines may gain significance to one or both owners.

Adverse possession is one of four doctrines applied by courts to establish boundaries by unwritten methods. The other are estoppel, oral agreements, and acquiescence.

PRESCRIPTIVE EASEMENTS

Prescriptive easements arise from the continuous use of access over lands the user has no record title to, but which the user and perhaps his predecessors have used for twenty (20) years or more (in Indiana). In effect, it constitutes adverse possession of a portion of lands for a limited purpose--usually ingress and egress--but it is only an easement and is not inconsistent with, though it may burden, the owner's property rights. A recent Indiana case addresses the elements and discusses "tacking"--the extension of rights from prior users to accumulate the requisite twenty-year use. It also discusses how permissive rights and licenses cannot mature into a right of prescriptive easement. See *Fleck v. Hann*, 658 NE2d 125 (1995).

ESTOPPEL

Estoppel is the doctrine or concept that one cannot make a significant declaration and later repudiate that declaration to the disadvantage of another party. The requirements are:

1. An admission, statement, or act which is inconsistent

with a later assertion or claim;

2. An action by the other party on faith or in reliance upon such admission, statement, or act; and

3. Injury to such other party for allowing the first party to contradict or repudiate such earlier admission, statement, or act.

ORAL AGREEMENTS

The doctrine of agreed boundaries by oral agreement involves the following:

1. A dispute or uncertainty as to the actual boundary line, or the actual line must be unascertainable;
2. There must be an agreement between the parties involved to fix and establish the property line "forever"; and
3. After the agreement each adjoiner must accept and acquiesce in the agreed line.

ACQUIESCENCE

1. Let it be,
2. Let it be,
3. Let it be,
4. Let it be.

--John Lennon and Paul McCartney, (1969?)

EXAMPLES

Adverse claimants brought an action to quiet title to a disputed strip of land. Following a bench trial the Kosciusko Circuit Court entered judgment in favor of the adverse claimants. The record owner appealed, and the Indiana Court of Appeals held: (1) claimants satisfied the burden of proving elements of adverse possession; (2) claimants gained possession of property through property line agreement; (3) the record owner did not commit a slander of title against the claimants; (4) \$3,000 general damages award to claimant was within the scope of the evidence; (5) record owner's defense of the action was not groundless or frivolous; and (6) finding the record owner in contempt for violating the terms of a preliminary injunction was not an abuse of discretion. *Davis v. Sponhauer*, 574 NE2d 292 (1991).

Plaintiffs sued to quiet title, for injunctive relief, and for damages with respect to real property in a boundary dispute. The Circuit Court, Jefferson County, quieted title in defendants, and plaintiffs appealed. The Court of Appeals held that: (1) any error by the trial court in failing to make special findings of fact was corrected; (2) the plaintiffs' failure to timely appeal the survey bound them under statute to the line as surveyed; (3) judgment was not contrary to law by quieting title in lands which were inconsistently described; and (4) a separate parcel owned by the plaintiffs not at issue in the action was not adversely affected by quieting title to a defendant's parcel. *Lanham v. Marley*, 475 NE2d 700 (1985).

One interesting and illustrative case is not in the reported case law archives, as it was resolved before judgment and thus never was appealed and is not a governing case as precedent over other similar actions under the doctrine of *Stare Decisis*. Nonetheless, Dick and Jane bought an improved lot next to Sam and Janet's home and lot. The properties shared a driveway. If good fences make good neighbors, shared driveways tend to make mortal enemies. In the face of it, the arrangement made sense; the common drive offered access to individual parking in the rear of the lots and

limited the paving of the limited space between the dwellings. However, disputes arose about visitors parking on the common drive between the houses, people driving around parked cars on the grass, and children playing around the cars. Dick and Jane wanted to build a fence, but the easement for the shared driveway had been recorded as a Reciprocal Driveway Easement, extending from the west property line to a point approximately 71.5 feet east of the west property line. That point coincided closely with the rear line of the two homes. If only the Reciprocal Driveway Easement applied, Dick and Jane arguably could have built the fence from the east property line to the easement, a distance of about 66.0 feet, and they proposed to do so knowing that Sam and Janet's ingress and egress to the back of their lot would be impeded by a specimen blue spruce tree. There was room on the opposite side of Sam and Janet's home for a new drive, but construction of a new drive and demolition of their portion of the existing shared drive would have been more expensive than either couple wished to pay, and Janet was an excellent landscaper and had spent much time and money landscaping the far side of their lot with perennials--trees, hedges, and shrubs. Sam and Janet claimed that the easement had been used longer than twenty (20) years and had been extended to the back, where both couples and their predecessors had used a portion of the other parties' rear parking as a turnaround and had thus created a prescriptive easement. The construction of the proposed fence would interfere with the extended easement. Sam and Janet then decided for unrelated reasons to sell their home, and the new purchaser was willing to remove the blue spruce and to pave a wedge-shaped area near the rear of the dwelling (Dick and Jane also would pave a wedge-shaped area near the rear of their home), and only the easement of record (71.5 feet back from the west property line) would be recognized by the parties. The matter was resolved and the preemptive law suit dismissed.

One of the best cast studies is that of *Western Title Guaranty Company v. Murray & McCormick, Inc.* Calif. Action No. 36933 (1978) and related cases, with commentaries by Ted Madson and others in *The Anatomy of a Surveying Disaster*. The issue was that the "east half" and the "west half" of a quarter section were not found to be mutually exclusive and contiguous parcels, resulting in sixteen (16) years of litigation and multiple law suits, some concurrently and some subsequent.

Subsequent purchasers of property filed suit against a surveyor who had allegedly conducted an inaccurate survey for the prior owner. The Municipal Court of Marion County, Indiana, granted summary judgment in favor of the personal representative of the surveyor and an appeal was taken. The Indiana Court of Appeals held: (1) the subsequent purchasers of the property could not maintain a negligence action against the surveyor because the surveyor had no reason to know that the subsequent purchasers would rely on the survey and the subsequent purchasers were not in privity with the surveyor; however (2) where the prior owner had assigned his basic contract right to a workmanlike survey to the subsequent purchasers, the subsequent purchasers could go to trial to prove their cause of action, either for negligence or for breach of contract. *Essex v. Ryan*, 446 NE2d 368 (83)

Owners of property filed a quiet title action to determine the
...continued Page 21

VINCENNES UNIVERSITY SURVEYING SCHOLARSHIPS



Vincennes University senior Eric Deckard (right), Bloomington, IN, is the recipient of \$1000 Peggy Archer Memorial Scholarship Award, presented by the Indiana Society of Professional Land Surveyors. Deckard also received the Eddie O. Boyd Outstanding 1994/95 Freshman Surveying Award. Congratulating Deckard is Art Haase, professor and chair of V.U. Surveying Technology Department.

August 8, 1995

Dear Sirs:

I would like to take this opportunity to thank you for my receipt of the Peggy Archer Memorial Scholarship. I am happy to be the recipient of the scholarship and am looking forward to my future career in Land Surveying.

Sincerely,

Eric L. Deckard, Crew Chief
Smith Neubecker & Associates, Inc.

Vincennes University senior Cindy Mitchell (right), Olney, IL, is the recipient of a \$300 scholarship from the Central Indiana Chapter of the Indiana Society of Professional Land Surveyors. Mitchell is also the recipient of a \$300 scholarship presented by the Southwest Chapter of ISPLS. Congratulating Mitchell is Art Haase, professor and chair of V.U. Surveying Technology Department.

September 7, 1995

To Southwest Chapter of ISPLS
&
Central Indiana Chapter of ISPLS

I would like to thank the Southwest Chapter and the Central Indiana Chapter of ISPLS for establishing a Scholarship and being selected its' recipient. By receiving these scholarships, I feel very honored and will do my best to excel and represent the profession of Surveying.

I enjoy my classes and look forward to graduation in the Spring from Vincennes University.

Thank you again.

Respectfully,

Coralina Lucinda Mitchell

OSHA = SAFETY?

by Ron Koons, RoSaKo Enterprises
Safety Consultants, Middletown, Indiana

In my latest perusal of Webster's Collegiate Version, I found an interesting definition. Sure enough right between "safe sex" and "safety belt" was the word "s a f e t y". Two of the definitions had to do with football, one with billiards, and another with firearms. The first definition was the one I was looking for, "the condition of being safe from undergoing or causing hurt, injury, or loss". That seemed to be fairly obvious...but stay with me for a minute. Deferring to our title then we must define OSHA. OSHA is our government's acronym for the Occupational Safety and Health Administration. From this we must derive that OSHA is involved in the administration (management) of safety (see above) and health (the condition of being sound in body, mind, or spirit) in our occupation (principal business of one's life). To be even more precise let's look at how the Williams-Steiger Occupational Safety and Health Act of 1970 begins:

An Act "To assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act..."

DOCUMENTATION is important in every section of the regulations

If anyone would read the above definitions it would probably lead to an assumption that if you have no injuries (or just very minor scrapes and cuts) that OSHA would not give you any problems. WRONG! OSHA has really taken the Administration portion of it's name to heart. DOCUMENTATION is important in every section of the regulations. You must be able to prove that all facets of the regulations are being properly administered in your place of business. In most cases, the only way to prove this is by documentation. Training records, safety meetings, equipment inspections...everything should be documented. The fact that you may not have had any recordable injuries in five years does not mean a compliance officer will not recommend citations be issued after an inspection. OSHA looks at your employee exposure to any safety hazards. If you have employees exposed to any hazard OSHA feels that an accident could happen. Your ability to defend your position is generally based upon having this documentation. Although the documentation may not get you completely out of a citation, it can go a long way to proving that your company has attempted to comply with the regulations. The bottom line is that if the exposure is there, then a citation will probably be issued.

There are many things that add up to a complete safety program for your business. The start is your Written Safety program. This should address the hazards that are known to be present in your workplace along with administrative procedures to

handle the hazards. Simply having one section such as Lock-Out/Tag-Out, Haz-Com, Ladders, etc. only gives you part of the equation. The next portion should be your Initial Training on the Written Safety Program. This lets all employees understand the company's dedication to safety and how management expects employees to work safely. Next comes job specific safety training. This may include additional training on items such as workplace violence, saws, motor vehicles, chemical handling, etc. Employees should be trained on how to safely handle any situation that is expected to occur in their workplace. Finally comes periodic safety meetings. These talks are intended to re-establish the company's dedication to safety as well as discuss new hazards that may be introduced into the workplace. Somewhere between job specific training and safety meetings would fall any re-training that may be required for an employee who shows loss of ability to work safely.

All of these components make our formula now seem much more complicated. Let's see if this can be summarized:

OSHA = SAFETY + DOCUMENTATION + (WRITTEN SAFETY PROGRAM + INITIAL TRAINING + JOB SPECIFIC TRAINING + ANY REQUIRED RE-TRAINING + PERIODIC SAFETY MEETINGS)

Maybe we should put this formula in our new 133 MHZ Pentium with the 4.0 gig hard drive and see what happens!

It was nice to see many friends at the recent ISPLS Convention. We appreciate the great turnout and look forward to our continuing work with all of you.

BORDER MUSIC

...continued from Page 19

boundary with their neighbors, and the neighbors counterclaimed asserting adverse possession. Owners also sought damages from their predecessors for breach of warranty of title. The Boone County, Indiana, Superior Court awarded title to the disputed property to the neighbors by adverse possession, quieted title to the balance of the property to the owners, and awarded the owners \$500.00 as damages against the predecessors. Upon the owners' appeal, the Indiana Court of Appeals held: (1) the neighbors obtained title to the disputed property by adverse possession, but (2) amounts incurred by the owners in defending their title against adverse possession were recoverable on a breach of warranty claim. *Rieddle v. Buckner*, 629 NE2d 860 (1994)

[Additional references, case law, and statutory citations are available from the author. Write to R. Stephen Hansell, Beech Bank, 1205 West 64th Street, Indianapolis, Indiana 46260-4409, or phone (317) 253-9624.]

PURDUE SURVEYING EQUIPMENT SILENT AUCTION

The School of Civil Engineering and the Surveying Engineering Program will sponsor a silent auction of surveying and drafting equipment to be held at:

Civil Engineering Building (room to be determined)
Saturday, April 20th, 1996
12 Noon to 3:00 P.M.

Many transits, levels, etc. in good condition are available. All items will be on display at the auction. A catalog of available items with description, condition, and valuation will be available soon. For catalog or auction information contact:

Prof. Steven Johnson
1284 Civil Engineering Building
Purdue University
W. Lafayette, IN 47907-1284
Phone: (317) 494-2247 (Secretary)
Fax: (317) 496-1105
E-mail: steven@ecn.purdue.edu

The sale will be by silent auction, with bidding opening at noon and closing at 3 p.m. on April 20. No mail bids can be accommodated. Payment must be cash or check, credit cards cannot be accepted. Proceeds of the auction will be put in an endowment fund to support laboratories for the land surveying program.

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February 14-17, 1996
Kentucky Association of Surveyors Annual Conference, Holiday Inn North, Lexington, KY

February 20-23, 1996
Michigan Society of Professional Surveyors Annual Conference, Holiday Inn South, Lansing, MI

February 23, 1996
43rd Annual Project Manager's Conference at Purdue, Purdue University, W. Lafayette, Indiana, Registration Information contact Kathy Hyman at 317-494-2758.

February 24, 1996
ISPLS Board of Directors Meeting, Headquarters, Indianapolis

February 21-24, 1996
Illinois Professional Land Surveyors Association Annual Conference, Springfield, Ill.

April 19, 1996
ISPLS Seminar, Legal Descriptions, Presenter Andy Kelly, Holiday Inn Conference Center, Columbus, Indiana

April 20-26, 1996
ASPRS/ACSM Annual Convention, Baltimore, MD

October 4, 1996
ISPLS Fall Seminar, Abe Martin Lodge, Brown County State Park, Topic to be announced.

January 15-17, 1997
ISPLS 45th Annual Conference, South Bend, Indiana

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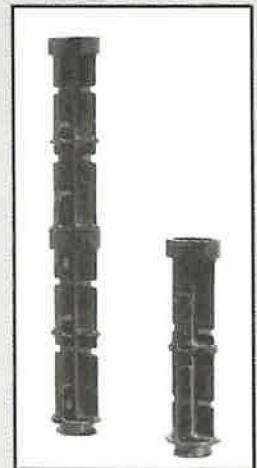
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