

**MONTANA ASSOCIATION OF REGISTERED LAND SURVEYORS
BOARD OF DIRECTORS MEETING
December 4, 2003 – BOD Teleconference Meeting 5:30 PM**

CALL TO ORDER: The MARLS Board of Directors' meeting was called to order by President Bryan Block December 4, 2003 at 5:30P.M.

ROLL CALL

MARLS Board of Directors

President Bryan B. Block
President-elect Gerald A. Pavlick
Vice-President Thomas M. Henesh
Past President Linda S. Smith – proxy Toby Dumont for part of meeting
Secretary/Treasurer James H. Burton – proxy Bryan Block
Northwest Chapter President Jane Eby – proxy Linda Smith
Western Chapter President -Toby Dumont
South Central Chapter President - Steven C. Anderson
Central Chapter President - Thomas E. Stark
Southeast Chapter President – Neil A. Bratton
North Central Chapter President – Stephen D. Babb
Southwest Chapter President – Erland Gendreau – not present
Northeast Chapter President – Troy Jensen

Committee Chairpersons

Board of Registration – Warren Latvala
Continuing Ed – Debra Anderson
Historical – Donald Ebbutt
MGIC & ITWG – Ken Jenkins
Standards of Practice – Craig L. Brown
Trig-Star – Randy Thomas
MARLS Health Insurance – John Cicon

Administrative Secretary – Kay McDonald

Determination of Quorum – a quorum present

Introduction of Guests: BC/BS Insurance Representative Roger Olson

Agenda Revisions: Blue Cross/Blue Shield, Roger Olson, moved to 6PM

Secretary/Treasurer Report – Jim Burton

As of December 3, 2003:

MARLS Glacier Bank Checking Balance of \$834.27

Whitefish Credit Union Accounts as of June 30th are:

Legislation Account \$1,250.00

MARLS Reserve Account \$25,250.24

Savings Account \$36,013.32.

Scholarship accounts as of 10/31/2003 DA Davidson Pimco Low Duration CL C \$23,597.57 up \$212.68 from last report.

Pimco Total Return CL C \$24,348.37 up \$642.41 from last report. Money Funds \$34.63. The total DA Davidson Scholarship account as of 10/31/2003 is \$47,980.57 up \$889.72 from last report.

Whitefish Credit Union Scholarship Account as of June 30th is \$22,818.34.

The total of the Scholarship Accounts are \$70,798.91. Of this amount we gave out 5 scholarships totaling \$5,750.00 this year.

CHAPTER REPORTS

Northwest Chapter – Jane Eby – no report

Western Chapter – Toby Dumont - The chapter is busy with conference preparation.

South Central Chapter - Steve Anderson

The South Central Chapter held one meeting on December 2, 2003 attended by about 10 of the faithful. Issues from the last Board of Directors meeting were not discussed because the person expected to lead the discussion did not attend. Shawn McFarland manfully volunteered to coordinate Trig-Star this year. Some Trig-Star packets were passed out and Shawn will distribute the rest. Decisions were made regarding our chapter's donations to this year's Conference Auction. Shannon Marinko will do the shopping and Dan Boers will dig out items already "in stock". It was decided that we will make one of the next chapter meetings a work session in order to index private survey records from Earl Best and also from a surveyor from Madison County named Bozworth obtained from Dave Bowman.

Dave Bowman's picnic proceeds will go towards buying a cap engraved with a north arrow to be set in his headstone. Ron Allen will act on the chapter's behalf to accomplish this. Ron also brought in corner evidence that Dave had in his shop (a scribed ¼ corner stone with a backwards 4, a popped out overgrowth of the scribing on a BT, an old metal monument and remnants of a "charred stake"). Debi Anderson will look into the possibility of displaying them in the Madison County courthouse and check on obtaining a display case from potentially hostile sources.

A lengthy discussion of dissatisfaction with the Board of Professional Engineers and Land Surveyors (BPELS) revealed unanimous support for pursuing a separate board for Land Surveyors. To attain this goal will take much work by many individuals. There was also unanimous support for sending a letter voicing our discontent to the governor, with carbon copies to the Attorney General, the BPELS and the Department of Labor, as well as to key legislators. It was also suggested that the general membership should be encouraged to contact the governor and their legislators about this issue. It was helpful to have 3 chapter members in attendance who have served on the BPELS either as a board member or as a MARLS liaison.

Central Chapter – Tom Stark

The only news from the Central Chapter is that we had a small phone meeting regarding the center of population monument coordinates. We need to get some GPS data on the mark we set last year. We agreed this needs to be done sometime in the near future and Tom said he would try to get the data when he passes through there sometime. There is also some news about a future CORS station at the MDT but this is still in the negotiation stages.

Southeast Chapter – Skip Bratton

The southeast chapter has not held a meeting since our meeting in September. Gerald Pavlick and Skip Bratton attended the State MACR (Montana Association of Clerk and Recorders) meeting at which we discussed SB 406 as it pertains to their duties as well as the new Corner Recordation Form and its format. We were well received by the Clerks and they appointed a sub-committee, which met at a later date with Gerald and Skip at which they voiced their concerns and suggestions relating to the new Corner Recordation Form. Based upon their suggestions a revised form was prepared and forwarded to Steve Anderson who has incorporated their suggestions into the new form, which MARLS is currently working on.

North Central Chapter – Stephen Babb – no meetings held

Southwest Chapter – Erland Gendreau – no meetings held

Northeast Chapter – Troy Jensen – no meetings held

COMMITTEE REPORTS

2004 Conference – Western Chapter

The Western Chapter conference committee is busy planning and finalizing the conference information. Registration packets are being mailed the end of December to the membership. The CPC committee is meeting this next Monday to approve the conference speakers and PDH hours per speaker.

Board of Registration - Warren Latvala

The Montana Board of Professional Engineers and Professional Land Surveyors held one meeting, on Nov. 13th and 14th in Helena, since the last MARLS BOD meeting. The following items of interest to MARLS were discussed.

At the Complaint Screening Panel meeting, the complaint MARLS filed against Steven K. Scott and Monty Erickson dba ECS INC (Erickson Contract Surveying) was heard. Since the complaint was against a non-registrant the hearing was open and I was able to attend, but in accordance with the Screening Panel rules, I was not able to comment.

Copies of the complaint and accompanying documentation were included in the materials mailed to the Panel members prior to the meeting so only a brief summary was presented orally by Todd Boucher. The panel did not re-read the statutes that were listed as having been violated in the complaint, particularly 37-67-320(b) and (c). The discussion instead focused on the response, which stated that the surveys in question were checked in the field and then signed and sealed by a licensed land surveyor. The panel concluded that those actions indicated that the parties involved were trying to be responsible and do the right thing, and therefore dismissed the complaint without prejudice. Doing so means that the complaint can be resubmitted.

During the public comment period I advised the BPELS members that MARLS was revising the Certified Corner Recordation form at the request of the Clerk and Recorder's Association and that the revised form would be submitted in place of the form previously submitted.

Dan McCauley, BPELS member and Chairman of the Geomatics Advisory Committee, updated the Board on the progress of that committee and provided the Board with copies of the latest version of the "working document" that contains the committee's agreements on GPS and GIS activities relative to the practice of land surveying.

The BPELS reviewed a printout of the website of "U.S. Surveyor" advertising a "How to Survey Video." The site advertises the video as providing the knowledge necessary to "Survey your own Property" for property and homeowners, builders and contractors. The website further offers "a Multitude of Services" including ALTA/ACSM surveys, appraisals, subdivision design and layout, tower site surveys, mortgage surveys, boundary retracements, GPS & GIS survey, site development & engineering and topographic surveys. This company appears to be an expanded version of "Express Map." The BPELS will send U.S. Surveyor a letter asking them about Montana licensure and provide them with a copy of the Montana Statutes regarding surveying and engineering.

The BPELS has received several letters on the question of the duties and authority of an Examining Land Surveyor. The BPELS referred the inquiries to their attorney for review of the applicable statutes and to provide a response.

GIS/GPS Negotiated Rule Making Committee report – Warren Latvala & Dick Smith

Report on Geomatics Advisory Committee Meetings No. 13 and 14.

The 13th meeting of the GAC was held in Helena on 10/10/03. The main stumbling block of the past several meetings, “expressed or implied accuracy” were again considered at the behest of the MDOT member of the committee. That state department still wishes to contract for the GPS location of fixed works of engineering by non-licensed individuals or firms, citing the “higher cost” of using licensed entities. They state that the location of such features is for inventory purposes, but want sufficient accuracy (e.g. road signs showing up on the correct side of the road) to give them a sense of the reliability of the data. Several committee members (not representatives of the surveying community) suggested that if they want accuracy and reliability they should contract to licensees but to no avail. In an attempt to resolve the situation I and the other surveying representatives agreed to definitions of “expressed” and “implied” accuracy which included in the latter, statement that “merely designating (GPS) equipment and/or how to use the equipment does not imply spatial accuracy.” In conjunction with that addition, a new paragraph was added to the definition of “authoritative”, “Meeting or offering to meet a contractual spatial accuracy requirement, expressed or implied.” Agreement on that wording was expressed by committee members. An addition to the “Exclusions” (from professional practice) was made for the operation and publication of data from a CORS station. Sub-committees were assigned to prepare definitions of photogrammetric surveys and to wordsmith the section on documents.

The 14th meeting of the GAC was held in Helena on Nov. 13 in conjunction with the BPEPLS meeting. Since I wanted to attend the screening panel meeting I was only able to attend the first half of the GAC meeting. The first item brought up was by the MDOT representative. He stated that the way the definition of “implied” accuracy was presented in the meeting minutes was not what he understood from the previous meeting, and wanted the definition revised. No agreement was reached by the time I had to leave for the screening panel meeting. After I left, Dick Smith presented a definition of photogrammetric surveys. I found out later I was assigned to work with the MDOT rep to reach an agreement on the implied accuracy definition.

After having compromised again in October on the last issue listed above, I was severely disappointed that the MDOT came back for more. Once again, I feel that the MDOT is deliberately seeking compromises on previous compromises in an effort to outlast the (out-of-town) surveying representatives. I recommend that the MARLS BOD reject the compromise I made in October and require the obvious inclusion of designating equipment or method of operation in the definition of implied accuracy.

Tom Henesh moved the MARLS BOD reject the compromise Warren Latvala made in October and require the obvious inclusion of designating equipment or method of operation in the definition of implied accuracy; seconded by Linda Smith; QCMC.

Continuing Education - Debi Anderson

The Continuing Education Committee held a series of very successful seminars in September with Dennis Moulard as speaker in Billings, Butte, and Kalispell. For those not attending the seminar in Butte on Mineral Surveys you missed one of the best seminars I have ever attended. There was an overwhelming positive response from all who attended and I urge whoever is holding the next conference to include this talk as one of their main features. I have been doing mineral surveys for several years now and learned a lot of things that I didn't know.

At this time there are no seminars planned for the near future although we are still looking into getting videos that each chapter can obtain and show at their meetings for CPU's.

On another note, I am going to step down from my position on the Continuing Education Committee and we need volunteers to take my place. I urge you to consider this position for its experience and the chance to sit in on the Board of Directors meetings, which is a very valuable learning experience.

Thank you for the support I have received over the last few years and Happy Holidays.

CPC Evaluation – Rick Goacher

The CPC Committee is holding a teleconference meeting on Monday, December 8th to review the CPC applications submitted for the conference and any others submitted to MARLS for approval from other sources.

Executive/Budget Committee – Linda Smith

The Executive Committee addresses many items such as contracts and budget/spending issues that come up between BOD meetings. The committee oversees, monitors and provides direction and continuity to the MARLS BOD. The Executive Committee has the capability to resolve issues or present the issues needing BOD decisions to the BOD at quarterly meetings. The committee will comprise of the President, Past President (Chair), Vice President, Secretary/Treasurer, two active members (to have staggered terms of at least three years). The committee provides the Board, who are usually short-term officials, with a knowledgeable resource to rely upon and background to help form their decisions. The direction and continuity are in the best interest of MARLS. This would be separate from the budget committee. Duties are to assist leadership with information on past decisions and policy made by the BOD. Monitor spending, budget procedures and performance of Administrative Secretary. Members of the Executive Committee for 2003-2004 are Linda Smith, Bryan Block, Gerald Pavlick, Tom Henesh, Jim Burton, Don Patterson and JT Essex.

Topics for this meeting are:

1. Duties overlap with the Secretary/Treasurer relative to dealing with review of spending and the budget. I have talked to Jim Burton about this issue.
2. How should we handle large misc. unforeseen expense requests (those that would put this budget item in the red)? A possible answer to this would be to allow for a budget adjustment during the year.
3. Should we allow for budget adjustments at mid-year? What would this take, BOD approval?
4. Is there a need for a Relief Fund for member crisis?

Historical - Don Ebbutt

The Central School Museum in Kalispell decided they no longer wanted the MARLS display of artifacts displayed anymore so we took all the artifacts and display cases and moved them out of the museum a few weeks ago. The insurance would cost about \$500 per year to insure these items. The BOD felt the artifacts are irreplaceable items, so should not need insurance on these. If anyone is interested in using the display case, contact Jane Eby. Tom Henesh is going to check with Museum of the Rockies and Debi Anderson is going to check with Madison County Courthouse, Virginia City, to see if they are interested in displaying MARLS artifacts.

Tom Henesh moved; Toby Dumont seconded to keep all MARLS artifacts at Don Ebbutt's, with no insurance and make an updated inventory list of all MARLS items and contact NW Chapter (Jane Eby) and FVCC (Dave Dorsett) to get items they may have in storage; QCMC.

ITWG & MGIC – Ken Jenkins

I attended the December 4, 2003 MGIC meeting in Helena. A quorum was present with 17 of 22 members in attendance. New members, Senator Joseph Tropila, (D) SD 24, Great Falls and Representative Dick Haines (R) HD 63, Missoula, were welcomed.

Reports were given by the MGIC State Funding, Federal Funding and Marketing-Education Teams. The State funding team has held discussions with the Clerk & Recorders and met several times to work on legislation to add a document recording fee that would generate funds to support GIS. Current document recording fees are \$5 plus a \$1 Document Preservation Fee. The current Document Preservation Fee generates roughly \$1 Million annually statewide. The team will continue efforts to define a target revenue goal as well as possible uses and distribution of funds that would be created. It was suggested that funds be re-distributed from a state level, with "strings attached" to assure coordination and standardization.

A suggested need for additional funding included an organized effort to re-monument and provide geographic positioning of PLSS corners statewide. With GIS parcel mapping and other layers using the GCDB as base control; efforts to tighten the control would go a long way toward improving the relative fit of GCDB based products to other GIS layers.

The federal funding team indicated the need for better communication and coordination to more effectively utilize existing GIS funding. The team will work to identify funding needs and potential matches to state funding, as well as work toward coordination with the Montana Federal Congressional delegation.

The Marketing/Education team presented a brochure that provides insight into currently available GIS products in Montana. It was suggested that a more broad-based effort could include live group presentations and perhaps a CD that shows GIS products.

Progress reports were given on the Transportation, Imagery and Critical Infrastructure layers. The development of these layers is under way with good progress being made.

Detailed minutes of the meeting are available at <http://state.mt.us/itsd/policy/councils/mgic/mgic.asp>

Much useful GIS data for surveyors is available at <http://nris.state.mt.us>.

Legislation - Rick Gustine

Requested in October – Per House Joint Resolution 37 (interim study of the Subdivision and Platting Act), the Local Government Subcommittee is meeting in Helena on Oct. 30 and has requested input from our association. This is an excellent opportunity for MARLS to offer input on problems with the current act and suggest possible solutions to make it better.

It would be nice to be able to present a unified response, but since the act is interpreted so differently from local government to local government that isn't feasible. All interested members are asked to respond, either by attending the meeting or sending testimony to the subcommittee. Jim Kembel would like to see a good turnout from the membership, so haul your favorite horror story out of the closet and let the subcommittee hear it- they'll no doubt be hearing from the "other" side.

If you would like to testify at the meeting, please let me know so I can let Jim know. Contact me if you have any questions, but the attached letter explains the purpose of the meeting.

Membership - Kay McDonald

MARLS Membership report 12-4-03

Type of Membership	Membership status	Paid dues 2003-2004	Delinquent dues
Active	221	176	34
Affiliate	4	2	2
Associate/Student	117	88	29
Emeritus	6	5	1
Non Resident	21	17	4
Sustaining	10	6	4
Fellow	6	0	0
Honorary	6	0	0
Life	23	0	0
		\$29140.00	Est. \$5000

We gained 11 active members from the April LS and more to come with the October exam. Of the 221 active members, eleven one-year active memberships were issued to those who passed the April LS Exam. Second notices were sent the end of November. The MARLS bylaws state that Fellow membership is not to exceed 10% of Active, Fellow and Life members and not more than two per year issued fellow membership. We had five life members last year. We have lost a couple life members this past few years and fellow members have gone from 9 in the 90s to 6 presently. MARLS members have requested about 17 life memberships, which would equal \$2380.00 in dues revenue. An average of those 11 renewing their membership next year after their first free year of active membership would be about 8 with three not renewing and they are usually the ones from out of state. Active members last year were

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226 at the end of the fiscal year. I would anticipate even with the issuance of free one-year memberships and life member requests that MARLS will still be at the same membership income level as last year. I get many renewing their membership before the conference registration.

Newsletter - Ron Milam – no report

NSPS - Dick Smith (report by President Block attending Washington D.C. meeting for Dick Smith)

My first order of business was to understand the NEW ACSM. There was to be a contract for services, such as we have between our clients and us for the work we perform. This is specifically referred to as a Memorandum of Understanding (MOU) between Member Organizations (MO) and ACSM. ACSM is the mother ship and NSPS is a member. We are as a State society or individually are actually a member of NSPS and in turn belongs to ACSM. This was a main issue the entire conference, ironing out the understanding, revising it and getting it approved. It's a relationship between parties with by-laws and operating procedures. ACSM will provide a corporate headquarters and maintain a staff to implement programs for the MO's. ACSM is then compensation for its functions by the MO's.

Now being the representative for Montana, I was assigned to a Task Committee, which mixed us up with random states. We are grouped with Alabama, Arizona, Indiana, Idaho, Kentucky, Mississippi, Iowa, Nebraska, Puerto Rico, Rhode Island, Tennessee, Oregon and West Virginia. There were three other task committees with the rest of the states divided among them. It was very good interaction. Among other things the Task committee were assigned going over a two tiered membership program for ACSM, and due structure, approving the Memorandum of Understanding, Trig Star and Map/Plat Contest Programs, building the membership of NSPS.

I attended the Western Federation, the NSPS and the ACSM Board meetings. The Board of Governors met Saturday and Sunday October 4 and 5, the NSPS Board met Monday, October 6, the ACSM Board met Tuesday October the 7th and the first informal meeting of the ACSM Council met on Wednesday October 8th.

From the NSPS Board:

MAP/PLAT CONTEST & NSPS AWARDS AND STANDARDS - The NSPS Board of Directors made the following revisions to the 2005 ACSM/NSPS Map/Plat Design Competition Rules. Increase the application fee from \$20 to \$30. Allow for 2 (two) entries in each of the categories. Map/Plat entries may be: (1) black and white (halftone/shaded) or blue line (2) Color. Categories: (1) Subdivision Plats, (2) Boundary/Cadastral Maps, (3) Topographic Maps, (4) ALTA/ACSM Land Title Survey Maps, and (5) Miscellaneous Maps. Prior Category 6 – Color Presentations is to be eliminated. State Affiliates are encouraged to forward rules and regulations for their judging of their map/plat design competition to the NSPS Map/Plat Committee Chairman for the Committee to formulate guidelines and regulations for future contests.

NEW BOARDS - Jerry Mills (Chairman of the Hydrographic Certification Board) gave a presentation on the Hydro Boards' purpose and background, applicant qualifications, examination structure, Board activities, governing documents and budget. The Hydrographic Society of America annually contributes \$5,000 to help offset some of the administrative expenses of the program.

Certified Floodplain Surveyor Pilot Program North Carolina has the pilot program. Two sections of a test are needed to be certified. There are two and a half days of training, with a half-day exam. The first section of the test requires an 85% pass-rate, and the second section a 75% pass-rate. It will be under the ACSM certifications Board as FEMA/ACSM Floodplain Certification.

Current activities of the Certified Floodplain Surveyors Board Certification Program. Three exams have been developed. Exams have been reviewed and taken by FEMA. The National Society of Professional Surveyors/Certified Floodplain Surveyor Board Responsibility document was given to Gary Thompson for review and comment back to the NSPS Board by Nashville meeting.

The Trig-Star Committee is also working on initiatives to promote the profession to high school students. **MATERIALS FOR RECRUITING THE "BEST & BRIGHTEST" HIGH SCHOOL STUDENTS TO THE SURVEYING PROFESSION.**

SUMMER CAMP. - There have been a number of suggestions received at headquarters with regard to the whole effort of getting young people more interested in surveying. One suggestion was the concept of a survey summer camp.

NEW BUSINESS

ADDITIONAL MEMBERSHIPS

The NSPS Board of Directors establish the price of \$50 for additional membership for other MO members to receive voting or non-voting privileges as established by the NSPS bylaws with no publications.

SURVEY TECHNICIAN CERTIFICATION PROGRAM REPORT - discussions on Trig-Star, National Surveyor Week and a possible video that would promote surveying licensure.

NSPS LOGO EVALUATION

The NSPS Board of Governors request that the NSPS Board of Directors appoint a committee to evaluate the NSPS logo and incorporate significant member input into the process to include a cost analysis of implementation.

NSPS BANNER AND RING REVISITED

Have staff proceed to order 10 NSPS banners and that NSPS charge \$495.00 for ring orders. .

ACSM PUBLICATIONS.

NSPS Board of Directors needs to aggressively review the quality, relevance and need for both the "ACSM Bulletin" and the "Surveying and Land Information Science" Journal.

The NSPS Board of Directors approved the NSPS BYLAWS CHANGES FOR "NEW ACSM."

FUTURE MEMBERSHIP/DUES STRUCTURE OF NSPS, INC.

The Board of Directors supports the concept of researching a two-tiered membership in NSPS, Inc.; full membership with limited membership available only to new members and request that this be assigned to a committee for study.

NEW ACSM DELEGATES AND ALTERNATE.

The NSPS Board of Directors ratify the appointment of Delegates and Alternate to the first ACSM Congress. (John Fenn and John Matonich – Two Delegates and John Abenroth – Alternate with Craig Savage as the second Alternate.

The next meeting of the NSPS Board of Directors will tentatively be held in conjunction with the American Congress on Surveying and Mapping/Tennessee Association of Professional Surveyors Joint Conference and Technology Exhibition on Monday, April 19, 2004 in Nashville, Tennessee at the Nashville Convention Center.

ACSM business. To solicit articles from people who have been associated with NSPS over the years to fill the anniversary (celebration) issue.

SALIS - An EXCOM sub-committee has been assigned the task of looking at the SALIS journal for the same reasons as previously discussed. Would like to make the publication more relevant but still maintain its integrity as a professional journal.

LIFE MEMBER PUBLICATIONS CHARGES - The ACSM Bulletin and SALIS Journal be provided to all NSPS Life Members for a subscription fee of \$85.00 for the year 2004.

MOU WITH ACSM CONGRESS/INTER MEMBER ORGANIZATION MOUs. - The latest revision to the Memorandum of Understanding between the ACSM and the Member Organizations was presented to the NSPS Board. The NSPS Board of Directors approved the Memorandum of Understanding between ACSM and the Member Organizations with the striking of the word shall under item II. Services (B) and the word the under item III. Compensation (A).

Homelands Security: Safety Video: NSPS Foundation endorsed taking over the safety video. A copy would be sent to each trustee. They will fund developing a program to promoting the safety video for surveying. Definitions Book

Bridging the Gap Summit: Latest report can be found in the July/August 2003 ACSM Bulletin. ESRI came up with the phrase "Bridging the Gap" for Surveyors & GIS Professionals. ESRI is trying to 'Bridge the Gap' from a technological point of view and ACSM is 'Bridging the Gap' from a philosophical point of view.

One thing I would like you to understand is that it works like this. MARLS will influence NSPS, which will intern influence ACSM which then influences Congress on our behalf. I see this as a pyramid. All the State societies are the foundation and we lift NSPS and ACSM to Washington D.C. to operate and influence Congress on our behalf.

Take note of Names of some of the people with your interests in mind. Like John Fenn, an excellent NSPS President, who works extremely hard for you. Lamar Evers, Board of Governor's Chair who listens to the issues. Chuck Paddock, Chair of the Western Federation, with the western states on his mind. Curt Sumner, ACSM Executive Director, who is so dedicated to the Profession of Land Surveying. Eric Anderson, President of ACSM.

The Geographic and land Information Society (GLIS) is sponsoring two sessions on state surveying society activities in Geographic Information Systems (GIS) at the upcoming Spring 2004 ACSM Conference in Nashville, Tennessee. The main idea for the sessions are to learn what each state society or Board of Surveying are doing in GIS and how they can develop a unified approach for making sure surveying is not left out of GIS in local, state, and federal government. They want also to talk about strategies of making surveyors becoming more involved in the growing market in GIS and GIS activities, GIS mapping standards, etc. There are also concerns that if Boards require licensing as a surveyor for GIS mapping there will be not enough surveyors to take on the work. Interested parties wishing to summarize your states GIS activities, Please make contact by email to: jeffress@tamucc.edu. Dr. Gary Jeffress, RPLS Professor of Geographic Information Science Department of Computing and Mathematical Sciences > Texas A&M University-Corpus Christi > 6300 Ocean Drive, Corpus Christi, Texas 78412 > Phone 361-825-2720 > Fax 361-825-5848 >

Professional License Oversight - Dick Smith – no activity

Scholarship - Bill Weikel – no report

Special Awards – Linda Smith

Linda is submitting Ron Milam (the MARLS person receiving "Outstanding Surveyor Service Award") to NSPS for "National Survey Excellence Award", also it was suggested she contact Dave Dorsett regarding the NSPS "Student Project Award".

Standards of Practice – Craig Brown – no activity

Trig Star & NSPS CST State Coordinator - Randy Thomas

The 2004 packets have been ordered and received with an individual packet having been mailed out to a chapter representative November 7th. This is quite a bit earlier than in the past, but some have expressed interest in administering the test earlier.

I addressed the Montana Teachers Association at their annual conference, October 16th and 17th, giving an overview of the Trig-

Star Program. It went very well, I've already been contacted by one teacher who is interested in getting her students involved. I was invited back to speak at next year's conference, to be held in Helena.

The Executive Coordinator, Corporation of Land Surveyors of BC, after she had read the report in the July 2003 TSS, contacted me back in August. She requested information on our program and how to start a program in Canada, which I passed on to her.

West Fed - Dick Smith & Denis Applebury

The WFPS administrative secretary now prepares a comprehensive report of the Board's meeting minutes. I am attaching that report, and will limit my narrative to a brief overview of the subjects which I feel are of immediate importance to MARLS.

In response to concerns expressed by California, and their request for support from WFPS, the issue of the NCEES Model Law (copy attached) has been raised. California feels that the Model Law will create a two-tiered license and leaves the door open for other splinter disciplines, besides photogrammetry.

California also stated that they were more in favor of the FIG definition (copy attached). Discussion revolved around these subjects and naturally around the NAFTA proposed agreement as it now stands (only Canada has signed on, so far). A copy of the NAFTA proposal is also attached.

The WFPS Board of Directors is requesting that each member state review the NAFTA document and the Model Law and present a report on each, to be considered at the next meeting. We will have the period of time between now and our conference to make this assessment. The next WFPS meeting will be at the Montana Conference on Saturday, so this be a great chance for Montana to show some leadership.

Upcoming state conference dates are posted in the minutes; review for conflicts. Note that Washington has scheduled their 2004 conference for the same time as Montana.

As I mentioned above, the next WFPS meeting will be in Missoula on Saturday, the last day of our conference. This is an opportunity for anyone interested to observe the board in action. Many of the board members will probably be at the conference on Friday. We need to decide if we want to do anything special for these delegates, which I highly recommend. Possibilities include special seating at the banquet, complimentary admission, hosted lunch at the Saturday meeting, and recognition at general membership meeting. These people work hard to promote our profession in the Western States, and do so at very little cost (travel expenses) to the member states. We will also need to provide a meeting space on Saturday and include them in our block of discounted room rates.

If you haven't checked out the new WFPS web site, I highly recommend that you do so. The executive secretary and a professional web designer have totally revamped that site. It can still be found at www.wfps.org.

State reports are now being submitted to WFPS electronically using a standard format. I have attached these reports for those interested. Reading through them will give you a good idea of what the issues are across the west. We are not alone with our problems and concerns.

OLD BUSINESS

MARLS Group Health Insurance – Jonathon Roen & John Cicon

Roger Olson reported that BC/BS had received over 100 applications (responses) from the MARLS membership and underwriting is currently working on the review of these. They hope to have in writing to MARLS their presentation of a health plan by December 15, 2003. He felt this was a very good response from the membership for BC/BS to work from for insurance options.

Unlicensed Surveyor update – President Block

The Board of Professional Engineers and Land Surveyors met on November 13th to review the complaint MARLS submitted. The case was dismissed. The Board of PE & LS had a committee of three in a closed hearing. No comments were allowed. We were allowed to briefly discuss this with the BOD after the committee did their review but the decision was made and the BOD accepted it without all of them reviewing the complaint. I do not have a written response from them on the 8 items but their comments are listed below. I think that is a good point. Apparently they did have a response from the Plaintiff and the two surveyors defending themselves and we were not allowed to see that information.

THE VIOLATIONS

1. The Advertising of Land Surveying by an unlicensed practitioner has taken place in violation of 37-67-102(2)(a)(b)(c)
2. That offering to practice land surveying with out a licensee has taken place in violation of 37-67-301
3. That practicing land surveying with out a license has taken place in violation of 37-67-302
4. Sole proprietorships, firms, partnerships or corporations must have a professional land surveyor in residence who is in responsible charge. This individual does not and is in violation of 37-67-320
5. This individual is not operating under 37-67-103(3) where his work is done under the direct supervision of a person holding a license under state law.
6. That the guidelines for operating an office without a licensed land surveyor on staff are in violation.
7. That an unlicensed individual has solicited other Professional Land Surveyors to sign plats and surveys preformed by this individual.
8. Pursuant to 37-67-332 (1)(a)(I). A person has committed a criminal offence if the person knowingly practices or offers to practice land surveying in this state with out being licensed under state law.

It is unlawful for a person to practice or to offer to practice in this state land surveying or to use in connection with the persons name or otherwise assume, use, or advertise any title or description tending to convey the impression that the person is a professional land surveyor unless the person has been licensed under the provisions of state law. The practice of land surveying without a license is

declared a public nuisance. We feel other licensed professional land surveyors are in violation of the rules of professional conduct adopted by the board. Whereas a conflict of interest results when a surveyor regularly employed in industry who accepts part time land surveying assignments without the agency's expressed permission and one who would sign maps, certificates of survey or plats without being in direct responsible charge.

The above violations had taken place and I am very displeased with the BOARDS findings. We will continue to monitor our profession and will continue to file complaints when the evidence is there to support our claims. Some day this will not be in vain. President Bryan

Warren stated after the decision he spoke with Todd Boucher and the committee just got a brief summary from Todd. He acknowledged that he forgot to mention that the one section Warren cited about having a Professional Land Surveyor on staff or in resident (37-67-320 B & C). Warren felt the Board members of the screening panel had not had time or taken time to review the complaint or read the statutes and see what the statutes said. They were trying to be responsible but didn't actually read the laws.

The MT Board of PE & LS did dismiss this without prejudice and that means the issue can be submitted again.

South Central Chapter reported that their chapter had a lengthy discussion of dissatisfaction with the Board of Professional Engineers and Land Surveyors (BPELS) and it revealed unanimous support for pursuing a separate board for Land Surveyors. To attain this goal will take much work by many individuals. There was also unanimous support for sending a letter voicing our discontent to the governor, with carbon copies to the Attorney General, the BPELS and the Department of Labor, as well as to key legislators. It was also suggested that the general membership should be encouraged to contact the governor and their legislators about this issue.

Dick Smith submitted the following is the Section of Rules, which Jim Hahn pointed out to me at the break during the BOR meeting concerning temporary practice of out-of-state licensees. 37-1-305. Temporary practice permits. (1) A board may issue a temporary practice permit to a person licensed in another state that has licensing standards substantially equivalent to those of this state if the board determines that there is no reason to deny the license under the laws of this state governing the profession or occupation. The person may practice under the permit until a license is granted or until a notice of proposal to deny a license is issued. The permit may not be issued until the board receives verification from the state or states in which the person is licensed that the person is currently licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or impairment. (2) A board may issue a temporary practice permit to a person seeking licensure in this state who has met all licensure requirements other than passage of the licensing examination. Except as provided in 37-68-311 and 37-69-306, a permit is valid until the person either fails the first license examination for which the person is eligible following issuance of the permit or passes the examination and is granted a license. History: En. Sec. 5, Ch. 429, L. 1995; amd. Sec. 1, Ch. 203, L. 1999.

Warren Latvala moved President Block write a letter on behalf of MARLS to Governor Martz expressing absolutely no confidence in the Montana Board of Professional Engineers and Professional Land Surveyors; citing reasons why; voicing the Montana Association of Registered Land Surveyors discontent with MT Board of PE & PLS. Copies of this letter need to be sent to the Attorney General, MT Board of PE & PLS, and Department of Labor and Industry, and also suggest the general membership should be encouraged to contact the Governor and legislators about this issue. Seconded by Tom Henesh; discussion; **Roll call vote result was unanimous expressing the will of the Board of Directors of MARLS; QCMC.**

A January 4, 2004 BOD SPECIAL MEETING WAS CALLED TO REVIEW THE UNLICENSED SURVEYOR ISSUE AND THE MOTION ABOVE. MINUTES WILL BE PUBLISHED JANUARY 11, 2004 TO REFLECT THE MOTIONS MADE AT THIS MEETING REGARDING THIS ISSUE.

Scholarships & Trig-Star Scholarships – Bill Weikel – no report

Travel Expense submittals:

Toby Dumont moved to approve expenses submitted by Warren Latvala for MT Board of PE & LS and GAC committee meetings in the amount of \$883.55 for March 2003 – November 13, 2003; seconded by Troy Jensen; QCMC.

“MARLS Outstanding Surveyor Award” nominations – Chapters please submit to MARLS BOD by November 30, 2003 – none submitted.

Nominations for Fellow or Honorary membership 2004

Nominations need a letter of recommendation submitted to the BOD from the Chapter nominating. Fellow member nominations were presented to the BOD.

Steve Anderson moved the MARLS BOD recommend fellow membership nominations at this meeting to the General Membership at the annual conference GM meeting in February for their vote and accepted upon a 2/3rd vote of a quorum present per the MARLS bylaws. Seconded by Tom Henesh; QCMC.

Life membership requests submitted to BOD for approval – none for December meeting.

Document Standards Resolution final version update – Linda Smith – no update on final version

Certified Corner Recordation – Sub Chapter 10 – Steve Anderson

Document standards law won't go into effect until 2005. Some would like to see the law changed before it goes into effect. Standard format was discussed, minor changes to CCRF makes minor changes to the rules. The BPELS discussed the changes that will be required in the ARM to comply with the corner record in lieu of a certificate of survey resulting from SB406. The Board

requested that MARLS provide suggestions and recommendations. (See ARM 24.183.1001) Steve Anderson and the committee are working on this.

Any TSS complimentary recipient request from BOD (sent Bowman family Oct. issue, sent FVCC students copy of October issue. **MARLS replacing “REGISTERED LAND SURVEYOR” with “LICENSED LAND SURVEYOR”** - Application forms, Treasure State Surveyor, Bylaws, etc. have “Registered” – should these be changed to “Licensed”. BOD asked Kay to do a search in MARLS forms, Bylaws, etc. to see where “Registered Land Surveyor” should be replaced with “Licensed Land Surveyor” or “Professional Land Surveyor”. She did a search and did not find any place except “Montana Association of Registered Land Surveyors” in the entire Standards of Manual and the MARLS bylaws. This search and changes were done about five years ago and changes were made at that time.

“Surveying and the Public newspaper articles update – Debi Anderson

Denis Applebury said Debi might want to look into PBS for and avenue as Oregon has launched a program sponsoring public service announcements on public broadcasting to promote the surveying profession across the state.

Landmark Enterprises (Paul Como, owner) request to republish Tiny Tillotson Book - By Greg Martinsen: The subject of a re-print of Tiny's book came up three or four years ago and the Board of Directors of MARLS asked me to explore that possibility. Over the next few months I pursued the subject and arrived at the following conclusions pursuant to the following actions:

A) MARLS had no copyright or other rights in or to the book.

B) All rights to the book were now vested to: Claude Tillotson, 8350 Western Farms Road, Frenchtown, MT 59834, Phone: 406-626-4285.

C) MARLS had acquired or bought several copies of the book that it now was selling and running low on.

D) Claude told me that he would agree to allow MARLS to do a re-print of the book if I took care of an agreement between himself and the MARLS Board of Directors. The agreement was to stipulate, among other things, that it was a one-time license for only a certain number of copies.

E) I had my attorney draw this agreement up and paid him for it.

F) I presented the agreement to Claude and before he even looked at it he informed me that he felt as though he should receive a payment in an unspecified amount, from MARLS, for every copy sold.

G) I then reported this chain of events back to the Board of Directors along with my feeling that the book was outdated and in some regards was not even correct since I new of at least three instances that had been proven wrong by several surveyors since Tiny. At that time the Board of Director of MARLS decide not to pursue the subject any further and to let it rest in peace. It is and was my impression that the subject of Tiny's book, *Legal Principles of Property Boundary Location on the Ground in the Public Land Survey States*, was as dead as Tiny as far as MARLS was concerned.

The BOD directed Kay to contact Claude Tillotson for approval of Landmark Enterprises to contact him for reproduction of this book.

Recommendation that MARLS submit a brief to the Montana Supreme Court in regard to Appeal of Montana Eighth Judicial District Court, Cascade County: Causes No. CDV-00-804, CDV-99-1152, and ADV-00-742. – Submitted by Warren Latvala

Specific issues arose during the trying of the referenced cases that are cause for considerable concern to professional land surveyors. Those issues are addressed below.

1. Is evaluation of the cause of movement of riparian boundaries a part of a surveyor's duties?

Riparian boundaries are by definition “ambulatory”. Such boundaries are frequently encountered by surveyors. Over time those boundaries can move due to water action in the form of accretion and erosion, or in the form of avulsion.

The Bureau of Land Management's *Manual of Surveying Instructions* Sections 7-69 through 7-72 define accretions, erosion and avulsion. Section 7-73 states “An avulsive change cannot be assumed to have occurred without positive evidence. When no such showing can be made, it must be presumed that the changes have been caused by gradual erosion and accretion.” Section 7-74 provides guidance in differentiating between accretion/erosion and avulsion, and Sections 7-75 and 7-76 identify how boundaries do or do not change dependent upon whether or not the water's action was avulsive in nature.

Numerous continuing education courses regarding riparian boundaries, including differentiating between accretion/erosion and avulsion, are available to surveyors willing to expend the time and costs of attendance. They address issues from the coring and dating of trees to locating abandoned channels relative to the locations of the original surveyed channel and considering soil and vegetation types within the area of concern. Careful review of the meander notes of original surveys also provides information that may shed light on the previous nature of a riparian boundary including soil types, bank height, ground cover, water depth and etc, that may help explain subsequent movement. Line notes of the original surveys may also note sloughs, overflow channels that can provide similar explanations of the causes of subsequent water actions.

In the above referenced cases, one and possibly two surveyors testified that surveyors are not competent to evaluate accretion/erosion versus avulsive action of water on riparian boundaries. One surveyor further testified that surveyors should not attempt to establish such boundaries, that being up to the courts. As a result of that testimony, a third surveyor was not permitted to testify as to what physical evidence was noted and considered prior to completing a survey and preparing a Certificate of Survey showing his opinion of the current location of the affected boundaries.

We acknowledge and agree that any survey performed by a professional land surveyor is only his/her professional opinion of the location of boundaries and is subject to review by the courts. We disagree as to whether performing such surveys is an appropriate function for professional land surveyors. We further hold that evaluation of evidence of accretion and erosion versus avulsion is

necessary to locating the current riparian boundaries. Surveyors may seek the opinion of other professionals in the physical sciences prior to completing such surveys but doing so does not reflect a lack of competence, but instead reflects a cautionary professional approach to what may be a contentious situation.

2. **What consideration should private professional land surveyors give to the government *Manual of Surveying Instructions*?**

The various editions of the *Manual of Surveying Instructions* were prepared to guide government surveyors in their surveys of public lands. The instructions and methods of performing surveys, retracements and dependent resurveys included in those *Manuals* are considered the "Bible" for performing modern surveys except in cases where they differ from current statutes or Appellate Court decisions.

In the referenced cases, a surveyor was asked if the *Manual* had been adopted by statute in the State of Montana. The surveyor could not state that the *Manual* had if fact been adopted by statute, leaving the impression that the *Manual* was completely without authority for any survey except of government lands.

The authority a surveyor should afford the *Manual of Surveying Instructions* is critical to proper performance of our work. We definitely need guidance from the court on this matter, or any and all of our work based on the *Manual* is subject to challenge on those grounds alone.

Warren moved to begin the preparation for MARLS submit a brief to the Montana Supreme Court in regard to Appeal of Montana Eighth Judicial District Court, Cascade County: Causes No. CDV-00-804, CDV-99-1152, and ADV-00-742 to send to the BOD by e-mail for BOD review, address the brief at the February 25th BOD meeting for BOD vote to submit brief; seconded by Tom Henesh; QCMC.

NEW BUSINESS

Correspondence – Correspondence was read for SDSPLS conference invite, Kris Kaister and Ron Schlagenhauser sent thank you's for their scholarships. John Morrison, Sr. passed away September 14, 2003. Thank you letter was read from the Michigan Museum of Surveying for the MARLS banner presentation. Junie Miles said she would send items not sold at their sale of Dave Bowman's surveying equipment with Ron Allen to the conference scholarship auction.

Recording of MARLS Seminar & Conference PDH's –

Kay requested the BOD change the procedure of recording PDH's. After the seminars and conferences the membership is very confused about how to keep track of their own PDHs as stated in the MT Board of PE & LS rules on Continuing Education. I only got ONE \$5 for these three recent Moulard seminars to keep track of their PDHs - seems to me like a very confusing waste of my time and since MARLS voted to not pay to have FVCC keep track, the membership doesn't understand that they have to write two checks (or those paying by VISA - which is alot) don't want to waste their time, etc. to write a \$5 check to Kay for recording their PDHs. They were quite happy with it included in fees charged to attend the conferences or seminars, etc. Now it is a confusing mess, as I have to address all of these individually - and they STILL want some type of certificate to put in their personal records - to request a transcript individually most who request to me have to be explained in detail that we no longer use FVCC as of January 2003 and they can use the new one by Kay McDonald and pay her \$5.00 to record after the fact - look up, record, postage, printing verification, etc.

I propose to the BOD to review the process of tracking and recording the PDHs as MARLS is providing continuing education classes for the membership, APPROVED BY MARLS, and then I think the membership feels MARLS owes them the tracking process, as they paid for this seminar.

1. Would a brief survey be beneficial for the BOD to decide? Should we bring this up at the conference General Membership meeting?

2. I would like to see the tracking, recording, sending a certificate after they have attended, be mandatory by MARLS to those attending a conference or seminar and included in the fee for ALL attending. When you start differentiating those who want or not want tracking, we get a whole process of those changing their mind, thought I did, thought it was included, etc. and this goes on for months after attending (years as they panic when they get to the end of the two year cycle.) and then they ask or call me to see what one they attended, as I have the records they attended in the MARLS books.

3. Decide if these PDH recordings recorded by MARLS and certificates could be recorded and sent back for ALL attending any MARLS sponsored conference, seminars as a service to the membership.

4. Come up with a dollar amount such as the \$5/person and reimburse Kay McDonald after I have recorded each seminar or conference each person attending.

5. OR - decide to add average amount onto my annual contract services depending on how many seminars and the conference are held each year.

I feel MARLS owes the membership these certificates and recordings not only as a service to MARLS, to simplify, but we make enough income on the conferences and seminars and they saw these were automatically recorded they would probably not hesitate to attend.

MARLS provides Continuing Education to meet the goals set by the MT Board of PE & LS. We still have the PDH forms at the conferences.

Suggestion is to bring this up at the General Membership meeting and let the membership decide how they want their PDH's recorded, cost per person, and certificates are included to each person attending in this cost of attending.

MARLS Relief Fund for membership in need – President Block

MARLS needs a relief fund included in the budget to cover member hardships that come up during the year. We do not have any place in the budget for this. This will be sent to the executive committee to review and report back to the BOD.

Membership drive for NSPS – President Block – Bryan wrote in his president’s message regarding the membership drive for NSPS and asked the Chapter’s to bring this up at their meetings.

National Surveyor’s Week – President Block – National Surveyor’s Week will be in January and information was sent to the BOD on this and will be published in the January TSS. Gerald will write an article to publish in the Montana newspapers on National Surveyor’s Week.

Life Membership – does it drain MARLS funds, can we freeze life membership – President Block – see membership report, the BOD did not foresee this as a problem and suggested executive committee review this from time to time.

Request from MT Board of PE & LS – MARLS thoughts regarding the following items:

An issue about licensed people having to report alleged violations to the board. ARM 24.183.2202(3) states "Licensees having knowledge of any alleged violation of the laws and rules of professional conduct must report all such allegations to the Board". Interest to see how the profession views such a requirement and would you have any suggestions on how to resolve a potential problem? Sept. meeting: *BOD discussion – Denis stated that the Board says that person would need a complaint filed – but it was brought up that you don’t have to turn in a complaint according to this section, as the rules state this now, all you have to do is report it. So there is a conflict in the law and this section of the ARM. Denis will keep the BOD informed of the Board’s decision regarding this issue. This section has to be fixed, do we leave the word “MUST” report all such alleged allegations. This would be according to ARM “file a complaint”. “Must” is a mandatory word and “may” or “in your professional opinion” could be used in its place. The MARLS BOD directed Denis to review this change for the wording of “Must”. Chapters please discuss this philosophy at the chapter meetings.*

The BOD discussed this and felt the rule should be changed, left up to the professional discretion.

The second issue deals with reduced seal sizes such as Cadd drawings and the use of electric signatures? This is an interesting question in this day of computers.

Sept. meeting: BOD discussion with suggestions given to Denis. People are transferring electronically and MT Board does not allow this. This needs to be addressed, as this is future technology already in use and not allowed.

Good of the Order:

Toby Dumont asked the BOD opinion on changing the scholarship auction to a legal fund auction as some members have felt the scholarship fund is self-sustaining now. This would need legal advice to see if it would even be possible.

ACSM Conference Participation Request from GLIS – The Geographic and Land Information Society (GLIS) is sponsoring two sessions on state surveying society activities in Geographic Information Systems (GIS) at the upcoming Spring 2004 ACSM Conference in Nashville, Tennessee. If your state society has a GIS or similarly named committee, could you please pass this request onto that person or your state president? The main idea for the sessions are to learn what each state society or Board of Surveying are doing in GIS and how can we develop a unified approach for making sure surveying is not left out of GIS in local, state, and federal government. We want also to talk about strategies of making surveyors becoming more involved in the growing market in GIS and GIS activities, GIS mapping standards, etc. There are also concerns that if Boards require licensing as a surveyor for GIS mapping there will be not enough surveyors to take on the work. Could interested parties wishing to summarize your states GIS activities please make contact by email to: jeffress@tamucc.edu

MARLS BOD meeting adjourned.

Respectively submitted,

Kay McDonald

Administrative Secretary

*Sent to BOD and Committee Chairs for corrections December 15, 2003.
Corrections notified to Kay by December 22, 2003.*

APPROVED BY:

James Burton
MARLS SECRETARY/TREASURER

DATE: _____