

*The Treasure State Surveyor* (USPS 018-913) is published quarterly by Kay McDonald, 101 Jensen Road, Columbia Falls, MT 59912. Subscription to *The Treasure State Surveyor* is \$5.00 per issue (included in annual membership fee).

**POSTMASTER:** Send address changes to MARLS, Kay McDonald, 101 Jensen Road, Columbia Falls, MT 59912.

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**Technical Assistance: Kay McDonald**

**MARLS (The Montana Association of Registered Land Surveyors)** is a statewide organization of professional land surveyors licensed to execute land surveys in the state of Montana and dedicated to improving the quality of professional land surveying and land records in the state of Montana. Our motto is:

**“WE MEASURE UP”**

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**VOLUME XXXIII**

**OCTOBER 2004**

**ISSUE IV**

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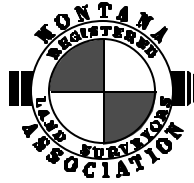
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# President's Message

Horizon AD

Dear Fellow Surveyors,

Autumn is upon us, the time of the year when the light seems brighter, the air is cooler, and the need to be outdoors is greater. I hope you all have a successful hunting season.

I am reminded of the vastness of the state this time of year and how far we are apart geographically. It is not easy to quickly get together for impromptu discussions. I realize that the lifeline of MARLS is the Treasure State Surveyor. Take the time to read this thoroughly especially the minutes of the BOD meeting. This is the quickest way to stay informed of MARLS business. Following are some highlights to look for.

Look for the Web Address of the home page of the new GIS Association MAGIP. I encourage all to explore and if interested, become members of this organization.

The Geomatics Advisory Committee (GAC) is at a stalemate at present. In theory there is a clear separation of practice. In interpretation of performance, there is a difference of opinion. Our NSPS representative has attempted to clarify interpretation with other members of the committee.

MARLS Group health insurance is beginning to grow and we will have insurance representatives in seven cities.

Insert USPS

The Scholarship committee is actively working to provide more scholarship opportunities to family members of MARLS active members.

Please stay active, stay informed, and most of all stay healthy.

Respectfully,

**Gerald A. Pavlick**

Gerald A. Pavlick, PLS  
MARLS President

Inland GPS

## **"NEW" MARLS MEMBERSHIP SCHOLARSHIP NOTIFICATION**

Dear MARLS Members:

By a motion approved by the MARLS Board of Directors, a limited number of scholarships are being made available from the scholarship fund for immediate family members (spouse, child, or grandchild) of all current MARLS members. The number and dollar value of the scholarships will be determined based on the number of applications received and the qualifications of the applicants. **The Scholarships are to be for those currently enrolled as a full time undergraduate student in any curriculum of higher education.**

The basis of awarding the scholarships will be a combination of financial need, scholastic record, community involvement, and career goals. Selection of scholarship recipients will be made based on the recommendation of the scholarship committee and a vote of the Board of Directors.

The first of these scholarships will be approved at the December Board of Directors meeting and will be awarded at the 2005 Conference.

Any MARLS members having family members who meet the scholarship requirements should encourage their family member to apply.

PLEASE MAKE A COPY OF THE APPLICATION BELOW OR REQUEST A COPY FROM THE ADMINISTRATIVE SECRETARY AT 406-892-4579.

### **MARLS Family Member Scholarship Application**

To apply for a scholarship as a family member of a MARLS member, please supply the following information. The information should be supplied in a neat and orderly format. Applications for scholarships in the 2004-2005 school year should be postmarked no later than November 24, 2004.

Full Name:

Date:

Mailing Address:

Telephone Number:

Marital Status:

Dependents (relationship):

Name and Relationship of family MARLS member:

High School Attended (name, address, year of graduation):

College or University Attending (name, address, years attended, curriculum):

Grade transcript of most recent year completed (high school, college, or university):

Proof of current enrollment:

Work History (employers, addresses, telephones, dates of employment):

Financial Need (provide a summary of reasons you feel you should qualify for a scholarship on the basis of financial need):

Community involvement (provide a summary of your past and current involvement in community affairs and organizations):

Career Objectives (provide a minimum one-page essay detailing your career objectives and how you feel that your current enrollment will assist in achieving those objectives.):

Certification: (the application should include the following certification.):

*"I hereby certify that all information on this application is true and correct. I understand that any false information or deliberate omissions from this application may be grounds for rejection of the application or rejection of any approved scholarship award. I agree that I will abide by all decisions made by the MARLS Board of Directors or it's agents regarding this application."*

Signature of Applicant:

Date:

**Submit your application to:**

**MARLS**

**P.O. Box 359**

**ColumbiaFalls, MT 59912**

All awards will be made without regard to race, color, creed, sex, national origin, or physical limitations.

# MARLS GROUP HEALTH PLAN ~ IS NOW A REALITY!!!

After several years of hard work by many of the MARLS board members, the MARLS Group Health Plan has arrived! Other state associations, as well as the national association, have worked on presenting their membership with group health insurance coverage. MARLS has succeeded in bringing to the membership a Bonafide Association Group Health Plan.

The association plan is currently accepting applications from the MARLS membership for group health insurance coverage with effective dates of coverage as early as April 1<sup>st</sup>, 2004. The Insurance Committee, Kay McDonald and Roger Olson (Managing General Agent for MARLS) have had several questions asked concerning the MARLS group health plan. In an effort to try and answer as many questions as possible we have decided to provide the membership with the following most commonly asked questions and answers:

**Question:** Why has MARLS decided to endorse Blue Cross Blue Shield of Montana?

**Answer:** This is not an endorsement; this is a bonafide association plan for the MARLS membership. This plan was created for the members of MARLS, their employees and dependants.

**Question:** When can coverage be in effect?

**Answer:** Effective dates of coverage can either be the 1<sup>st</sup> or the 15<sup>th</sup> of any month, the association plan is currently accepting applications for effective dates as early as April 1<sup>st</sup>, 2004.

**Question:** Who is eligible for the MARLS group health plan?

**Answer:** To be eligible for coverage you must be a member in good standing of MARLS and a resident of Montana. Your dependants can be added to the plan and the plan will cover your dependant children up to the age of 25 years old. If the MARLS member has employees (no size limit), the business can cover all employees and their dependants as long as the

employee works at least 20 hours per week.

**Question:** Do you have to be a surveyor to get the coverage?

**Answer:** No. The board is currently allowing ALL levels of MARLS membership to join in the group health plan. The board has invited all Sustaining Members and their employees to take advantage of the group health plan.

**Question:** Can any business pay the Sustaining dues for MARLS and apply for coverage?

**Answer:** No. Sustaining Members are eligible, however, MARLS will allow "like" or "associated" businesses and professionals into the group health plan. A short list could include but is not limited to: architects, engineers, title companies, real estate appraisers, real estate sales, and product vendors.

**Question:** Is this plan just like any other Blue Cross Blue Shield of Montana plan?

**Answer:** No. The rates and benefits for the MARLS plan were generated specifically for the MARLS membership and were based on the medical questionnaires that were completed last fall.

**Question:** What are the benefits?

**Answer:** The MARLS plan offers three different benefit plans, including optional dental and vision plans.

**Question:** What will be my monthly premium?

**Answer:** Each applicant needs to complete a medical questionnaire so that Blue Cross Blue Shield of Montana can assign a rate level. The current rates for the association as a whole will be locked in until the association plan renews in April of 2005. Everybody on the plan as of April 2005 will be subject to any rate and benefit modification made at that time.

**Question:** Can I be declined?

**Answer:** No. Each applicant is guaranteed acceptance and is assigned a rate level based on their demographics and medical risk.

We are currently working to establish Chapter meetings in the near future to cover these items and any other issues the membership may have. Look for notice of these meetings in the Surveyor or from your local Chapter President.

We are pleased to offer this additional benefit of membership and would urge you to contact Roger Olson, Olson Insurance on his toll free number, 1-877-759-5521 if you have any questions or would like to initiate the application process.

Thank you.

*MARLS Insurance Committee*



## About the cover...

Artwork by  
James A. Flansburg, PLS

**Jim's art is for sale.**  
He specializes in bronzes,  
ink sketches and watercolors.

**James A. Flansburg**  
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Missoula, MT 59803

**Phone: 406-543-6835**

*The artist reserves all rights on the cover.*

Blue cross ad

**MONTANA ASSOCIATION OF REGISTERED LAND SURVEYORS  
MISSION STATEMENT**

**PREAMBLE:**

The true merit of a profession is determined by the value of its services to society. Therefore, the Montana Association of Registered Land Surveyors does dedicate itself to the promotion and the betterment of the profession of land surveying as a social and economic element vital to the welfare of society.

The objectives of the association are:

- ◆ To promote the common good and welfare of its members and the public in the profession of land surveying.
- ◆ To advance the study of land surveying and the education of land surveyors.
- ◆ To promote public knowledge, faith, and reliance in licensed professional land surveyors and their work.
- ◆ To foster and maintain high standards of professional ethics in the practice of land surveying.
- ◆ To foster and support legislation generally beneficial to the profession and to the citizens of the state of Montana.
- ◆ To promote closer relations, understanding, and cooperation within the profession.
- ◆ To establish better relations between the land surveyor and other professions interested in land surveying.
- ◆ To aid and encourage the interest of associate and student members of the association.

BERSTEIN AD



# RELOCATING THE LOST CORNER OF FOUR TOWNSHIPS AND OTHER LOST CORNERS

By: G. S. INNIS, COLUMBUS, OHIO

I have learned from others, as well as my own experiences, to regard the following rules as axioms as seldom, if ever, to be departed from in making a survey for the purpose of finding old lines or corners:

1. A resurvey, made after the monuments of the original survey have disappeared, is for the purpose of determining where these monuments were, and not where they should be.
2. Never depart from, or move old stones or other monuments, especially where they have been accepted as correct by all parties in interest.
3. Stones, iron stakes, or other objects, not called for in deeds or descriptions, are not monuments and are of no value in a survey, unless found to be correct.
4. Stones, posts, stakes or other objects set at the time a survey was made, must control, however erroneous.
5. Never undertake to correct an error, made in an original survey, but follow the survey if it can be done. The original survey must govern.
6. Surplus or shortage in a block must be divided pro rata, between the lots or parcels of land, when the monuments or original stakes are gone.
7. A long established fence (more than twenty-one years) is better evidence of location, where possession has been constant, with the present owner and those under whom he claims than any recent survey made, after the monuments have disappeared.
8. There is great virtue in a pick and shovel intelligently applied in finding lost corners, where stakes have been driven, or stones planted and removed.
9. Never be controlled, by the opinion of landowners, unless they can show monuments or other evidence of the true corner. A compass and chain intelligently and skillfully used, with the assistance of a pick and shovel, will generally give good results.
10. Never go to the field to make a survey or repeat an old one without complete notes of the land to be surveyed, and a plat of it with bearings and distances on the several lines. This plat should include the surrounding lands, unless there are undisputed monuments at each corner of the land to be surveyed.
11. It is very important for a surveyor to have a critical knowledge of all kinds of timber growing in the country where he has work to do. Any one having experience of clearing up several farms, making his own rails, building his own fences and seeing them rot down, etc., could hardly fail of acquiring this useful knowledge.

An assistant was riding in the same wagon as me, and passing a hard maple or sugar tree which was very pretty, he pointed to it, saying: "There is the nicest oak tree I ever saw." After getting to our work he was handling the transit and was good at that. He ran out to a corner where a red oak tree was called for in the notes, yet he went farther away and commenced digging around a white oak tree for his corner. Being corrected, he concluded he would learn the different kinds of timber. Passing a large tall beech tree, he struck it a lick, and asked: "What kind of an oak do you call that?" Well, that was the way to learn.

12. Then a surveyor, unless he wants to be a laughing stock, must well understand English Grammar, from the first rudiments to its completion, so he may be able to use good language and especially spell correctly in making up his reports. In nearly every case the surveyor must write reports for boards of commissioners in partition and similar cases. It should be well done, clear, and beyond question plain.
13. There is no principle of more importance to the surveyor or civil engineer than strict integrity. He, being frequently called upon to decide disputed points between others, must not be influenced in his work by any other consideration than exact justice between the parties. Any other course is professional suicide.

*Did you ever notice that the more things change the more they stay the same? This article was taken from the Eighteenth Annual Report of the Ohio Society of Surveyors and Civil Engineers being the Transactions of the Society at its Eighteenth Annual Meeting held in Columbus, Ohio, January 18, 19 and 20, 1898. Yes, that's right, this article was written over one hundred years ago.*

*Reprinted from the Ohio Surveying News, Winter 2004*



## "Hurricane Relief"

Donations for Hurricane Relief can be sent to the following address:

Florida Surveying and Mapping Society  
1689 A Mahan Center Boulevard  
Tallahassee, FL 32308

Make checks payable to FSMS

**GREEN RIVER**  
(Part 3 OF 3)  
By: **W.R. BANDY 317ES**

**Buy Farm**

After disbanding, I went to Circle, Montana and bought a 320 acre farm and returned to Helena.

1920

In 1920, Mr. Harrison set up a three party camp to execute dependent resurveys of several townships in a group in gumbo country and sagebrush land lying between Sumatra and Sand Springs in Garfield County lying east of the Musselshell River and west of the Great Porcupine Creek. The area was being settled up but was presently devoid of any original section corners. Being in a decomposed shale country, no natural outcropping of rocks were available for corner materials so wooden stakes were used and pits dug in the gumbo soil. The stakes and pits soon disappeared in the gumbo land and homesteaders were unable to locate the boundary lines of their claims. The resurvey plan called for the early establishment of the township lines by the measurement between the original measurement to the east and west and to the north and south of the area. So much calculation was involved, an engineer was appointed to coordinate the work of the three field parties. Ernest Park, David Eaton and Walter Good were in charge of the field progress. I assisted with the paper work. After the township boundaries were established, interior lines were run straight across townships six miles on calculated distances for temporary section corners. One of the crews ran across the township and back in one day. Ernest Parker, with his crew easily made the twelve miles every day and got in quite early. The crew was well organized and worked like clockwork. The cornerman following the crew with line wagons lost little time in trying to locate a good place to cross a wash or coulee. He rode one of the horses and trotted over the sagebrush and let the wagon come along the best it could. It was too rough for him to ride in the wagon. Ernest had the spring seats bolted to the wagon box so they wouldn't jump off the wagon. The chainmen took pride in seeing how fast they could chain. When the twelve miles were up, they would go to camp. One day I changed off with Earnest and ran his transit for him while he made a side trip to town. His chainmen, Horace Parker and Lucien Smith let it leak out that they were going to run off and leave me. I took Ernest's transit out and ran his party and they gave me a green flagman that had long legs, but did not use them fast enough. The morning had not progressed far before Horace and Smitty were way ahead of me waiting for line! I never liked to have anybody wait for me so I began to hurry up. I saw that I was getting beat and was way behind and I had to speed up some way.

**Pass Flagman**

I quit waiting for the flagman to give me points ahead and I started picking out natural objects for flag points ahead, and walked right past the startled flagman. I was able to check my line by lining up flag points in the rear. Horace and Smitty got

**Editor's Note...**

This article is another in the series of William R. (Roy) Bandy, 317 PE, history and stories. These were obtained from Donald Ebbutt, PLS. Don stated that he has been collecting for many years and was assisted by Zoe Bandy Reith, Roy's daughter, who resides in Hawaii. I will publish many stories and articles, not being in any order, give credit where I can find. Many thanks to Don Ebbutt and Zoe Bandy Reith.

*BRIEF* - W. Roy Bandy – born in 1885, passed away July 1972. 1911 joined General Land Office, retired Dec. 31, 1954. He surveyed the eastern and northern boundaries of Yellowstone Park in the early 1930's. He selected names for three peaks along the boundary Grant, Arthur and Cody. During 1922 and 1923, he surveyed much of Montana, from Blackfeet Indian Reservation to Big Sandy and southeastward to Miles City. In 1936 surveyed 7,000 acres in the Pryor Mountains. Member of Algerian Shrine, Knights Templar, American Society of Civil Engineers, Montana Association of Registered Land Surveyors (member 145) and the First Baptist Church. October 1947, appointed Regional Cadastral Engineer for 10 states. He introduced the practice of marking distances on reference monuments and witness corners. Received the Distinguished Service Award from secretary of the Interior.

In the "Congressional Record" "Proceedings and Debates of the 92<sup>nd</sup> Congress, second session, vol. 118, No. 139, Washington, Friday September 8, 1972, in the Senate, Mr. McGee requested that the story of the "Breakfast on the Little Big Horn, by William Roy Bandy, be printed for the RECORD. No objections, so ordered.

a good laugh on me but they did not have to wait long for me to catch up with them.

Another time over in the Crow Indian Reservation in 1921, I took Horace and Smitty out as my chainmen one day. They again ran off and left me. I would trot when I was behind the hill from them to try to catch up. My legs got to cramping so when I was out of sight I would lay down and kick my legs up and down to kick the cramps out of them. Once they slipped back and looked over the hill at me and caught me laying down in a low place, kicking up my legs. I never heard the last of that. Those two boys were my good friends, Horace is in Nevada and Smitty is in Billings.

The work went well all summer but the season had a sad ending. In October 1920, my wife Inez and son Billy were in camp and Billy suffered an attack of spinal meningitis and passed away suddenly in Helena. The camp was disbanded.

**To Washington**

In November 1920, Mr. Harrison sent me to Washington, D.C. to work in the head office during the winter months. Inez went with me. We found that we could get railroad excursion tickets for the six months limit permitting us to go by train by way of New Orleans, St. Augustine, and Jacksonville. Thence, by steamship to Baltimore and the rest by train over to

(Continued on page 13)

*(Continued from page 12)*

Washington. On the return trip, we came back by way of New York, Niagara Falls, Chicago and home. It was a wonderful trip we had never before taken. We took that route and learned a lot. For instance, in New Orleans, I went to the colored window to get our tickets validated and was told that I was at the wrong window. On the way through Mississippi and Alabama the engine burned pine stumps and roots for fuel instead of coal. In Tallahassee, Florida, I saw a cow and a horse hitched to a wagon standing at a hitching post. In the south, the train stopped at mealtime for us to eat at a local hotel. St. Augustine, Florida claimed to be the oldest town in the nation, but I later found out that Santa Fe, New Mexico claims the same distinction. At Jacksonville, Florida, we boarded a steamship for an ocean voyage to Baltimore. In Washington, we spent weekends visiting museums, the Whitehouse, Congress and other interesting places. At the office, I had to write letters for officials to sign and learned that the way I said it seemed to be more important than what I said. We knew a few friends in Washington who showed us around. At the office, I made it a point to visit the Indian Office and the Geological Survey which were in the same building. I found them glad to talk to someone from the field. I also knew a Mr. Roblin, the allotment agent from the Bureau of Indian Affairs, whom I had met in Montana and we had some talks on allotment problems.

Soon after returning to Helena in the spring, Mr. Harrison gave me instructions to survey about 250,000 acres of unoccupied grazing land on the west side of the Big Horn River on the Crow Indian Reservation. The Indian Agent was in a hurry to have the land divided into 40 acre tracts so it could be allotted to the individual members of the tribe. In April, 1921, Mr. Harrison assigned four field survey parties to the task of surveying the Crow Indian Reservation. The parties were headed by David Eaton, Philip Inch, Ernest Parker and Charles Seeley. All parties to work out of Sand Tent Camp on the Reservation. I was to establish a field office in the camp, where temporary plats for each township were prepared as the work progressed. One of the plats to show the distances and lines and another plat showing drainage and other topographical features noted in the field notes. Party chiefs would put their information on the sketch plats each day and check to see if all areas closed and that creeks and ditches were connected properly on the sketch pads. In that way, any errors or misclosures were detected while the lines were still wet. In my spare time, I typed the final official field notes as fast as I could. Each survey crew was accompanied on the line by a light farm wagon with bolster springs to carry tools, steel corner posts, water, etc. Experienced drivers were recruited from ranches on the Powder River around Miles City and Ekalaka. Their job was to keep the wagon with the party at all times, to have tools, posts, and other equipment available for setting corners, to keep up with the crews; they had to be adept at crossing creeks, washes and badland slopes, to assist the driver in crossing tough washes and other rough places, they each carried a 15' log chain they could hook onto the end of the wagon tongue, thus putting the horses farther ahead on good footing, so they could take it easy crossing the creek or bad place. If they broke a tongue or reach (problem pole) now and then it was considered better than spending valuable time

looking for a better crossing. An ash pole was put and used to patch up the wagon until a new tongue was obtained. Among the drivers were Jack and Wayne Morris, of Biddle, Montana; Tom Yost, Paul Glasser, of Powder River, Mike Glasser, Power River. Mike Glasser was teamster. He was equipped with a portable forge, anvil, shoeing outfit, etc. The head chainmen were Lucien Smith, Horace Parker, Gary Frankforter, Walt Fitzgerald, Pete Spurzem, Vic Fairer and others. The members of the crew were mostly young men from farms in the Judith Basin, Power River and Billings country. Horses were fed oats and turned loose at night to graze on the prairie. Mike Glasser would round up the horses before breakfast. Drivers were out of bed and fed and harnessed their teams before breakfast. Our cook for the 25 men was Elsie, a lady from Oklahoma with her husband as flunkie. They did a good job to be working with a sheet iron stove.

### **Open Prairie**

At Big Open Prairie on Two Leggin Pryor at Dry Head Creek north of the Pryor Mountains was one of the few areas in the State where one could travel all day and not see a fence or a house (see picture of camp).

### **Outfitting in Hardin**

Just for the record, I will say that we outfitted that spring in April. We shipped the horses, wagons, tents, pieces of equipment and everything in a boxcar to Hardin. It started to rain and the gumbo was fierce as we walked around. No sidewalks in that part of town. It was several days before we were able to move out of town on account of the rain and gumbo. The horses were wild, having been run out on the range near Wolf Creek all winter. After getting the wagon put together with wheels, etc., we hitched up the teams. One of the teams ran away right through town. The Marshall arrested the driver for reckless driving, but we were able to talk him out of it because the boy could not help it. The City Fathers wanted our business, too.

On the few days I would get out and take over the engineer's crew for a day, the chainmen would delight in trying to run me down. I being somewhat soft from office work. A few times they caught me lying behind a hill kicking the cramps out of my legs, hoping they did not know how tired I was. One such day, I had a new flagman that could not keep ahead of me. Horace and Smitty, the chainmen laughed at me for being behind until I could stand it no longer and quit waiting for the flagman and started picking out natural points ahead for flag points the remainder of the day. I caught up with the boys and by 11:00, we had seven miles run, but I was all in and had to quit for the day.

The boys played hard, too. We had a volley ball net and a baseball outfit in camp. I seen them on a rainy day get tired of lying around and go out and run down a cottontail rabbit just for fun and catch it with their hands.

The crew's job was completed in October 1921 and the party disbanded and I was again sent to Washington for the winter.

The next Spring, Mr. Harrison was asked to undertake the allotment survey of the Blackfoot Indian Reservation. Enroute home in April, 1922, we stopped at a hotel in New York City overnight. The next day, we boarded the ferry at the end of

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42<sup>nd</sup> street for Newark, New Jersey. Inez was tired and sat down in midship to rest while I went to see the next shore as we approached. The passengers jammed me against the rail so tight that I could not go back to where I had left her. I stood on the ramp watching for her to debark, but never saw her get off in Newark. I got off and went over to the depot and in five minutes I was the only person in the station, but no wife; a guard asked me if he could help me. I said, "Yes, I have lost my wife, "and I explained that we had gotten separated on the ferry. He said wait until the ferry returns, maybe she will be on it. If she is not, you should go back and look for her on the other side. But on the way back across the river, I was wondering how to find a person in a city of six million people when we had already checked out of our hotel. She was there on the other side waiting for me. A policemen had advised her that if I did not show up, to go back to the hotel where we had stayed the night before. She waited in the waiting room at the ferry and that is where I found her. The police were very kind and helpful.

1922

In the Spring of 1922, we were short of money. Mr. Harrison had some money furnished to us by the Dry Creek Indian Tribe for marking the boundary line between the Blackfoot Indian Reservation and Glacier National Park where the line follows natural lines such as streams, subdivision section lines, etc. I organized a camp on the Blackfeet Reservation to mark the boundary and was assisted by Ernest Parker, Dave Eaton and Dan Mumbry, with skeleton crews. Mike Handlin was teamster and his wife was camp cook. We marked the

boundary at West Glacier, Two Medicine, head of Badger Creek and on the Hudson Bay Divide. In St. Mary's Lake below the chalet where the bear were entirely too gentle around the cook tent. One of our Indian boys was sleeping alone in a bed roll in a tent. He looked up in the night and saw a bear standing in the front door of the tent. With one leap, the young fellow went through the back of the tent yelling and scattering his blankets as he went.

### **Berry Picking**

While we were camped at St. Mary Chalet, Ernest's future wife and Willow Best visited camp. One Sunday, a bunch of young folks including the girls went huckleberry hunting up on Hudson Bay Divide. Some way Lucien Smith (Smitty) got mixed up with a skunk in the bushes and as a result they would not let him ride home in the truck. The poor guy had to walk home behind the truck. He smelled so bad that Mike Handlin ran him out of the cook tent until he went and changed his clothes. Poor Smitty went off singing, "I ain't nobody'd darlin". It was all in fun, of course. Smitty was a great singer, often leading a sing in we had in the camp in the evenings.

### **Go To Dance**

On another night, a truck load of us went to Glacier Park Station to a dance. Ernest Parker, Sidney Cain and I did not want to stay up all night so we took our beds along. About midnight, we rolled our beds out on the grass in the vacant space in front of the dance hall. In the wee hours of the morning, the dance broke up and folks started to turn their cars around in our sleeping area. I look up as one car was coming with its lights flashing as it circled around the campground. The car lights picked up Sidney, a big tall fellow, standing up in his shorts with his bed roll under his arm. The man yelled, "I ain't going to run over you." Sidney says, "I know you are not". Sidney was ready to take off.

### **Mumbry Takes a Bath**

Mr. Mumbry, a survivor of the "old school", had been telling the boys how tough he was in the old days. How he used to jump out of bed into the river every morning for his morning bath. We insisted that he show us now how he did it in camp. His camp was along side the St. Mary River. He finally had to prove his claim. They said Don did not tarry long in the ice cold river.

### **Swift Current Creek**

Swift Current Creek was waist deep and as cold as ice and roared over the boulders. The crew had to wade across it twice a day while working along it. They would remove their pants and wade with their boots on. It was very uncomfortable. Beside being uncomfortable, it was also dangerous. If one fell in the swift water, it would dash his head against the boulders. I even had to wade it carrying a transit.


Some of the sections along Duck and Goose Lake along Hudson Bay Divide had to be subdivided into five acre tracts by intersecting lines according to Wanley Rules. The willows and small quaken aspen were so thick it would take almost all day to hack a line a quarter of a mile long through the willows. One had to run about 24 miles of line to subdivide one section into five acre tracts. The reason for five acre tracts was so the allotting agent could allot five acres of the worthless willow

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*(Continued from page 14)*

land to each Indian to get rid of the land, or so they said, at least.

### **Larb Hills**

In the fall, we moved out of the Indian Reservation to the Larb Hills on the head of Larb and Willow Creeks south of Saco, Montana. We were camped on the bank of Willow Creek when a heavy rain fell on the head of the creek, unbeknown to us, causing it to flood. About midnight, I woke up and heard water gurgling in the tent. We were sleeping on cots. Putting my hand out, I touched water! We found there was a foot of water in the tent and the water was rising. The cook tent had a foot of water in it and sugar and flour sacks on the ground were soaked. Everyone grabbed their bedding belongings and waded out to higher ground, making several trips. That is, all of us except Mr. Easton and two boys, Horace Parker and Lucien Smith who gambled that the creek would not rise enough to get them wet. The water was already within an inch from the bottom of their cots. The rest of us moved and watched anxiously, secretly hoping they too, would have to move out. But, they won out, the creek did stop raising, yet they finally did move to dry ground after the creek went down. As for us, during the night, the mosquitoes almost ate us up. After things quieted down, Anderson and I could still hear Handlin's three year old boy, Jimmy saying, "Skeet, Skeet", as the pesky mosquitoes pestered him.

### **Wood Detail**

Firewood for the camp was obtained ten miles south along the river. Mike Handlin and Bob Johnson drove to the timber for a load of wood. They expected to stay overnight and return the next day with a load of logs. They took oats and hay for the team, a box lunch for themselves to last overnight. It rained heavily the first night out, making the gumbo impassible for travel. It continued to rain for a day or so. When the gumbo is sticky, it rolls up on the wheels so they won't turn. Travelers have to wait until it dries out on the surface, so its not too sticky. It continued to rain and they ran out of food. They had taken some eggs with them which they had packed in a box of oats to avoid breaking. In foraging around for something to eat, they found some of the eggs in the oats had broken and mixed in with the oats. For their meal, they had to eat the whole oats to get the eggs.

The season of 1922 was closed in October and I again went to Washington for the winter. For each year the appropriations for Public Land Surveys continued to dwindle and surveyors were transferred to other districts, as the appropriations diminished.

In 1923, the biggest thing that happened to me was the birth of my daughter, Zoe, one October 30. She was born by Cesarean section at the John Hopkins Hospital in Baltimore. For two months that Fall, I lived in Baltimore.



Mark-IT Desert  
Engineering

# ATTRACTING AND RETAINING THE VERY BEST PEOPLE

By: MIKE STONES, OLS, OLIP

Many employers complain about the difficulty of attracting and retaining quality people. When considering this challenge, we must look at what makes people leave their jobs. Profiles International recently completed a survey asking this very question. Here are the six main reasons:

- ◆ 30% were unhappy with management and the way that they were managed
- ◆ 25% felt they received no recognition for good work
- ◆ 20% complained of limited opportunities for advancement
- ◆ 15% cited inadequate salary and benefits %
- ◆ 5% were bored with the job
- ◆ 5% noted other reasons such as retirement, sabbatical or travel

Are you surprised by the answers? The prevalent theme in these statistics is that people tend to leave people, not jobs.

So what do you do? First, identify and provide training and people information to managers and supervisors who struggle to manage their people in a way that encourages productivity and retention. Good management is a key to retention. There are a

number of avenues available to improve management skills including formal training, mentoring and constant feedback on what they are doing well and what they could improve.

Second, seek out opportunities for positive recognition. Look for ways in which your people perform above and beyond the call of duty. Give as many people as possible an opportunity to bask in the glow of positive recognition for a job well done. But be aware that a recognition culture cannot be created from nothing - it requires a healthy working environment to thrive. Let all of your people know where the organization is going; how it plans to get there; how their jobs play a part in the grand scheme of things and why they are a key to your success. Spread information liberally throughout your organization; give your people an "I'm on the inside" feeling - it's hard to leave something that has you on the inside. Create an atmos-

phere where management expects the best of its team members and they'll respond. Trust is one of the key sources of recognition - no one is more flattered than when they are trusted implicitly.

Previous generations of workers could aspire to promotions within multi-layered, hierarchical companies. In these days of lean, fiat-structured organizations, workers rarely have this option. This doesn't mean that employers have to accept losing staff because they cannot offer a corporate ladder. Today's job-seekers want the opportunity to develop themselves to be all that they can possibly be - to continually polish their skills, abilities and experience so that their value continually rises. If they can do this without the uncertainty of job-hopping, so much the better. You need a clear, ongoing development path - a way that each of your people can advance their skills and value so that they realize their full potential. This means some investment in training and development. Don't be boxed in to limiting the training to those skills specific to an individual's current job. Remember that you are not simply training for job-effectiveness but are also offering your people the development opportunities that make them feel good enough about the pace of their personal advancement that they don't feel the need to look for greener grass elsewhere.

After following 360,000 people through their careers during a 20 year period, a major study was published by Harvard Business Review. It demonstrated that a key ingredient in retaining people is to ensure that they are matched to their jobs in terms of their abilities, interests and personalities. The study found that when you put people in jobs where the demands matched their abilities, where the stimulation offered by the job matched their interests and where the cultural demands of the position matched their personalities, staff turnover decreased significantly and productivity increased dramatically.

If you can implement the above steps, you will address 75% of the reasons why people leave their jobs. And you haven't added a cent to salaries!

*Reprinted from "The Ontario Land Surveyor" Spring 2004*



Spencer Gross

# Developments in Montana Title Law

## Volume II, Issue II

Dear Fellow Member of the Montana Land Title Industry and Professional Land Surveyors:

Re: Developments in Montana Title Law, Vol. II, Iss. 2

There have been several recent Montana real property decisions of interest to the title trade:

1. Loomis v. Luraski, 2001 MT 223, 36 P.3d 862 (decided November, 2001). The topic of the Loomis decision is the "stranger to the deed," that is, a party not named in the deed who still seeks to benefit from the deed. The topic may be ancient but the title agent still sees it, in its modern form, on a certificate of survey which depicts a road easement crossing the surveyed property and ending at the surveyed property's boundary, seemingly for the benefit of the property across the boundary (but not subject to the certificate of survey). Loomis sought to establish an easement across his neighbor's property to access his land but was a "stranger to the deed" describing the easement.

The Court held that the easement could be established only by a clear showing that the grantor's intent was to reserve an easement for the benefit of the Loomis parcel. Here, the deed (and the first version of the certificate of survey) contained a reservation for a "public" road running across the grantor's property to the boundary of the Loomis parcel, but Loomis was neither a party to that deed, nor a successor to a party to that deed, and the Court reiterated prior holdings to the effect that no rights are granted to the public prior to a "public" road's actual creation and dedication. The Court found insufficient evidence of the grantor's (Luraski) intent to reserve an easement for the benefit of the Loomis parcel. The easement reservation did not state that it was for the benefit of the Loomis parcel as the dominant tenement. Luraski testified that he had reserved the easement in the deed, and platted the easement on the first version of the certificate of survey, to keep his options open regarding access to the Loomis parcel in the event he could purchase it in the future. Luraski finally gave up this hope and filed an amended certificate of survey eliminating the disputed easement.

2. Haugen v. Kottas, 2001 MT 274, 37 P.3d 672 (decided December, 2001). The "spite fence" in Montana is dead! Kottas erected a tall wooden fence serving no purpose other than to block Haugen's view. Overturning old case law, the Court held that no property owner has the right to erect and maintain an otherwise useless structure for the sole purpose of injuring his neighbor. Accordingly, Haugen had the remedies both of injunction and damages against Kottas for erecting the "spite fence" to block the view.

3. Dome Mountain Ranch, LLC v. Park County, 2001 MT 289, 37 P.3d 710 (decided December, 2001). This opinion serves, indirectly, as another warning against relying on County "road books" as sufficient proof of legal access. In this case, the subject road crossing Dome Mountain Ranch was depicted on the official Park County Road Map as "County Road No. 17" .

However, the County had no written records indicating that the County Commissioners had ever formerly declared the road to be "County Road No. 17" until very recently. The date the road was designated as "County Road No. 17" on the official Road Map was unknown. The Ranch challenged the road as a public way and the County fell back on the argument that the road had long since been established as a prescriptive public way. The Supreme Court, however, held that any prescriptive easement for public use had been extinguished by reverse adverse possession when the location of the road had been changed, the road was gated and the gates were locked most of the time, no trespassing signs had been posted, the public did not use the road when the gates were locked, and only used the road when unlocked for recreation. The Court made clear that this holding applies only –to public prescriptive easements and that "titled" public roads may not be erased by adverse possession.

4. Richman v. Gehring Ranch Corp., 2001 MT 293, 37 P.3d 732 (decided December, 2001). Unlike the "spite fence," the doctrine of merger is alive and well in Montana, thanks in part to the undersigned's appellate work (if I do say so myself) in Urquhart v. Teller, 1998 MT 119. In Richman, a 30-year old Sales Agreement provided as follows:

Seller hereby grants privileges to future Buyers whereby they shall enjoy hunting rights, Snow Mobile [sic] rights, and horseback trail rights over other lands that the Seller now owns with the understanding that rules and regulations will be established by a Future Owners Association whereby people who do not abide by the rules of the Association and the directives of that group (on recommendation of the Developer and the Owner) may be restrained from such privileges . . . Any rights given on other lands of Seller are subject to being rescinded for cause by Seller. . .

The deeds to the buyers, recorded shortly after the execution of the Sales Agreement, made no mention of the Agreement nor otherwise reserved any access rights over the lands retained by the Seller. Ten year later, in 1981, the buyers recorded an abstract of the Agreement. Years later, the successors –in–interest to the buyers asserted access rights over the lands now held by the successors –in–interest to the Seller.

The District Court relied on the Urquhart decision in denying the Plaintiffs any access rights. The Supreme Court affirmed. The Court held that any potential access rights created in the Agreement merged with, that is, were extinguished by, the deeds. The Seller (the owner of the property to be burdened by the purported easement) did not intend to grant an easement.

At most, he intended to provide for potential access privileges if certain conditions were met, such as the formation of an owners association and the adoption of rules to govern use of the privileges. "A portion of a clause granting rights to as yet unidentified "future buyers" on specified land if certain

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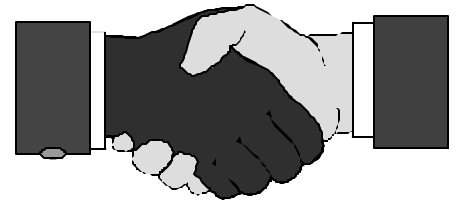
conditions were met does not persuade us that [the seller] intended to grant an easement. " ¶20. The Court cited to Urquhart for the proposition that covenants relating to title, quantity, and possession of land generally are not collateral agreements and so merge into the deed. In Urquhart, the Court found that the restrictive covenants in a contract for deed could not be enforced when the subsequent deed itself made no mention of such covenants. The Court noted here that no declaration of access or use privileges was ever filed separately and that the Agreement itself was filed belatedly by the buyer.

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## NOTICE OF THE SURVEY

By: Knud E. Hermansen, P.L.S., P.E., Ph.D., Esq.

Notice of the survey is simply an announcement sent to the neighbor (adjoiner) or other parties (e.g., utilities) of the pending surveying services. Notice can be accomplished by visiting, calling, or writing. This article will focus on written notice to the neighbor.

Written notice has two advantages over other forms of notice. First, the written form stands as a historical record of the message contents and evidence of its communication. Second, it provides a more reliable method of communicating with the recipient that is not always possible with phone calls or visits since many landowners are at work during the time period when the surveyor will likely call or visit.

Providing notice of pending surveying services has several benefits. Most importantly, ordinary and reasonable courtesy suggests the surveyor notify landowners of possible entry upon their property. Second, notice could prevent the crew from being idle while the party chief is talking to the neighbors explaining the crew's presence in the neighborhood and on the adjoining property. Third, it is not uncommon for the response to a letter to reveal there is a heated dispute between the client and neighbor that the client has failed to mention to the surveyor. (It is far more beneficial to hear a neighbor vent their displeasure with a client over the phone than at the site where there is expensive equipment within reach.) Fourth, notice could cause the neighbor to take advantage of the surveyor's presence to meet their own surveying needs. Fifth, aid from the neighbor in the form of unrecorded documents, historical information, and monument locations are often encouraged with a friendly written notice. Sixth and finally, notice provides a means to educate the neighbor about the surveying services (traverse markings, need to enter property to survey, etc.)

Some states require notice to a landowner before a surveyor can enter property without fear of prosecution for trespass. Civil and criminal law will ordinarily hold the surveyor liable for trespass when there is intrusion on property without the permission of the landowner. For example, recent passage of the surveyor's right of entry law in Maine permits surveyors, for the performance of surveying services, to enter upon property without permission of the landowner so long as the surveyor made a good faith effort to notify the landowner.

Consider the following example letter that is meant to be sent to a neighboring landowner.

June 3, 2004

On or after \_\_ [date], our firm will be surveying the property of \_\_ [client's name], which is located \_ [nearby road, stream, physical feature], \_\_ [municipality], \_ [county]. Tax assessment records indicate that you share a common boundary with \_\_ [client's name].

To insure a complete and accurate survey, our firm would appreciate a copy of any unrecorded documents such as plats, old deeds, survey notes, reports, and similar documents that are in your possession and would help re-establish the common boundary you share with \_\_ [client's name]. This firm will reimburse you for any reasonable costs. A meeting at a date and time convenient to you can be arranged, if you would like to show us any boundary markers or other objects that may be hidden from view or are not easily identified as a corner or boundary marker.

During the survey, wooden stakes and nails will be used to mark temporary survey points. These should not be confused with the actual corner or line monuments we will eventually use to mark the common boundary you share with \_\_ [client's name]. Any survey points and ribbon our firm uses will more than likely not be placed on the boundary or represent a common corner. All corners will eventually be monumented by capped 5/8th inch diameter reinforcing rods inscribed with the name and license number of the surveyor (if not already monumented).

From time to time, employees from our firm may have to enter your property to gather information and measure from your corners and points on your property. Measuring on your side of the boundary is often necessary to insure that all information, from both sides of the boundary, is considered before marking the common boundary. Please do not hesitate to call this firm if you object to our employees entering your property and using information on your side of the boundary to help reestablish the common boundary you share with \_\_ [client's name].

Should you have any questions or information, please call or write using the address listed in the letterhead. Your help is appreciated.

The first part of the sample letter informs the landowner of the pending surveying services and identifies the location of the survey. A detailed location of the survey is important where the neighboring landowner has vast tracts of land (e.g., logging companies) and is unfamiliar with the name of neighboring owners. The next part seeks pertinent documents the landowner may have that will aid the surveyor. This part also extends a willingness to meet and identify corners where the landowner believes monuments reside.

*(Continued on page 21)*

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If the landowner provides some help (or believes they have), the landowner will more likely believe the surveyor's opinion is unbiased. The third part of the example letter educates the landowner on the surveyor's markings to prevent confusion between traverse stations or ribbons used to mark evidence and the actual corner or boundary location. The fourth part of the example letter informs the landowner of the surveyor's entry on their property. Tact and good public relations suggest the letter be sent and tacit permission be sought to enter the property. If entry is expressly mentioned as necessary to locate the common boundary using the adjoining landowner's corners, few adjoining landowners would likely object to the surveyor's entry on their property. Common sense suggests the adjoining landowner would want the surveyor to use their corners to reestablish the common boundary.

Some surveyors also include in the notice an offer to survey the neighbor's property for a favorable rate, at the same time.

Because your neighbor has requested our surveying services, we are in a position to offer surveying services for your property at a reduced rate. If you call our firm for surveying services in the future, please mention that we have previously surveyed your neighbor's property.

(Warning: Prudence strongly suggests that the fee for neighbor's services not be relatively less than the client's fee or you will have an irate former client demanding equity.)

The name and address of the adjoining landowner can be obtained from the tax records. Many jurisdictions now have tax information on line.

With the advent of computers and easy access to the information, it is relatively fast and easy to prepare a letter within ten minutes. If a surveyor isn't using a written notice of survey, it is worth a try.

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Office: 207-581-2168

## **The Block Hall of Fame:**

Greeting to all my fellow surveyors. This is a little story of dedication, contribution, inspiration, education and the pursuit of higher learning. I am proud to announce the MONTANA BOARD of REGENTS will dedicate the Daniel G. Block Hall at the University of Montana-Western in honor of my Dad on October 8<sup>th</sup>, 2004 in Dillon Montana. He is an Author, an Educator, and an Emeritus Professor of the year along with a lifetime of achievements and has been recognized for his long-standing support, innumerable contributions and dedication to Western and the Dillon Community. A year ago I had the opportunity to nominate Dr. Block and I had sent a letter. Enclosed is that letter and I thought you might enjoy.

Date: Nov. 10<sup>th</sup>, 2003

Mrs. Susan Briggs, Vice Chancellor for Administration and Finance

The University of Montana-Western:

710 South Atlantic, Dillon Mt. 59725

The Campus Development Committee

Dear Committee:

It has been brought to my attention that the OC Building is in search of a worthy name in honor of an individual whose significant contributions to UM Western Campus and the community should not go unnoticed.

If you know him this sentence does not need an explanation. There is an individual that comes to mind, because A FUNNY THING HAPPENED ON THE WAY TO THE FORUM. (He played the key role of Senex and even sang) I met THE MEANEST PROFESSOR.

Years ago when I was just a young lad, maybe 10 or so he would bring me to his laboratory after hours. I remember him pulling out his keys to unlock a glass door and following him up two flights of stairs in this giant brick building. Each footstep would echo down the halls as we walked. They were dark and gloomy and as he would open the door to the laboratory, the smell of formaldehyde would hit my nostrils. He would reach through the door and hit the light switch, which would flutter on and off for a few seconds before a steady flow of fluorescent light would awaken the room. The Professor usually had papers or such to gather and correct or sometimes he needed just a few moments to prepare something for the next day's class. At this time he would let me wander the isles. My eyes were busy scanning the panoramic view of the high walls where magnificent antlers and horns from mammals of the world were mounted on walnut plaques. Usually with skulls attached. There was so much to look at. The shelves in the back of the lab were filled with mason jars of all shapes and sizes, from pints to several gallons.

Filled with preservatives, the insides were stuffed with pig's heads, livers, hearts, kidneys and one that I really remember was a complete Siamese twin calf in a two-gallon Mason jar. There were tables filled with different species of stuffed birds. They were pinned to boards and their heads were usually stuffed with cotton, I think, because all their eyeballs were always solid white.

This Professor introduced me to his world and I cannot comprehend the magnitude of students that he introduced to the world of anatomy, zoology, botany, biology and ornithology over the years he spent at WMC. I do know that he took me on countless fishing and hunting trips along with many different students over the years. And for the times we spent hunting and fishing I became good friend with many of his students. I was always amazed at how these students would look up to the Professor and how they so much enjoyed his company. I swear some of them lived at the Professor's house for I would see them there almost every day. The Professor would also take me along to cheer at basketball and football games. It was really cool; everyone knew him and they would stop and talk or say hello. As I grew older it was a great desire of mine to enroll at WMC and hopefully sign up for some of the Professor's classes. As it turned out his classes were more for the Graduate Student than the Undergraduates, but I found two classes that I could take my first year. One was Drug and Alcohol Abuse and the other was Marine Biology in the spring of the year. There was one catch though, on the Marine Biology Class you had to retain a B average to qualify. I took those classes my freshman year. Even though I transferred to another college the following year, at spring break I enrolled in his Desert Biology class. Western Montana College has been a stepping stone for thousands of students over the year but you know this Professor has been a springboard for a thousand others. His involvement with Boy Scouts, the NRA, Inter-Varsity and countless other programs also helped many a young soul in the community move on to a better life. I could go on and on of my encounters with former students of all ages over the years, that have told me they have never known a better man, or a greater teacher.

I would also propose naming the Office Classroom Building to the Daniel G. Block Building. Not every student of his graduated from Western, some transferred to other curriculums. Some became doctors, lawyers and such. For me, I guess my signature says it all.

Professionally, Bryan B. Block,  
President of The Montana Association of Registered Land Surveyors



2005 MARLS CONFERENCE  
"RIPARIAN"  
WATER BOUNDARIES AND DATUMS  
FEBRUARY 23 - 26, 2005

- ☐ The Northwest Chapter invites you to attend this year's conference being held at the White Oak Grand Hotel. PLEASE NOTE: The MARLS Pre-conference Seminar (4 hours) will begin at 1:00PM on Wednesday, February 23, 2005. Thus you are able to travel to the conference on Wednesday. 2005 MARLS Conference Registration packets will be mailed to you in December.
- ☐ Room Reservations ~  
**Best Western White Oak Grand Hotel & Business Center**  
4824 Highway 93 South, Kalispell, MT 59901  
Phone: 1-888-226-1003 or 1-406-857-2400  
**HOTEL ROOM RESERVATION CODE: "Montana Surveyor"**  
Standard Room Rate: \$67.00 plus tax 7%. Suites available for \$98 - \$143 plus tax 7%.  
Make your reservations early! Room reservations need to be made by February 1, 2005. The entire hotel is reserved for the MARLS 2005 Conference with 60 rooms available. Once they are filled you will need to reserve rooms at the following hotels:
  - Westcoast Outlaw Hotel**  
1701 Highway 93 South, Kalispell, MT 59901 (5 minutes north on Hwy 93 from the White Oak Grand Hotel)  
800-325-4000 or 406-755-6100  
**HOTEL ROOM RESERVATION CODE: "Montana Surveyor"**  
Standard Room Rate: \$67.00 plus tax 7%
  - Hampton Inn**  
1140 Hwy 2 W, Kalispell, MT 59901  
406-755-7900 or 1-800-426-7866
  - Westcoast Kalispell Center Hotel**  
800-325-3000
  - Super 8 Motel (5 minutes north on Hwy 93 from the White Oak Grand Hotel)**  
406-755-1888
  - Aero Inn Motel (5 minutes north on Hwy 93 from the White Oak Grand Hotel)**  
406-755-3798
- ☐ **Conference** - The 2005 MARLS Conference will commence at 1:00 PM on Wednesday, February 23, 2005. This year MARLS will offer a four hour seminar on Wednesday allowing individuals to travel on Wednesday to attend the conference. On Thursday and Friday of the conference you will have the opportunity to attend various seminars, general membership meetings, visit with exhibitors, participate in surveying related panel discussions, scholarship auction, banquet including awards ceremony, and entertainment featuring the Roy Wilhelm Band.
- ☐ **CST Exam (Certified Survey Technician Exam)** - The CST exam will be held during the conference upon request by attendees and is designed to meet the needs of both employers and technicians.
- ☐ **Exhibitors** - Exhibition Hall will be in the Royal Oak Room throughout the conference right next door to the Grand Ballroom where sessions are held.
- ☐ **Exhibitors Reception** - Exhibitors will be on hand Thursday night at 5PM before the scholarship auction and buffet to visit with you at their booths. Take time to visit with them throughout the conference and enjoy the buffet.
- ☐ **MARLS annual scholarship auction and buffet** is Thursday evening, February 24, 2005. This years scholarship auction funds will be divided between four separate funds; Tiny Tillotson; W.R. (Roy) Bandy; Trig Star; and the newly created MARLS family member scholarships. Actual disbursements will be discussed at the Thursday General Membership meeting and will be announced at the time of the auction.
- ☐ **Banquet** - Wrap up the conference on Friday evening February 25, 2005 with dinner, awards ceremony, entertainment and dancing. Purchase your conference banquet ticket and enjoy your dinner with fellow surveyors and spouses.

# HOW CLOSE IS "CLOSE ENOUGH"?

By: DONALD A. WILSON, LLS, PLS, RPF, LAND BOUNDARY CONSULTANT

I have been reading, with great interest I might add, Bob Todd's recent articles in the TBM. One of them, "Appreciation For a Rewarding Vocation," was especially interesting for a couple of reasons. Bob spoke of his association with Gerry Hyde, a treasured one indeed, with a man for whom I too have a great admiration. Gerry was a great leader in the profession in this state [New York], one of a very few at that time who were active in the national organization to the point of presenting professional papers, and who authored several valuable pieces of work. The other comment in this article that I was particularly taken with was Gerry's take on some work being "close enough." I have heard it said that "close only counts in horseshoes," and with atomic bombs, of course. In today's practice with satellite technology, land records improvement (well, at least some of it is an improvement, but not always what we would like to think it is), and high-powered instrumentation for measuring, computing and drafting, it might be well to revisit the perspective that we have so often referred to as precision vs. accuracy. Perhaps that can give us some insight as to when something might be "close enough" and still be acceptable when it comes to land measurement.

I remember talking with, and many listening to, those surveyors we tend to call "old-timers," and hearing their philosophies on how land surveying should be done. People like Heman Chase, Henry Sipe, and others from most of the eastern states way too numerous to mention, frequently talked about, even presented papers and wrote books on, compass surveying, all the while emphasizing accuracy being the important consideration as opposed to the precision. Perhaps the often-quoted A. C. Mulford (1912) said it best:

"...when it comes to a question of the stability of property and the peace of the community, it is far

more important to have a somewhat faulty measurement of the spot where the line truly exists than it is to have an extremely accurate measurement of the place where the line does not exist at all."

## Boundaries and Landmarks

The courts have the final say in matters such as these, and the courts have laid down succinct directions and guidelines as to how a survey, or a resurvey, should be performed. Most of it is not lengthy, or complex; perhaps we believe it is not detailed enough or technical enough to do the job in today's world. If we read it once again, only this time think about it a little, perhaps we can decide when "close enough" is, in fact, acceptable.

## Sufficiency of a Description

The definition of a legally sufficient real property description is one that can be located on the ground by a surveyor. *Rivers v. Lozeau*, Fla. App. 5 Dist., 539 So.2d 1147 (Florida, 1989). Where problems arise is in the interpretation of the descriptions, and sometimes they are just "close." Or at least they seem to be only close by our analysis. Our analysis tends to be answered by several questions: Does it fit? Does it close?

Does it make sense? Do I understand the words? The only test that needs to be applied for legal sufficiency is whether it is possible for a competent surveyor to locate it on the ground. The chief difference between those surveyors who are expert at boundary determination and those individuals who are not (including some surveyors and most engineers) is that in evaluating descriptions of land, the non-experts pay most attention to the numbers, while the experts pay most attention to the words. Joel Leininger, *Institutes of Boundary Retracement*, Part IV. Part of the problem arises, I am certain, because the reader sometimes forgets, or ignores, the basic rule: Documents are to be construed by gathering all parts of the instrument giving each word its due force, read in the light of existing conditions and circumstances. *Perry v. Buswell*, 113 Me. 399 (1915). Ancient deeds, upon which many of our current descriptions are based, are to be construed in light of the then use of properties conveyed and adjacent land, and cannot be cut down by vagueness in subsequent conveyances. *Harvey v. Inhabitants of Sandwich*, 256 Mass. 379 (1926). Perhaps another contributing factor by some is attempting to fit the land to the deed rather than applying the deed to land. *Smart v. Huckins*, 82 N.H. 342 (1926). And by the way, deeds aren't necessarily supposed to locate the land anyway, they are only supposed to furnish the means for identification. *City of North Mankato v. Carlstrom*, 212 Minn. 32 (1942). That tells me that for a description to be adequate, it only needs to be "close."

## Purpose of a Resurvey

The purpose of a resurvey of land is to locate and mark upon the ground the boundaries of the parcel of land evidenced by the description in a particular deed. The purpose of a resurvey is to determine where the footsteps of the original surveyor were located, that is, to restore the original surveyor's lines in the same position as they were originally marked. The concept of "footsteps" is one of determining where the evidence of the original survey is located. *Brown, Robillard & Wilson*, 1995.

## Court Discussion On How a Survey Should Be Done

A surveyor can be retained to locate on the ground a boundary line which has theretofore been established. When he does this, he "traces the footsteps" of the "original surveyor" in locating existing boundaries. Correctly stated, this is a "retracement" survey, not a resurvey, and in performing this function, the second and each succeeding surveyor is a "following" or "tracing" surveyor and his sole duty, function and power is to locate on the ground the boundaries corners and boundary line or lines established by the original survey; he cannot establish a new corner or new line terminal point, nor may he correct errors of the original surveyor. The following surveyor rather than being the creator of the boundary line, is only its discoverer and it is only that when he correctly locates it (emphasis added). *Rivers v. Lozeau*, 539 So.2d 1147 (1989)

Courses and distances are among the most unreliable calls, yet

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we put so much emphasis on this, the precision pride in our equipment and work, only to find out it is "unreliable."

Before courses and distances can determine a boundary, all means for ascertaining the location of lost monuments must be first exhausted. Myrick v. Peet, 180 P. 574 (1919).

**When To Rely On Measurements**

"It is only in the absence of all monuments and marks upon the ground and in the total failure of evidence to supply them that recourse can be had to calls for courses and distances as authoritative." 12 Am Jur 2d Boundaries, §73, citing M'Iver v. Walker, 17 US (4 Wheat) 444 (Tenn. 1819), 4 L. Ed 611; M'Iver v. Walker, 13 US (9 Cranch) 173 (Tenn. 1815), 3 L.Ed 694; Bryan v. Beckley, 16 Ky (Litt Sel Cas) 91 (1809); Budd v. Brooke, 3 Gill (Md) 198 (1845); Collins v. Clough, 222 Pa 472, 71 A. 1077 (1909).

**How Lost 16 "Lost"?**

"For corners to be lost, they must be so completely lost that they cannot be replaced by reference to any existing data or other sources of information, and before courses and distances can determine boundary, all means for ascertaining location of the lost monuments must first be exhausted. U.S. v. Doyle, 468 F2d 633 (C.A. Colo., 1972)

While there is no question that precision and precise measurements are important, it should be clear that precision must not get in the way of accuracy, nor is precision a substitute for accuracy. Parcel location is paramount, precision of measurement needs to be as adequate as necessary for the use intended. I think it goes without saying that surveyors in particular need to guard against putting all the emphasis on refinement of measurements and closure at the expense of misidentifying corners, lines, and property location.

Thanks, Bob, for your insight. Perhaps our visions of the future are not clear, but they are consistent. And they are consistent with our courts and in agreement with the previous generation composed of the Gerry Hydes, the Henry Sipes and the Heman Chases. Maybe he and I are now considered by some among the "old-timers." With that, I would like to think that we've gained respect for property location, and when "close enough" is, indeed, "close enough."

*Reprinted from The Empire State Surveyor, November 2003*



# RECRUIT A MARLS MEMBER TODAY!

## GIS Association MAGIP

By: Ken Jenkins  
MARLS MGIC Committee Chair

Noted below is the WEB Address of the home page for the new GIS Association MAGIP, which contains links to membership applications etc... As I have previously indicated in my reports, I believe it is important for the Surveyors and MARLS to take a strong and active role in this organization, and I would encourage all of our membership to become members and participate.

Like it or not, we are involved in the time during which professions and technologies are being blended and merged, and if we want any part in the decisions made that dictate the process, we need representation and strength of numbers involved in the process.

<http://maps2.nris.state.mt.us/magip/>

### FOR IMMEDIATE RELEASE:

#### SURVEYING SPECIAL INTEREST GROUP FORMED TO INFLUENCE SURVEYING AND GIS

Redlands, CA

09/28/04

The Surveying-Special Interest Group is a multi-disciplinary group consisting of surveyors, GIS professionals, and persons with a general interest in affiliated fields that work together to integrate surveying and GIS. S-SIG provides members:

- Educational and informative materials·
- Industry events·
- Networking opportunities

The *SURVEYING SPECIAL INTEREST GROUP* (S-SIG) was created to discuss GIS issues in surveying. As members, you will have the option to download our newsletter, receive conference information, and gain access to the S-SIG online Survey Conference discussion boards. There are no fees for Membership as this requires participation only. To become a member use the contact information supplied below.

One of the main goals in creating the S-SIG is to influence the development in the surveying industry for the use and implementation of GIS. This in turn will increase the productivity and profit of Surveyors but also the usefulness of GIS data. We can achieve this by discussing new technological advances in our forums and newsletters, holding meetings at Surveying & GIS conferences, and addressing common FAQ's that arise at our workplace.

For additional information or a sample copy:

Contact Person: Donny Sosa

Organization Name: Surveying-Special Interest Group (S-SIG)

Telephone Number: 909-793-2853, ext. 2586

Email Address: dsosa@esri.com

Web site address: <http://www.esri.com/industries/surveying/community/ssig.html>

Become a member of S-SIG to increase your productivity and profit in the Surveying and GIS industries.

**Highlights MARLS  
Board of directors Meeting  
September 11, 2004**

**A Moment of Silence was held for 911**

**Introduction of Guests:**

Blue Cross Blue Shield representatives attending the meeting were Roger Olson, Bob Hart and Vern Beltkamp.

**Secretary/Treasurer Report – Jim Burton**

As of September 7, 2004, Glacier Bank Checking Balance is \$19,778.28, Whitefish Credit Union interest rate for the first half is 2.38%, Whitefish Credit Union Accounts as of 6/30/04 are:

Legislation Account \$1,277.43 (Dividend \$14.91)  
MARLS Reserve Account \$25,873.18 (Dividend \$302.18)  
Savings Account \$31,771.46 (Dividend \$371.07).

Scholarship accounts as of 7/31/2004 DA Davidson Pimco Low Duration CL C \$23,827.78, Pimco Total Return CL C \$24,853.31. The total DA Davidson Scholarship account as of 7/31/2003 is \$48,681.09.

Whitefish Credit Union Scholarship Account as of June 30<sup>TH</sup> is \$25,564.33 (Dividend \$226.52).

The total Scholarship Accounts are \$74,245.42.

Profit and Loss Totals for 2003 –2004 year-end are as follows:

Income \$108,308.21  
Expense -\$100,090.35  
Net Income \$8,217.86

The Administrative Secretary asked the BOD to consider closing the WCU Legislation Account as MARLS now pays their Lobbyist, Jim Kembel, on a monthly basis with a two year contract. This is in the MARLS Budget, tracked in accounting, and does not require a separate account at WCU.

James Burton moved to close the WCU legislation account; seconded; QCMC.

**CHAPTER REPORTS**

**North west Chapter – Joe Kauffman**

The last MARLS Northwest Chapter meeting was held July 28, 2004 at the Baseline. Four members were present. At this meeting we checked our total stations against the baseline distances. Thanks to Joe Kauffman's discussions with Selby's, we found that the atmospheric pressure has to be input in the gun as if we were at sea level. Therefore, if the pressure is 29 at 3000 feet, the pressure is 26 at sea level and 26 should be entered, not 29. All the total stations checked within hundredths of a foot with the correct pressure input and were about a tenth off when the incorrect pressure was entered for the mile distance.

The annual barbeque and golf scramble was also discussed. The barbeque will be held at Dan Brien's house on Flathead Lake and the Golf Scramble will be at Buffalo Hills Golf Course. The golf scramble will begin at 9:45 with the BBQ following at 12:30 on August 21. It was decided to barbeque hamburgers and hot dogs rather than have a pig roast.

**Western Chapter – Kurt Luebke**

The Western chapter had one meeting on July 1 at the Mustard Seed Restaurant in Missoula. There were approximately 10 members present and the issues from the June BOD meeting were discussed. Toby Dumont was presented with a framed print by James Flansburg for his work over the preceding 3 years as the chapter president.

In addition to BOD meeting items we also discussed the following items:

1) Concern that the location for the next conference will not be large enough to accommodate the growing numbers attending the conferences. Also the increasing costs for attending were a concern.

2) Discussions by Steve Niday in regards to the Missoula CORS broadcasting frequency license and a HARN station being set at Traveler's Rest in conjunction with the Lewis & Clark centennial. The chapter voted to purchase a Berntsen 6" Bronze Lewis & Clark Disk to be installed at Traveler's Rest State Park to NGS standards.

3) The chapter discussed the Survey Museum in Lansing and voted to donate \$500 for the museum expansion, with the challenge to other chapters to donate also. The group felt that the museum is a worthwhile organization which helps promote and preserve our profession.

**Southeast Chapter – Gunnar Getchell**

Gunnar Getchell is in the process of transferring to Morrison-Maierle's Helena office and will be stepping down as president of the southeast chapter. Bill Karas, vice president, will be taking over. The southeast chapter has not met since the last Board meeting. Gunnar has been in contact with Curt Smith regarding the signature event at Pompey's Pillar, which will take place in 2006. Next summer the monument will be set and surveyed by members of the southeast chapter and any other MARLS members that would like to participate. Curt has been very busy coordinating the activities at other signature sites that will take place next summer.

**North Central Chapter – Dale Schaeffer**

The North Central Chapter met at 7:00 PM at the Lewis & Clark Interpretive Center in Great Falls. The following members were in attendance: Ron Lindseth, Tom Russett, Spencer Woith, Mike Murray, Dale Schaeffer, Jim Hodges, and Steve Babb.

The Chapter meet at the propose site where the NGS Lewis & Clark Commemorative Monument is to be installed. Lewis & Clark Interpretive Center personnel also attended and explained to the group the logistics of the area where the monument is to be placed. The group later reconvened at the Malisani stone works to view the boulder on which the monument would be attached and came up with ideas for an inscription to be engraved along with the monument's installation. It was decided to have the MARLS logo as the only engraving on the boulder.

A follow-up meeting with President Dale Schaeffer, the Lewis & Clark Center's personnel, and Curt Smith, NGS was held September 8, 2004 to discuss the monument's placing and specifications for setting it. The North Central chapter will proceed with the installation of the boulder on September 18, 2004.

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## **COMMITTEE REPORTS**

### **2005 Conference – Northwest Chapter – Joe Kauffman**

The conference will be held at the White Oak Lodge February 23 – 26, 2005. The theme is “Riparian”. Meetings will be held by the conference committee every second Tuesday of the month until the conference.

### **Board of Registration – Stewart Nash –**

The August 19 & 20, 2004 Board of Professional Engineers and Professional Land Surveyors meeting was called to order by the newly installed Presiding Officer, Paulette Ferguson.

The Board took testimony from an individual who had an unlicensed complaint filed against him, resulting in his agreeing not to further advertise his engineering services. In addition, future work of the nature he was conducting is to be reviewed and sealed by a Professional Engineer.

Mac McArthur of MDT gave a Power Point presentation regarding the MDT Pilot Program of Design Build. This program was established by legislature and MDT was allotted 20 million dollars to develop the pilot program. McArthur noted that Design Build will not work in every situation and it is not intended too. The Board’s concern in the concept revolved around how well quality control will be initiated when the owner and contractor may have a tendency to override or force the engineer to sign off on work they are not comfortable with. MDT will report to the legislature on the program success in 2009. Other states currently have the concept in place.

Robert Marley – Dean of Engineering, MSU and Pete Knudsen of Montana Tech sat before the Board to address faculty licensure at their education facilities. Mr. Marley serves on a national Committee (ASCE) which was formed to address the decline in licensure of instructors. ASCE is currently drafting language to attempt to deal with the issue. Marley feels the Board has possibly misinterpreted the laws regarding practice of engineering for the past 20 years, as the subject continues to come up. The Board’s concern is in the wording of the law, ‘teaching of advanced engineering subjects,’ requiring licensure and perhaps the language of the law need to be addressed. The language of law for the practice of land surveying lists, ‘teaching of land surveying subjects,’ as a practice of land surveying. It was moved and seconded to send the issue to the permanent rules committee for review.

Under the licensee seal rule, the Board directed Todd Boucher to send a letter to MARLS and ask their response to the licensee seal proposal by Oct. 1. Consequently, the MARLS Board will need to address the issue at their Sept. 11 meeting.

The reporting of a violation as per Board Rules in regards to the Board then asking for an official complaint to be filed is still under advisement. The Board will discuss the matter further by phone conference upon receipt of pertinent information from the Idaho Board.

Regarding the issue of branch and project offices, Denis Applebury informed the Board he received comments from MARLS and assumed that MARLS had also sent the comments to Todd Boucher, but Todd did not receive them. Todd said that all comments were to be returned to the Board by a specific date, which they were not. Consequently, there is a conundrum over whether or not the Board can review additional comments after the deadline and on advice from legal council, the Board has withdrawn the proposed rule notice and will send it back to

the rule committee for redrafting. In light of this, it seems the MARLS Board needs to be more mindful of Board policies, procedures, and deadlines. So as a suggestion, being as Denis asked me about two separate items and if I had received any input from the MARLS Board, which I had not, perhaps issues that are to go before the Board should always be routed through the MARLS Board committee chair. The Chair in turn could get the information to Todd, who could then distribute copies to Board members prior to their scheduled meetings.

The geomatics advisory committee (GAC) said they have sent MARLS the proposal which is to be addressed at the Sept. 11 meeting. If MARLS supports the proposal, they will need to inform the Board prior to their November meeting dates, which are slated for the 3<sup>rd</sup> and 4<sup>th</sup>.

Board meeting dates for 2005 have been set and are, Feb. 17 & 18, May 12 & 13 and Aug. 18 & 19.

The Board reviewed a PLS license renewal request after revoking it for refusal to submit proof of CE credits and for not filing a corner recordation form. The individual apologized to the Board for not responding in an expedient manner and said he had been offended that the Board audited him because his renewal form was sent in late. He was advised that every late renewal is audited. The Board moved to reinstate his license on Sept. 8 and placed him on a year probation and, he is directed to take a 1 to 3 credit ethics class within a year as well as write a Board approved article to submit for publication in the Treasure State Surveyor regarding the revocation.

In response to my asking Todd Boucher about the Corner Recordation hearing held Aug. 20, he replied, “the Board will have to review and address all comments received. They will do this on November 3 or 4, 2004.” Technically, we PLS’s should not be using the forms until officially accepted.

### **Historical - Don Ebbutt**

Don is still looking for the following items: To complete the inventory of the artifacts in my care I need help locating the following MARLS items, along with a paper trail of the following missing items that were transferred from me to Kay in April 1998.

- ♦ 1910, W. & L. E. Gurley Mountain transit Serial # 9869.

If this instrument was part of the Kalispell Museum display and not returned by them then I think we should file a claim against their insurance company.

The tripod for this instrument was returned to me with the Kalispell Museum artifacts Nov. 23, 2003.

- Additionally the following items need to be located.
- Two videos, New Hampshire L.S Assoc, Survey Research Seminar, part 1 & 2.
- 8 volumes, Cyclopedia of Civil Engineering, copyright, 1908.
- Solar Ephemeris, 1929 through 1945, 1921, 1947, 1948.
- Four Centennial Acre Plats mounted on foam board.
- Lambert & Marcator grid, Manuals of Traverse, (one each)
- Manual of 1st order triangulation.
- The following personal items were loaned to the Kalispell Museum display and have not been returned as of this date.
- MT Initial Point map in display case, ID # E-5008
- County boundary change map, ID # E-5012
- Wyatt Earp mining claim survey ID # E-5013

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- Foam board mounted MT-Idaho border story printed by "Phillipsburg Mail".

I would appreciate help in locating the MARLS artifacts listed, so they can be inventoried and the return of my listed personal items.

Bill Weikel asked that the NW Chapter President follow up with Dave Dorsett for what he has of the above items at FVCC, and also with the Museum in case some items were missed when they picked them up.

**Legislation - Rick Gustine – no report** - The BOD asked if MARLS needs a Subcommittee to help Rick Gustine with the proposed changes of the draft and review the Legislation Subdivision and Platting Act. Suggested each chapter have a person on this subcommittee. President Pavlick will look into this and get the names from each chapter to give to Rick Gustine.

**Membership - Kay McDonald** – Second notices were sent out and the total dues paid to date for this fiscal year is \$30720, invoiced and not paid to date \$7635. The membership dues projected budget income for this fiscal year is \$38500.

**MGIC & ITWG – Ken Jenkins**

I attended the September 2, 2004 quarterly MGIC meeting in Bozeman. Highlights of the meeting included reports on MGIC GIS funding efforts, status of the newly formed Montana Association of Geographic Information Professionals, and discussion of the GAC negotiations.

The MGIC State funding effort is legislation titled The Montana Land Information Act. A report was given on efforts to generate support for the Legislation. To date much support has been gathered, but some interesting entities have yet to get on board. Some current non-supporting or non-committed groups include the Montana Clerk & Records Association, and the Title & Abstract Association. It was once again requested that MARLS provide official support for the bill, which could be a letter to Tony Herbert, Chair of MGIC.

The newly formed Montana Association of Geographic Information Professionals will soon have membership applications available. I again indicated the importance of surveyor membership in the group, and asked that a formal invitation to the MARLS membership be provided.

The GAC negotiations were discussed, and it was noted that some discussions were taking place between MARLS and MDT. I indicated that I thought some progress was being made. There was concern expressed by some that any behind the scenes negotiations might produce an agreement that is not acceptable to the GIS participants.

A report was given on the development of the Critical Infrastructure Layer. Part of the process included the recent acquisition of high resolution imagery of 17 Montana Cities and portions of the Highway 93 and I-90 corridors. The imagery will be available at the NRIS web site around the end of the year.

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

Useful GIS data and links to more maps and data are available at <http://nr.is.state.mt.us>.

**NSPS - Dick Smith**

The next NSPS meeting is scheduled for Oct.1 to Oct. 4,

Surv Kap

NEW

2004. Not much has happened with NSPS since the last meeting/report. There are only two issues which have been active since the last meeting, being the notices of railroad abandonment (copies attached) and the revised NAFTA MRD which is discussed above.

Regarding the notice of railroad abandonment and the NGS benchmarks which are at risk, I spoke with Curt Smith, the Montana/Idaho NGS advisor, and asked him what we could or should do, and his response was "not much". Neither NGS nor MDT has a budget item which could be used to address this problem. He suggested that we have a local surveyor review the marks at risk and determine if any of them should be preserved. If so, MARLS, at its own expense, could set accessory monuments, run levels to the new monuments, and bluebook the results as Class III elevations. He indicated that the long-range approach to the problem of monument retention is height modernization, a program which incidentally would benefit surveyors statewide with survey work. Curt indicated that he will be approaching MARLS concerning this program in the near future. Just to get a jump start on this program, I have attached a copy of the Height Modernization Workshop which will be presented in Spokane on September 15. It appears as though Washington is well on their way to implementing this program.

(Continued on page 28)

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**Scholarship - Bill Weikel**

For the 2004 MARLS Trig Star Program cash awards were distributed from the MARLS scholarship funds for the first and second place winners in each chapter area for the spring trig star test. Additionally, commitments were made for three scholarships based on proof of enrollment at an institution of higher learning. To date, one of the scholarships has been paid. The other two scholarships were for current high school seniors and will likely not be paid until the fall of 2005. Total outlay and commitment for the Trig Star program in 2004 is approximately \$6000.00.

Working on establishing Charitable Subsidiary of MARLS to comply with tax law requirements for charitable contributions.

**Trig Star - Randy Thomas**

The Trig-Star committee determined the three top high school students from the national examinations submitted by state winners when they met on July 17, 2004. There were thirty-one state winners submitted this year. The awards for the recipients of the 2004 Richard E. Lomax National Trig-Star Scholarships and Teaching Excellence Awards will be presented in a special ceremony at the NSPS Board of Governors meeting during the American Congress on Surveying and Mapping (ACSM) annual conference in Las Vegas, Nevada, March 19-23, 2005.

The Richard E. Lomax National Trig-Star Scholarships are awarded as follows:

First Place: Matthew Webb, West Milford Township High

School, West Milford, New Jersey

Second Place: Sam Wilson, Mission College Prep High School, San Luis Obispo, California

Third Place: Gregory Minton, Salem High School, Salem, Virginia

The Richard E. Lomax National Teaching Excellence Awards are presented as follows:

First Place: Mrs. Jill Nitkinas, West Milford Township High School, West Milford, New Jersey

Second Place: Ms. Phyllis Brudney, Mission College Prep High School, San Luis Obispo, California

Third Place: Mrs. Lineberry, Salem High School, Salem, Virginia

Montana's 2004 state winner, Scott Brushwein, finished tenth out of thirty one. Great job Scott.

The third place MARLS Trig-Star scholarship for \$750 was disbursed to Erwin Dunbar who is attending Montana State University. The first and second place scholarships will not be disbursed until 2005, as both recipients are seniors this year.

I am scheduled to address the math instructors again this year at the Montana Teachers Conference, to be held in Helena, October 21 and 22, 2004. I expect this to result in a few more requests to participate in 2005, if so; I may be calling on you to become involved in Montana's Trig-Star program.

Now is the time to start planning for the 2005 Montana Trig-Star program. I would welcome all ideas or suggestions on any matter concerning Trig-Star, anything to make it better.

If there are new contacts in any chapters, I would appreciate those names, phone numbers and addresses, as soon as possible.

**West Fed - Dick Smith & Denis Applebury**

Dick Smith reported the NAFTA MRD is being reviewed by West Fed. This document is essentially the same as the one he submitted earlier, with the exception of some suggested word-smithing from various players. We will discuss this at the West Fed meeting September 25<sup>th</sup> and then forward recommendations to NSPS for their October meeting in Gaithersburg. I'll send MARLS a copy of the revised document following the West Fed meeting. There is an upcoming West Fed meeting in San Francisco the weekend of September 25<sup>th</sup>.

**OLD BUSINESS**

**MARLS Group Health Insurance – Roger Olson, BCBS**

Roger Olson updated the BOD on the Group health Insurance and additions to the insurance plan and introduced other representatives of Blue Cross/Blue Shield attending the meeting, Bob Hart and Vern Beltkamp.

Roger presented the BOD with a draft letter that BC/BS would like to send to the MARLS membership regarding the MARLS Association Group Health Plan to review. The draft letter will be revised after the BOD suggested changes to the draft. This letter will be sent to the membership from MARLS and Blue Cross Blue Shield of Montana and signed by President Pavlick and Roger Olson, BC/BS Representative.

Roger stated that 43 members are enrolled in the plan to date and they are working on marketing the program to all members by sending this letter, advertising in the Treasure State Surveyor, adding representatives in seven cities throughout Montana to date to work with our members and will list these members in the TSS. MARLS is not a self insured association, rather it is fully insured and underwritten through Blue Cross

(Continued on page 29)

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(Continued from page 28)

Blue Shield of Montana. Roger's toll free number is 1-877-759-5521.

Debi moved to revise the motion from the June 2004 meeting to read: "MARLS will allow architects, engineers, title companies into the MARLS Group Health Plan. The MARLS BOD may approve other associated individuals or organizations." Seconded by Steve Anderson; QCMC.

#### **2004 MARLS Scholarship Awards – Bill Weikel**

Bill Weikel reported to the BOD the five scholarship applications the Scholarship Committee received and reviewed. He reported the committee felt all five applicants deserved to receive scholarships.

Bryan Block moved the BOD approve all five scholarship applicants to receive \$2000; Dale Schaeffer seconded; QCMC.

Bryan Block presented the following motion: To make \$10,000 in Scholarships available for the year of 2004 to all siblings of Marls Members (that are licensed surveyors in the State of Montana) that are presently enrolled in a school of higher education. We request an application to include a brief history, essay, GPA, proof of enrollment and information on the career they seek. This is to be mailed to MARLS and the Scholarship Committee will review all applications and recommend to the BOARD the amount of any awards. This would not mean that \$10,000 would have to awarded, it could be \$500 or whatever. The Scholarship Committee will recommend to the BOARD and the decision will be made by the BOARD at the December teleconference meeting. Any Scholarship awards will be granted at the MARLS February conference.

And added MARLS support a scholarship for a 1<sup>st</sup> year student payable upon completion of the first semester of college. No second; discussion by the BOD.

Bryan Block separated the motions and amended his motion to read:

Bryan moved: "To make additional MARLS scholarships immediately available to MARLS Active, Life or Fellow Voting Members immediate family members enrolled in a school of higher education"; Seconded by Steve Anderson; discussion, Bryan stated subject to committee review and BOD approval; QCMC.

Bill Weikel discussed the MARLS Scholarship and he has spent a lot of time discussing the disbursement of the MARLS Scholarship Fund. MARLS has to disburse at least each year what is received that year. MARLS will be disbursing \$6000.00 to Trig Star Scholarships, \$10000.00 to 2<sup>nd</sup> year scholarship students and the committee will review the above motion and report at the December meeting. We have peaked now with the Scholarship Income, this year we brought in \$11,000 and spent \$16,000 to date. At this rate in 12 years we would deplete the fund. MARLS needs to come up with a figure for a maximum for each year, and not start a scholarship program and then have to drop that program because there are no funds available. The scholarship committee will review the program financially and report at the next meeting what the committee suggests for these scholarships approved above and amounts the committee will present to the BOD for approval for the above motion. It was suggested to have the chapters review this motion and get individual members opinions of this scholarship.

**Travel Expense submittals:** The following travel expenses

submittals were approved by the MARLS BOD: Ken Jenkins – MGIC meeting Bozeman - 400 miles 37.5/mile \$150 (MGIC Budget), Dick Smith – NSPS – Gaithersburg, MD 9-30 – 10-4 \$1250.61 (NSPS Budget), Dick Smith – West Fed 9-23 -26 \$672.95 (West Fed Budget), Denis Applebury - West Fed September 23 - 26 – San Francisco \$645 (West Fed Budget), Jim Burton – 9-11 BOD meeting gas expenses: \$60 (BOD Budget), Bryan Block – Travel to BOD meeting 9-11-04 \$100 (BOD Budget), Joe Kauffman – Travel to BOD meeting 9-11-04 \$100 (BOD Budget), Peter Olson - Travel to BOD meeting 9-11-04 \$240 (Committee Budget), Dale Schaeffer - Travel to BOD meeting 9-11-04 \$100 (BOD Budget)

**Affiliate MARLS Membership:** Dale Schaeffer moved to approve Todd Ferris of Inland GPS as a new affiliate member of MARLS; seconded by Steve Anderson; QCMC.

**Certified Corner Recordation update – Sub Chapter 10 – Steve Anderson** - 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 attended this meeting and suggested changes. Stewart Nash reported in his Board of Registration report to the MARLS BOD the following: In response to my asking Todd Boucher about the Corner Recordation hearing held Aug. 20, he replied, "the Board will have to review and address all comments received. They will do this on November 3 or 4, 2004." Technically, we PLS's should not be using the forms until officially accepted.

#### **MT Board of PE & LS – Rules for Branch Offices**

Debi Anderson said she attended the meeting and no one showed up at this meeting except for Todd Boucher. Stewart Nash reported in his Board of Registration report the following: Regarding the issue of branch and project offices, Denis Applebury informed the Board he received comments from MARLS and assumed that MARLS had also sent the comments to Todd Boucher, but Todd did not receive them. Todd said that all comments were to be returned to the Board by a specific date, which they were not. Consequently, there is a conundrum over whether or not the Board can review additional comments after the deadline and on advice from legal council, the Board has withdrawn the proposed rule notice and will send it back to the rule committee for redrafting. In light of this, it seems the MARLS Board needs to be more mindful of Board policies, procedures, and deadlines. So as a suggestion, being as Denis asked me about two separate items and if I had received any input from the MARLS Board, which I had not, perhaps issues that are to go before the Board should always be routed through the MARLS Board committee chair. The Chair in turn could get the information to Todd, who could then distribute copies to Board members prior to their scheduled meetings. This now goes to a public hearing after what the engineers submitted to the MBPEPLS.

**Michigan Museum request for monetary support – Bryan Block** - The BOD suggested each Chapters take the challenge from the Western Chapter in the July issue of the TSS for donations to the Michigan Museum. The challenge states: At the July meeting of the Western Chapter a brochure was passed

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around detailing the Surveying Museum in Lansing Michigan that is soliciting donations in order to expand. This was discussed and a motion was introduced to send a \$500 donation to support this cause.

It was also stated that a challenge should be issued to all MARLS CHAPTERS to meet or exceed this donation.

Address to send donations: Museum of Surveying, 220 South Museum Drive, Lansing, MI 48933

**Separate Board of PLS – Debi Anderson** - Debi is surveying the other states and has heard back from thirteen states if they have separate Boards.

**Lewis & Clark Corps of Discovery II Surveyor's Commemorative in Montana 2005 (Great Falls) & 2006 (Pompey's Pillar) – President Pavlick**

Peter Olson reported that on July 31st approximately 200 people gathered at the Culbertson Montana Museum for the dedication of the Corps of Discovery II monument. Through the efforts of the Northeast Chapter of MARLS, the National Geodetic Survey, the Culbertson Museum and the Town Council of Culbertson the event was a grand success.

Bill Weikel, MARLS member, from Missoula gave a presentation of period surveying instruments and instructions on how to use them. Troy Jensen, Northeast Chapter President, was on hand to assist Bill and answer questions. P. A. Olson, Northeast Sec./Treas., served as the master of ceremonies. Richard Thom, Northeast Chapter member, provided information and assistance.

The dedication ceremony was carried by two local television stations, KUMV-TV Williston North Dakota and KXGN Glendive, Montana. It was also publicized on the local radio stations and in the local newspapers.

The Culbertson Museum provided a buffalo lunch for those attending the ceremony which started at noon and concluded at 3:30 PM. From all accounts everyone had a good and informative time. Local officials and candidates for office also spoke during the ceremony.

Dale Schaeffer reported on the Great Falls site and said the boats will be coming up the Missouri to Great Falls and Dale submitted handouts available on the Great Falls site. NGS suggests three different dedications at the Great Falls site. The chapter is going to do a commemorative shanokinite boulder. They will pour concrete and embed the boulder into with the MARLS logo inscribed on the rock. The second dedication will be the formal dedication in the spring of 2005. This will be tentatively the June 13<sup>th</sup> Signature of Event in Great Falls, representatives in the state societies are encouraged to attend along with state dignitaries.

The Southeast Chapter reported that BLM is building a new interpretive center at Pompey's Pillar and the dedication of the Corps of Discovery II monument will be dependent upon

approval of the BLM where they will approve the location.

**Library of Congress Project** – Debi Anderson moved to send to NSPS a \$200 donation to help fund the mapping exhibit at the Library of Congress; Troy Jensen seconded; QCMC.

### NEW BUSINESS

**Railroad Abandonment – Dick Smith** - BOD discussed the two Railroad Abandonment of sections presented to the BOD by Dick Smith. The BOD would like these published in TSS for the membership to be aware – I will send these via email as they are not in a format to publish in the TSS but I can send them as PDF files via email. The cover letter will be published in the TSS with information on these two abandonment's.

**Hurricane Victims in need from Florida** – MARLS BOD suggested that Kay inquire with the Administrative Secretary of Florida for where the membership could send donations for hurricane victims and she will then forward this on to the MARLS membership.

**Monument Preservation Act – Steve Anderson** - Steve addressed the BOD regarding the past two legislative session and this bill's failure both sessions. This bill passed the Senate 30 to 0 and went to the House and was defeated. The BOD has guided Steve to revisit this bill and reintroduce this bill through Rick Gustine, Dan McGee and James Kembel, our lobbyist, through our private practices, through each individual we need to reintroduce this bill in full force.

Steve moved we ask Rick Gustine to look for a sponsor to reintroduce this bill as approved by the committee at the beginning of the last legislation; Bryan Seconded; QCMC.

**Request by MGIC for MARLS Support of the Land Information Act** – The MARLS BOD discussed the Land Information Act and whether or not MARLS should support the legislation. The BOD felt that without the MT Board of PE & LS GAC committee getting to a solution to date, MARLS would be supporting the practice of unlicensed surveying by supporting this Act. Until we have the GAC Committee's agreement, MARLS would oppose the legislation. We cannot support it at this time until there is a GAC final resolution agreeable to all parties.

Bryan Block moved President Pavlick will write a letter to MGIC that the Land Information Act is a worthy cause but until there is a resolution from the Geomatics Advisory Committee that MARLS is supporting the unlicensed practice of surveying by supporting this legislation; Debi seconded; QCMC.


**Good of the Order:**

**1. December 2, 2004 BOD meeting – Teleconference**

**2. Fund raiser request** - Kay suggested holding a fundraiser raffle at the annual conference in February to help the North Central Chapter with the cost of doing the commemorative shanokinite boulder costs and then holding a raffle again at the 2006 conference to help with the costs of the Southeast Chapter. The BOD approved to hold this raffle.

MARLS BOD meeting adjourned.

Respectively submitted,  
**Kay McDonald**  
Administrative Secretary

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# 2004 MARLS Scholarship Awards

**C**ongratulations to the following students who were awarded the MARLS 2004 Tiny Tillotson and W.R. (Roy Bandy) Scholarships:

Abby Walters (MSU) \$2000 Tiny Tillotson Scholarship

Eric Konop (FVCC) \$2000 Tiny Tillotson Scholarship

William Morrison (FVCC) \$2000 Tiny Tillotson Scholarship

Wayne Lockman (FVCC) \$2000 W.R. (Roy) Bandy Scholarship

Richard Harrison (FVCC) \$2000 W.R. (Roy) Bandy Scholarship

**Abby Walters** is currently attending MSU in Bozeman and plans to graduate in 2007 with a BA in Geology and completion of surveying curriculum the spring of 2007 and interested in pursuing a lifetime career in surveying becoming a registered land surveyor in Montana.

**Eric Konop** is from Wisconsin and currently a second year student in the FVCC Surveying Program. He has worked for Block Surveying and feels land surveying possesses three qualities he looked for in a career: Mathematical problem solving, investigative research and outdoor-based work and provides a challenging and rewarding experience unlike any other.

**Wayne Lockman** is a second year surveying student at FVCC and feels a degree in land surveying allows him to work in and outdoors and utilize his math skills.

William Morrison is a second year surveying student at FVCC and is interested in surveying because it involves mathematical challenge and the enjoyment of working outdoors with the opportunity of self employment in his future.

**Richard Harrison** will be a second year surveying student in January at FVCC as he accepted the BLM Student Temporary Employment Program last spring after his first year at FVCC and this job does not finish until November. He feels land surveying allows him to work in the outdoors while utilizing his skills and interests. After becoming a LSIT he would like to obtain a surveying position that is not only mentally and physically challenging but also a position that utilizes the latest instrumentation and computer software applications. His scholarship award will be presented to him in January upon proof of enrollment at FVCC.

insert four sch pictures







# Corps of Discovery II Monument Culbertson, Montana

**O**n July 31st approximately 200 people gathered at the Culbertson Montana Museum for the dedication of the Corps of Discovery II monument. Through the efforts of the Northeast Chapter of MARLS, the National Geodetic Survey, the Culbertson Museum and the Town Council of Culbertson the event was a grand success.

Bill Weikel, MARLS member, from Missoula gave a presentation of period surveying instruments and instructions on how to use them. Troy Jensen, Northeast Chapter President, was on hand to assist Bill and answer questions. P. A. Olson, Northeast Sec./Tres., served as the master of ceremonies. Richard Thom, Northeast Chapter member, provided information and assistance.

The dedication ceremony was carried by two local television stations, KUMV-TV Williston North Dakota and KXGN Glendive, Montana. It was also publicized on the local radio stations and in the local newspapers.

The Culbertson Museum provided a buffalo lunch for those attending the ceremony which started at noon and concluded at 3:30 PM. From all accounts everyone had a good and informative time. Local officials and candidates for office also spoke during the ceremony.

.....  
**“Breakfast On The Big Horns”**

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.....  
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# Helpful Hints


Just a few things I thought you find useful around the house.

- ☐ Flies or bees bothering you? Spray them with hairspray and they will take a quick dive.
- ☐ Sealed envelope - put it in the freezer for a few hours, then slide a knife under the flap. The envelope can then be resealed. (HMMMMMM).
- ☐ Use an empty toilet paper roll to store appliance cords. It keeps them neat and you can write on the roll what appliance it belongs to.
- ☐ For icy doorsteps in freezing temperature - get warm water and put Dawn dish washing liquid in it. Pour it all over the steps. They won't refreeze. (The way things are boking this winter, this will come in real handy!!)
- ☐ Crayon marks on walls? This worked wonderfully! A damp rag dipped in baking soda. Comes off with little effort!
- ☐ Permanent marker on appliance/counter tops (like store receipt BLUE)! Rubbing alcohol on paper towel.


- ☐ Blood stains on clothes? Not to worry! Just pour a little peroxide on a cloth and proceed to wipe off every drop of blood. Works every time!
- ☐ Candles will last a lot longer if placed in the freezer for at least 3 hours prior to burning.
- ☐ To clean artificial flowers, pour some salt into a paper bag and add the flowers. Shake vigorously as the salt will absorb all the dust and dirt and leave your artificial flowers looking like new! Works like a charm!
- ☐ Spray your Tupperware with nonstick cooking spray before pouring in tomato based sauces and there won't be any stains.
- ☐ To get rid of itch from mosquito bites, try applying soap on the area and you will experience instant relief.
- ☐ Use air-freshener to clean mirrors. It does a good job and better still, leaves a lovely smell to the shine.
- ☐ When you get a splinter, reach for the scotch tape before resorting to tweezers or a needle. Simply put the scotch tape over the splinter, and then pull it off. Scotch tape removes most splinters painlessly and easily.

Hope you find some of these useful.

## Evaluation of Continuing Education Activity




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Have your seminar, workshop or video taped presentation evaluated and pre-approved by the MARLS CPC Committee. Land Surveyors will need 30 PDH's for each two year licensing cycle. Recording of PDH's on your continuing education transcript at FVCC is available.

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For further information ~ or to request a form contact:  
 MARLS, Kay McDonald, Adm. Secretary  
 PO Box 359, Columbia Falls, MT 59912  
 Phone: 406-892-4579  
 Fax: 406-892-4599  
 Email: [kmmarls@cyberport.net](mailto:kmmarls@cyberport.net)  
 Available on web at [www.marls.com](http://www.marls.com)

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MARLS MEMBERSHIP APPLICATION

Montana Association of Registered Land Surveyors
c/o Kay McDonald
P.O. Box 359, Columbia Falls, MT 59912
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Email: kmmarls@cyberport.net

Name \_\_\_\_\_ Montana Registration No. \_\_\_\_\_
Home Address \_\_\_\_\_ City / State / Zip \_\_\_\_\_
Home Telephone \_\_\_\_\_ Business Telephone \_\_\_\_\_
Fax: \_\_\_\_\_ E-mail \_\_\_\_\_
Employer \_\_\_\_\_ Address \_\_\_\_\_
Send mail to Home \_\_\_\_\_ Office \_\_\_\_\_ City /State / Zip \_\_\_\_\_
Are you registered in any states other than Montana? \_\_\_\_\_ If yes, list \_\_\_\_\_
What are your specialties? \_\_\_\_\_
Would you be interested in serving on a Committee for MARLS? \_\_\_\_ Yes \_\_\_\_ No

Class of Membership Applied For:

- Active Annual Dues \$140 Any Registered Land Surveyor in good standing in the State of Montana.
Associate Annual Dues \$20 Any person actively training as a land surveyor under the direct supervision of a licensed professional land surveyor...
Affiliate Annual Dues \$100 Any person in a profession or business associated with the profession of land surveying...
Sustaining Annual Dues \$140 An individual or institution that desires to assist financially in the work of the Association.
Non-Resident Annual Dues \$100 Any person registered as a Land Surveyor who resides outside Montana and does not practice in Montana
Emeritus Annual Dues \$35 Any person who has been registered in the State of Montana as a Land Surveyor...
Student Annual Dues \$20 Any person who is enrolled as a student in a higher education surveying curriculum.

I agree to observe the By-Laws of the Montana Association of Registered Land Surveyors and to support it in its endeavors.

Signature \_\_\_\_\_ Date \_\_\_\_\_
Recruiting Member \_\_\_\_\_
Visa/MC # \_\_\_\_\_ Exp. Date: \_\_\_\_\_

MARLS annual dues are for fiscal year July 1, 2004 to June 30, 2005

RECRUITMENT INCENTIVE PROGRAM

Any active member who recruits a new associate member will receive a credit of \$5 on his or her dues assessment.
Any associate member who recruits a new associate member will receive a credit to his or her dues equal to one-third of the dues assessment.
To claim the dues credit, the recruiting member must sign the membership application form along with the new member and note on the application form that it is a recruitment incentive application.

TAX INFORMATION: Federal tax law limits the deductibility of membership dues expended for legislative purpose. Thus, for our 2004-2005 year, please be advised that we "reasonably estimate" the deductible portion of your dues to be 86%.

\$20.00 of your dues is disbursed towards 4 issues published annually of the Treasure State Surveyor magazine.



# MARLS MARKETPLACE

DESCRIPTION	PRICE	QUANTITY	AMOUNT
<b>MARLS Standard of Practice Manual (Member Price)</b> <b>MARLS Standard of Practice Manual (Non-Member Price)</b> Contains MARLS current officers, By -Laws and Code of Professional Conduct, alphabetical listing of Montana LS's and ES's, Recommended Procedures for Boundary Surveys, State Statutes such as Subdivision and Platting Act, Corner Recordation Act and the Registration Act.	\$35.00 \$55.00		
<b>Certified Corner Recordation Form</b> (50 per pad, individual sheets, DISK (WP60, MSWord, Wordstar, AUTOCAD, ASCII, AmiPro OR available at www.marls.com These forms are accepted by the State Board of Registration as being the official state recordation forms. They come in convenient gummed pads or individually.	NO CHARGE		
<b>MARLS Membership Pin</b> - This pin is a 3/4 diameter gold colored pin with the MARLS logo.	\$6.00		
<b>MARLS Land Survey Monument Sign</b> ~ (Metal) <b>MARLS Land Survey Monument Sign</b> ~ (Plastic)	\$1.75 \$1.00		
<b>MARLS Coffee Cup</b> - 12 oz. travel tumbler	\$7.00		
<b>MARLS Decals</b> (3 1/2" diameter) - The MARLS logo decal is the symbol of the association.	\$.50		
<b>Tiny Tillotson Book - Legal Principles of Property Boundary Location on the Ground in the Public Land Survey States</b> is a must for every professional surveyor's library.	\$40.00		
<b>DENIM LONG SLEEVE SHIRTS</b> <b>POLO SHORT SLEEVE SHIRT</b> <b>HENLEY SHORT SLEEVE SHIRT</b> ALL SHIRTS HAVE THE MARLS LOGO AND SIZED MEDIUM, LARGE, X-LARGE, OR XXL	\$30.00 \$38.00 \$25.00		
<b>MARLS LOGO HATS - NEW ITEM!</b> Specify type - Gray, Tan/blue bill, Tan/black bill	\$15.00		
INSERT PICTURE			
<b>Shipping and Handling</b>	<b>Orders up to \$10 add \$5</b> <b>Orders of \$10 to \$20 add \$7</b> <b>Orders of \$20 to \$30 add \$9</b> <b>Orders over \$30 add \$10</b>		
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