

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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1997 JUL 31 AM 11:05

SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: STATE BOARD OF EXAMINERS OF LAND SURVEYORS FILE NUMBER: _____

CITE AUTHORITY Chapter 30-13A

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

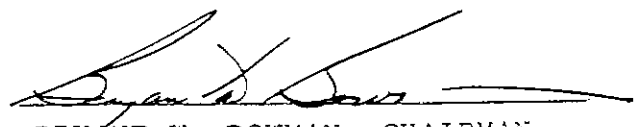
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 1

TITLE OF RULE BEING PROPOSED: Rules and Regulations for the
Practice of Land Surveying in West Virginia

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


BRYANT W. BOWMAN, CHAIRMAN



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON 25305

CHARLIE BROWN
ATTORNEY GENERAL

July 29, 1987

The Honorable Ken Hechler
Secretary of State
State Capitol Building
Charleston, West Virginia 25301

Dear Mr. Hechler:

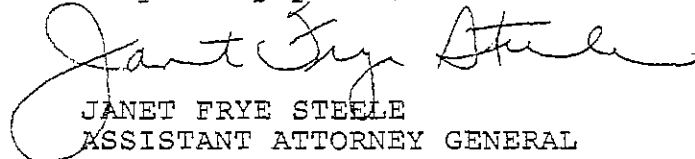
Please accept for filing the Board approved Rules and Regulations for the State Board of Land Surveyors, together with the following documents:

1. State Register Filing Cover Letter.
2. Notice of Board Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee.
3. Legislative Rule-Making Review Committee questionnaire.
4. Pertinent pages of the Board's minutes dated July 9, 1987, approving the before-cited rules.
5. List of attendance at public meeting held February 25, 1987.
6. Written comments received.
7. Oral comments received (evidenced by transcript at public meeting).
8. Amendments in Proposed Rules and Reasons for Changes.

On this same date I have filed fifteen copies of the above-described document package the Legislative Rule-Making Review Committee.

Please contact Leon K. Spencer, Secretary West Virginia Board of Examiners of Land Surveyors, Post Office Box 925, Fayetteville, West Virginia 25840/(304)574-2980, should additional information be needed.

Very truly yours,


JANET FRYE STEELE
ASSISTANT ATTORNEY GENERAL

JFS/cja

Enclosure

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1987 JUL 31 AM 11:05
SECRETARY OF STATE

MINUTES OF MEETING NO. 127 OF THE WEST VIRGINIA BOARD OF EXAMINERS OF
LAND SURVEYORS, HELD ON JULY 9, 1987, AT ITS OFFICE LOCATED AT 105
EAST WISEMAN AVENUE, FAYETTEVILLE, WEST VIRGINIA 25840

Present at the meeting were:

Bryant W. Bowman, Chairman
Leon K. Spencer, Secretary
Nelson McCoy, Member
Janet Steele, Assistant Attorney General
Wayne Acord, Liaison KWALS

The meeting was called to order by Bryant Bowman, Chairman at 10:30 a.m. Mr. Bowman apologized to everyone for the lateness of the meeting and stated that the first order of business was to issue licenses. He also made the announcement that Mr. McCoy had been reappointed to the Board by Governor Moore on July 1, 1987.

IN THE ORDER OF BUSINESS:

I. LICENSES

The following licenses were issued:

#820 - David E. Brewer - WV
#821 - Douglas O. Crawford - WV
#822 - Larry W. Hume - VA
#823 - Robert C. Jeans - PA
#824 - John F. Loetterle - WV
#825 - K. Keith Niday - VA
#826 - Thomas E. Propst - WV
#827 - Mark C. Shamblin - WV
#828 - Edwin L. Smith - MD
#829 - Johnny G. Walker - WV
#830 - John A. Wylie - WV

After the licenses were issued, Mr. Bowman cautioned each licensee, if they run into a problem, get assistance. Getting the necessary assistance shows professionalism. Each licensee should hire a good accountant. Be careful in your work, your seal and signature is your responsibility, not the person doing the work. The Board's office is always open to help you in your endeavor. And, if at any time you have a problem against another surveyor, contact him and discuss the problem with him and not other people. Talk it out, bury it and go on.

Mr. Bowman then asked Mr. Spencer if he had any comments for the new licensees. Mr. Spencer stated that he just wanted to once again impress upon each and every one that your seal and signature is only your responsibility and make sure that you can stand behind each one of your signatures. Be proud of your license and protect it. In hard times, as we are now in, people often complain frequently against surveyors for work that they have done. Be careful in your work and always make sure you do the best job you can to prevent these often-times "unnecessary" complaints.

The Board offered congratulations to each new licensee, and asked for any comments on the exam or questions for the Board.

origination that the members had not been reimbursed for their time or travel on a constant basis. He then asked when this Board was going to start getting paid for their services. Bryant Bowman stated that it was his goal for the Board to be reimbursed for their time.

Nelson McCoy then made a motion for all bills to be submitted for actual expenses incurred by the Board members in 1986-87 by July 31, 1987. Leon Spencer seconded the motion and the motion was carried by the Board.

Mr. Bowman then stated that the hard solution to the budget problems of the Board is to go broke and he is not opposed to the idea. In this light, he feels that this solution may be the only way to get the legislature and other State officials to see the real problems facing the Board.

Wayne Acord then asked the question if Senator Tucker's bill for the Board passed during the last legislative session. Mr. Bowman replied that it had not.

Janet Steele then made the suggestion that the Board write a bill and have it supported by a Delegate to have it submitted in the next legislative session. Mr. Bowman stated that the Board needs to write a household budget, with a list of last year's actual expenses.

This concluded the discussion on the financial status of the Board and the meeting was adjourned for lunch at 12:30 p.m.

The meeting reconvened from lunch at 1:35 p.m.

III. OLD BUSINESS

- A. Rules and Regulations - The proposed rules and regulations that was brought before a public hearing in February 1987 were then discussed, as well as the comments therein. These rules and regulations have to be submitted by August 17, 1987 to be brought before the legislature in their next session. Minor changes and deletions were made to the rules and regulations pursuant to the public hearing and comments received. Upon motion of Mr. Spencer, seconded by Mr. McCoy, the rules and regulations were approved by the Board, with Janet Steele agreeing to assist with the necessary paperwork for filing with the Secretary of State.
- B. Biennial Report - Mr. Bowman stated that the report had been finished and copies had been mailed to the Governor and other state agencies. Because of the lack of a copier, it will take some time before the copies can be mailed out to the County seats.
- C. Charles Douglas Davidson - Mr. Bowman stated that Mr. Davidson was granted a license by comity with Kentucky. His license number is 819. This license was granted on June 18, 1987.
- D. Jack L. Warner, PhD. - Mr. Warner's fees were discussed and it was decided by the Board that at the present it wasn't economically feasible to contract his services.

- B. Vanorsdale/Snyder - Letter to be written to Mr. Snyder requesting him to contact Mr. Vanorsdale personally to try and resolve this matter.
- C. Blount/King - Mr. Bowman has spoken with Mr. King concerning the serious illness of Mr. Blount. Mr. King stated that he would not pursue the complaint against Mr. Blount, but still feels it needs to be resolved. Mr. Bowman will contact Mr. King again in reference to this matter.
- D. Justice/Perry - A determination was made by the Board that since Mr. Perry is not a licensed surveyor in the State of West Virginia, the Board has no jurisdiction in this matter. A letter will be written to Ms. Justice's lawyer informing him of this decision.

IV. Miscellaneous

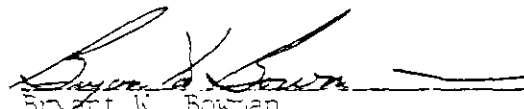
- A. Temporary Permit Form & Numbering - A form was reviewed and accepted by the Board for all temporary permits to be numbered and all permits to expire on December 31 of each year. This will make recordkeeping easier and all permits will expire at the same time. The Board also discussed the possibility of raising the fee for temporary permits to \$25.00 to cover the processing of each permit. They feel the person requesting the permit should also inform the Board of who they are working for and how long the work should take in the State.

The Clerk was requested to call the Virginia Board to see if they issue temporary permits.

No more business was conducted and Leon Spencer made the motion to adjourn the meeting at 6:45 p.m. Nelson McCoy seconded the motion to adjourn.

Minutes of the meeting was taken by Annette Treadway, Clerk.


Leon K. Spencer
Secretary
July 9, 1987


Bryant W. Bowman
Chairman
July 9, 1987

DATE: July 31, 1987

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: State Board of Examiners of Land Surveyors

LEGISLATIVE RULE TITLE:

1. Authorizing statute(s) citation West Virginia Code Chapter
30, Article 13A, Section 4, "Powers and Duties of Board; Funds"

2. a. Date filed in State Register with Notice of Hearing:

January 16, 1987

b. What other notice, including advertising, did you
give of the hearing?

Charleston Gazette, West Virginia Association of Land Surveyors, Inc.,
Capitol News Service, State Department of Energy, Governor
Moore, and State Senator Larry Tucker

c. Date of Hearing(s): February 25, 1987

d. Attach list of persons who appeared at hearing,
comments received, amendments, reasons for
amendments.

Attached X No comments received

e. Date you filed in State Register the agency
approved proposed Legislative Rule following public
hearing: (be exact)

f. Name and phone number of agency person to contact
for additional information:

Leon K. Spencer, Secretary

WV Board of Examiners of Land Survey

P.O. Box 925

Fayetteville, West Virginia 25840

(304) 574-2980

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

----- N/A -----

b. Date of Hearing: -----

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached -----

WEST VIRGINIA BOARD OF EXAMINERS OF LAND SURVEYORS

February 25, 1987

ATTENDANCE PUBLIC MEETING (RULES & REGULATIONS)

- | | |
|--|---|
| 1. Bryant W. Bowman
Alum Creek, WV
756-3643 | 12. Thomas J. Cronin
Buckhannon, WV
472-9369 |
| 2. John Lounisbury
Beverly, WV
636-3279 | 13. John L. Cox
Kingwood, WV
329-3000 |
| 3. Christopher Westbrook
Glenville State College
Glenville, WV
462-7361, ext. 201
or 462-8897 (home) | 14. Michael C. Wetzel
Buckhannon, WV
472-3037 |
| 4. Michael L. Euler
Glenville, WV
462-7361 | 15. Leon K. Spencer
Route 2
Fayetteville, WV
574-0804 |
| 5. John Andrew Wilkins
Riverton, WV
567-2889 | 16. Bill Grafton |
| 6. F. Henry Sipe
404 Harrison Street
Elkins, WV
636-2465 | 17. Janet Steele, Esquire
Assistant Atty. Gen.
Capitol Building
Charleston, WV
348.2021 |
| 7. Tom Henderson
WVALS
424-8559 | 18. Nelson McCoy
Box 9133
Monongah, WV |
| 8. George A. Tice
Beckley, WV
255-5400 | 19. Leon Spencer
c/o State Board of
Examiners of Land
Surveyors
Box 925
Fayetteville, WV |
| 9. James Skinner
Weston, WV
269-1411 | 20. Norman L. Kronjaeger
207 Masonic Building
Fairmont, WV
366-7028 |
| 10. Greg Smith
Glenville, WV
462-5634 | 21. Richard P. Byers
1 Woodside Drive
Fairmont, WV
366-5443 |
| 11. Donald Teter
Monterville, WV
339-2125 | |

WEST VIRGINIA LEGISLATIVE RULES
State Board of Examiners of Land Surveyors
CHAPTER 30-13A
SERIES I

SUBJECT: RULES AND REGULATIONS FOR THE PRACTICE
OF LAND SURVEYING IN WEST VIRGINIA

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Title

WEST VIRGINIA LEGISLATIVE RULES
State Board of Examiners of Land Surveyors
CHAPTER 30-13A
SERIES I

SUBJECT: RULES AND REGULATIONS FOR THE PRACTICE
OF LAND SURVEYING IN WEST VIRGINIA

Section 1. General.

1.01 Statutory Authority - These Rules and Regulations are promulgated by the State Board of Examiners of Land Surveyors under authority of Chapter 30, Article 13A, Section 4(a) of the West Virginia Code.

1.02 Board Office - 105 East Wiseman Avenue (P. O. Box 925), Fayetteville, West Virginia 25840.

1.03 Filing Date - These rules and regulations were filed in the office of the Secretary of State on the _____ day of _____, 198__.

1.04 Effective Date: _____

Section 2. General Purpose.

2.01 These Rules and Regulations with the Minimum Standards of Practice for the performance of Boundary Surveys are promulgated for the purpose of administration and enforcement of Chapter 30, Article 13A of the West Virginia Code.

Section 3. Satisfactory Records.

3.01 Satisfactory records, as described in Chapter 30, Article 13A, Section 5(b)3, should include plats, descriptions of surveys, certificates or reports of surveys, field notes, calculations for latitude, departure, coordinates, area, variation, observations for true meridian and related records.

Section 4. Experience.

4.01 The Board will consider satisfactory or approved experience as diversified practical training in land surveying under the direct supervision of a licensed land surveyor, such experience shall be acquired in positions of responsibility which require independent judgment,

initiative, and professional skill. Approved experience shall not include positions of routine work such as chainman or rodman.

Section 5. Qualifications of Applicants for licenses; exceptions; fees; examinations.

5.01 To be eligible for a license to engage in the practice of land surveying, the applicant must meet the requirements as set forth in West Virginia Code 30-13A-5.

5.02 Any applicant for such a license shall submit an application on forms provided by the board. Such application shall be verified and shall contain a statement of the applicant's education and experience, the names of five persons for reference (at least three of whom shall be licensees, or persons eligible for a license hereunder, or persons authorized in another state or country to engage in the practice of land surveying, who have knowledge of his work) and such other information as the board may prescribe. An applicant shall pay to the board with his application a license fee of seventy dollars, or any increased amount mandated by the Legislature.

5.03 Examinations shall be held at least once each year at such time and place as the board shall determine.

5.04 The scope of the examination and methods of procedure shall be determined by the board. The content shall be taken from the subjects delineated in Section 7.02 of these Rules and Regulations. An applicant who fails to pass any part(s) of the examination may reapply at any time to take the failed part(s) and shall furnish additional information as requested by the board. Each such application shall be accompanied by a license fee of thirty dollars, or any increased amount mandated by the Legislature.

Section 6. Issuance of license; notice of expiration; renewal; renewal fee; display.

6.01 Whenever the board finds that an applicant meets all of the requirements for a license to engage in the practice of land surveying, it shall forthwith issue to him such license; and otherwise the board shall deny the same. All licenses, whether original or renewal, shall expire on the thirtieth day of June following the date of issuance or renewal. The secretary-treasurer of the board shall mail to every licensee, at least thirty days prior to the expiration of such license, notice of the expiration date and the amount of the renewal fee. A license may be renewed without examination upon application for a renewal on a form prescribed by the board and payment to the board of an annual

renewal fee of thirty dollars, or any increased amount mandated by the Legislature. If a license is not renewed when due, the fee shall increase one dollar per month for each month or fraction thereof that such renewal fee is not paid, up to a maximum of thirty-six months. No license shall be renewed after expiration of said period of thirty-six months, and the fact that a license cannot be renewed because of the expiration of said period of thirty-six months shall not prevent such person from making application for a new license. The board may deny any application for renewal for any reason which would justify the denial of an original application for a license. The board shall prescribe the form of licenses and each such license shall be conspicuously displayed by the licensee at his principal place of practice. A duplicate license may be issued upon payment of a fee of five dollars, or any increased amount mandated by the Legislature.

Section 7. Accredited Surveying Curricula.

7.01 The power to approve accredited survey curricula rests with the Board.

Section 8. Unethical Practices.

8.01 Signing or affixing a seal to any document prepared by persons who are not employees or who are not under supervision of the licensee as defined in Chapter 30, Article 13A, Section 5 of the West Virginia Code.

8.02 Accepting, paying, or offering to pay, either directly or indirectly, any gift, bribe, or other consideration to make an improper survey.

8.03 Associating with any survey project known by the licensee to be fraudulent or dishonest in character.

8.04 Failing to exercise due regard for the safety of persons under supervision of the licensee.

8.05 Violating, aiding or abetting any person in the violation of any provision of the West Virginia Code related to the practice of land surveying, or any of the Rules and Regulations promulgated by the Board.

8.06 Injuring or attempting to injure, falsely or maliciously directly or indirectly, the reputation or business of another surveyor.

8.07 Reviewing the work of another land surveyor for the same client, except with the knowledge of such

surveyor, or unless the connection of such surveyor with the work has been terminated.

8.08 Failing to respond within 30 days to written communications from the board and to make available any records relevant to an inquiry or complaint about the licensee's professional conduct. The 30-day period shall begin on the date when such communication was sent by the board by certified mail with return receipt requested to the last known address of the surveyor.

8.09 Advertising that is false, fraudulent, deceptive, misleading or unlawful.

8.10 Accepting and undertaking to perform land survey services which the surveyor is not competent to perform without obtaining qualified associates, consultants or employees.

8.11 Failing to give adequate supervision to subordinates.

Section 9. Suspension of revocation of license; procedure for hearings on denial of application for an original or renewal license or suspension or revocation of any license; judicial review.

9.01 The board may at any time upon its own motion and shall upon the verified written complaint of any person conduct an investigation to determine whether there are any grounds for the suspension or revocation of a license issued under the provisions of Code 30-13A and the Rules and Regulations issued by the board. The board shall suspend or revoke any license when it finds the holder thereof has:
(a) Been convicted of a crime involving moral turpitude;
(b) Obtained a license by means of fraud or deceit; (c) Been incompetent, grossly negligent, or guilty of fraud, deceit or other misconduct in the practice of land surveying; or
(d) Failed or refused to comply with the provisions of Article 13A of Chapter 30 of the Code or any reasonable rule and regulation promulgated by the board or any order or final decision of the board. The board shall also suspend or revoke any license if it finds the existence of any ground which would justify the denial of an application for such license if application were then being made for it. Any suspension of a license shall continue for the period specified in the order of suspension. Revocation of a license shall not preclude application for a new license, which application shall be processed in the same manner and the application approved or denied and the license issued or refused on the same grounds as any other application for a license is processed, considered and determined, except that

any previous suspension and the revocation may be given such weight in deciding whether to approve or deny such application and issue or refuse to issue such license as is meet and proper under all the circumstances.

9.02 Whenever the board shall deny an application for any original or renewal license or shall suspend or revoke any license, it shall make and enter an order to that effect and serve a copy thereof on the applicant or licensee, as the case may be, by certified mail, return receipt requested. Such order shall state the grounds for the action taken and shall require that any license suspended or revoked thereby shall be returned to the board by the holder within twenty days after receipt of said order. Any person adversely affected by any such order shall be entitled to a hearing thereon (as to all issues not excluded from the definition of a "contested case" as set forth in Article 1 [§ 29A-1-1 et seq.], Chapter 29A of the West Virginia Code) if, within twenty days after receipt of a copy thereof, he files with the board a written demand for such hearing. A demand for hearing shall operate automatically to stay or suspend the execution of any order suspending or revoking a license or denying an application for a renewal license. The board may require the person demanding such hearing to give reasonable security for the costs thereof and if such person does not substantially prevail at such hearing such costs shall be assessed against him and may be collected by an action at law or other proper remedy. Upon receipt of a written demand for such hearing, the board shall set a time and place therefor not less than ten and not more than thirty days thereafter. Any scheduled hearing may be continued by the board upon its own motion or for good cause shown by the person demanding the hearing. All of the pertinent provisions of Article 5 [§ 29A-5-1 et seq.], Chapter 29A of the Code shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing. Any such hearing shall be conducted by a quorum of the board. For the purpose of conducting any such hearing any member of the board shall have the power and authority to issue subpoenas and subpoenas duces tecum which shall be issued and served within the time for the fees and shall be enforced, as specified in Section 1 [§ 29A-5-1], Article 5 of said Chapter 29A, and all of the said Section 1 provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder. At any such hearing the person who demanded the same may represent himself or be represented by an attorney-at-law admitted to practice before any circuit court of this state. Upon request by the board, it shall be represented at any such hearing by the attorney general or his assistants without additional compensation. After any such hearing and

consideration of all of the testimony, evidence and record in the case, the board shall render its decision in writing. The written decision of the board shall be accompanied by findings of fact and conclusions of law as specified in Section 3 [§ 29A-5-3], Article 5, Chapter 29A of the Code, and a copy of such decision and accompanying findings and conclusions shall be served by certified mail, return receipt requested, upon the person demanding such hearing, and his attorney of record, if any. The decision of the board shall be final unless reversed, vacated or modified upon judicial review thereof in accordance with the provisions of Section 10 [§ 30-13A-10] of the Code.

9.03 Any person adversely affected by a Decision of the board rendered after a hearing held in accordance with the provisions of Section 9.02, Rules and Regulations, shall be entitled to judicial review thereof. All of the pertinent provisions of Section 4 [§ 29A-5-4], Article 5, Chapter 29A of the Code shall apply to and govern such judicial review with like effect as if the provisions of said Section 4 were set forth herein. The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals in accordance with the provisions of Section 1 [§ 29A-6-1], Article 6, Chapter 29A of the Code. Legal counsel and services for the board in all appeal proceedings in any circuit court and the supreme court of appeals shall be provided by the attorney general or his assistants and in any circuit court by the prosecuting attorney of the county as well, all without additional compensation.

Section 10. Competency in Field and Office Techniques.

10.01 The surveyor shall undertake to perform surveying assignments only when qualified by education or experience in the specific technical field of surveying involved.

10.02 He may accept an assignment requiring education or experience outside of his own field of competence, but only to the extent that his services are restricted to those phases of the project in which he is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees.

10.03 He shall not affix his signature and/or seal to any surveying plan or document dealing with subject matter to which he lacks competence by virtue of education or experience, nor to any such plan or document not prepared under his direct supervisory control.

10.04 In the event a question arises as to the competence of a surveyor to perform a surveying assignment in a specific technical field of surveying which cannot be otherwise resolved to the Board's satisfaction, the Board, either upon request of the surveyor or by its own volition, may require him to submit to an appropriate examination as determined by the Board.

Section 11. Underground surveys and maps.

11.01 Underground surveys and maps shall comply with the requirements in Chapter 22A, Article 2, Section 1 of the West Virginia Code.

Section 12. License by comity.

12.01 The Board recognizes the principle of comity with other states and countries, and will honor the acts of licensing agencies in those jurisdictions, provided said acts are at least equivalent to the requirements set forth in these Rules and Regulations.

AMENDMENTS IN PROPOSED RULES
AND REASONS FOR CHANGES

- (1) Section 3. Satisfactory Records
 - 3.01 - word "shall" changed to "should" to indicate directory rather than mandatory language.
- (2) Section 5. Qualifications of Applicants for license; exceptions; fees; examinations
 - 5.02 and 5.04 - phrase "or any increased amount mandated by the Legislature" added in case the Legislature approves Board's request for increased license fees.
- (3) Section 6. Issuance of license; notice of expiration; renewal fee; display
 - 6.01 - phrase "or any increased amount mandated by the Legislature" added in case the Legislature approves Board's requests for increased license renewal/duplicate license fees.
- (4) Section 7. Accredited Surveying Curricula
 - 7.01 - sentence rewritten for more clarity.
 - 7.02 - deleted as unnecessary language.
- (5) Section 8. Unethical Practice
 - 8.08 - deleted as unnecessary language.
 - 8.09 - becomes 8.08 with deletion of old 8.08.
 - 8.10 - becomes 8.09 with deletion of old 8.08.
 - 8.11 - becomes 8.10 with deletion of old 8.08. Phrase added to rule to be consistent with new proposed rules as to competency in Section 10 hereto.
 - 8.12 - becomes 8.11 with deletion of old 8.08.
- (6) Section 10 - Title changed to Competency in Field and Office Techniques - to be more specific.
 - 10.01 - 10.12 - deleted with new 10.01 through 10.04 - The Board reviewed rules and regulations of professional engineers (who act as surveyors and

found this language to be more professional and desirable than old proposed language. Provides for consistency in competency requirements of land surveyors and engineers.

(7) Section 11. Plats

Section deleted as not proper material for legislative rules and regulations but material that should be included in procedural rules of the Board as standards of practice.

(8) Section 12. Description of property boundary lines

Section deleted as not proper material for legislative rules and regulations but material that should be included in procedural rules of the Board as standards of practice.

(9) Section 13. Description of other surveys

Section deleted as not proper material for legislative rules and regulations but material that should be included in procedural rules of the Board as standards of practice.

(10) Section 14. Certificate or report of survey

Section deleted as not proper material for legislative rules and regulations but material that should be included in procedural rules of the Board as standards of practice.

(11) Section 15 - Becomes section 11 with deletion of old sections 11, 12, 13 and 14.

(12) Section 16 - Becomes section 12 with deletion of old sections 11, 12, 13 and 14.

(13) Section 17 - Compensation and expenses of Board - deleted as covered by 30-13A-3(d), West Virginia Code.

West Virginia State Board
Examiners of Land Surveyors
P. O. Box 925
Fayetteville, West Virginia 25840

RE: PUBLIC HEARING FOR ADOPTION OF RULES AND REGULATIONS
FOR W. VA. STATE BOARD OF EXAMINERS OF LAND SURVEYORS

I, Norman L. Kronjaeger, a licensed Land Surveyor in the State of West Virginia, find that I am working in a system of double standards.

The State Board of Examiners adopt laws, rules, regulations and or procedures that can only affect Licensed Land Surveyors! This I find to be discriminatory. We, as Licensed Surveyors are being put in a position of unfair competition. The Professional Engineers are not governed by any laws, rules, regulations and or procedures in doing surveying in the State.

I understand that Professional Engineers may practice in any field they feel competent in. I believe an Engineer can design the wiring for a building, but only a Licensed Electrician can install the same. I believe that an Engineer that is doing surveying should be required to perform the work in the same manner as a Surveyor. An example is in Plats or drawing of property. All parties, Engineers and Surveyors, should be required to put the same minimum things on a Plat. What is good for Surveyors should be equally for Engineers.

If it is necessary for the two Boards to merge so consistance is established, then so be it.

After taking the NCES Test, it became evident that a very broad knowledge of surveying was necessary to pass the test. Much of this knowledge can only be obtained by experience. The practice of surveying is dependent on common sense. I am not saying that Engineers should not survey, but that all persons surveying should be governed by the same laws, rules, regulations and procedures, Until equality by all persons practicing surveying is obtained, the Licensed Surveyor will be at a dis-advantage!

Sincerely,

Norman L. Kronjaeger

Norman Kronjaeger
207 Masonic Building
Fairmont, West Virginia 26554

NK/b

6. CURVES - Where a boundary includes or is formed by a curved line, the actual survey data from the point of curvature of the curve to point of tangency shall be shown on the face of the map as standard curve data or as traverse chords around the curve.
 7. ENCROACHMENTS - Any and all encroachments on the property being surveyed shall be accurately located and clearly indicated.
 8. MONUMENTS AND MARKERS - Suitable notation shall be made concerning Monuments and Markers which were found on the property and those which were set by the surveyor.
 9. SOURCE OF TITLE
- D. Subdivision Maps shall comply with the above rules of mapping, and in addition the following rules will be observed.
1. STREETS - All streets and lots in a subdivision shall be accurately plotted and labeled.
 2. DIMENSIONS - Dimension lines shall be used to indicate widths and other dimensions of streets, as well as other data necessary to re-establish them.
 3. USE OF DITTO - Courses and distances on all lines in a subdivision shall be shown except when repeated, in which case ditto marks may be used.
 4. ADJOINING PROPERTY - If an existing subdivision adjoins the property being surveyed, then the name of the subdivision, block number or adjoining lot numbers, and book and page number of recordation. Tax Identification Number shall appear on the map.

MINIMUM STANDARDS FOR PLATS OR MAPS

- A. A map is defined as an accurate graphical representation, neatly lettered and properly dimensioned, identifying a property line or boundary on the earth's surface, surveyed and representing a definite parcel of land, including pertinent and important data and information pertaining thereto. Where a land survey requires a map it should be properly and accurately drawn revealing all of the information developed by and during the survey. The Map is a valuable asset or implement of a client and landowner in developing his property; in locating buildings and improvements for subdividing it; or in transferring or selling it. One function of a map is to record and preserve official data discovered or involved in the survey and to reveal configurations and important features of the land. Certain specific rules must be observed in the preparation of a map.
1. The size of a map shall be such that all details can be shown clearly.
 2. The Title Block or title space of each map shall contain the property designation, location, tax district, county and state and the date, month and year, the survey was conducted, a scale of the drawing listed in words or figures, a bar-graph when necessary, name, address, registration number, seal of the surveyor.
 3. Other information shall appear on the map. The map shall have all information concerning the survey neatly, legibly, and accurately located on its face. If the map is to be reduced photographically, this shall be taken into consideration in selecting size of lettering and similar details.
 1. NORTH ARROW - The map shall contain a properly designed North arrow accurately positioned and designated as (a) magnetic north, (b) true north, (c) W.L.A. Grid North, or (d) relative to a former survey or map.
 2. CORNERS. - A Corner is the point of intersection of curved or straight boundary lines. Each corner shall be adequately identified, marked, and labeled.
 3. BOUNDARY LINES- Courses and distances of all boundary lines and other lines shall be lettered neatly thereupon in degrees, minutes, (seconds, if available), and in feet and hundredths of a foot, in clockwise direction if possible.
 4. ADJOINING PROPERTY AND LANDMARKS - Control corners, coordinated monuments and permanent markers or monuments on adjoining property shall be identified and located with Tax Identification Number.
 5. AREA - Area, if indicated, shall be computed. Designation of area by estimation or copying it from another source is not acceptable. When the tract is bounded by a natural boundary, the use of a planimeter or equally accurate method is acceptable.

CRONIN SURVEYING & MAPPING

Thomas J. Cronin, LL.S. PE
Daniel Jackson, LL.S.

24A Chancellery Square
P.O. Box 969
Burkhampton, West Virginia 26221
(304) 475-9369

Land Surveying
Civil Engineering

February 27, 1987

West Virginia State Board of Examiners
of Land Surveyors
P.O. Box 925
Fayetteville, WV 25840

Re: Proposed Rules & Regulations

Dear Sirs: _

At the public hearing on Wednesday, February 25, regarding the proposed Rules and Regulations for the Practice of Land Surveying I spoke briefly expressing my support for statements made by Mr. Tom Henderson, Mr. F. Henry Sipe, and Mr. Don Teter. As I stated at the meeting I am a licensed surveyor in West Virginia (and also a professional engineer) in private practice at Burkhampton. I write now to express in greater detail my opposition to higher standards of precision for oil and gas well location surveys and rural land surveys, and support for the requirement that corner markers which are set identify the surveyor who set them. I also wish to request a copy of the transcript of the hearing and written comments submitted to the Board on this subject.

Need for Regulations

Among the technical disciplines land surveying is unique in that it is a service performed for the general public; in most instances the public does not understand the work in detail, is not able to specify the service required to meet their needs, or to evaluate the service rendered. Some kinds of surveys and virtually all engineering services are rendered to government, industry, or commerce; that is, organizations which have, or are in a position to have, a knowledgeable person with oversight responsibility. It is this uniqueness which makes surveying regulations essential for the protection of the public. And I believe that all those who make surveys should be subject to those regulations.

I have supported the Rules and Regulations in the past and have adhered to them in my practice, with only occasional exceptions based on professional judgement. I have done so despite the fact that since 1982 I have add the option of signing my work as a professional engineer, an option I have never exercised.

Oil & Gas Well Location Surveys

Well location surveys are performed for government or industry and are regulated by the Office of Oil & Gas of the Department of Energy. That is as it should be. The Department is charged with the responsibility to protect the public interest and has the authority to do so. I have worked with the oil and gas industry for six years and in that time I have never encountered damage to the public attributable to the precision of the survey. Where I have seen a well or pipeline placed on the wrong tract it was due to a blunder in the survey or to a lack of research and preparation on the part of the surveyor. It appears that some surveyors rely on the client's title report as the sole source of information about the lease tract and may be ignorant of laps, gaps, typographical errors, and so forth in descriptions for the lease and adjoining tracts.

A higher standard of precision will not influence the outcome for the surveyor who has too little information about where to find property lines or how to weigh evidence of the lines found on the ground. It is noteworthy that the Department does provide for higher precision when it is necessary as in the case of a deep mine under the lease. I suggest that the regulation of this work is best left to the Department and that no purpose is served in the Board's promulgating conflicting regulations.

Rural Land Surveys

My office renders services covering most of the spectrum of plane surveying. The most precise survey performed to date was a control survey for the renovation of an abandoned railroad spur. Equipment and methods were used to achieve a precision of about 1 part in 50,000; the traverse was about ten miles in length. In contrast we also perform rural boundary surveys for the public and find that the open-sight compass is appropriate for much (but not all) of this work. The precision we achieve with this method is usually between 1 part in 2000 and 1 part in 2500. The central argument on the question of minimum precision for this class of work seems to be whether or not the standard will preclude the use of the open-sight compass. In my opinion the compass method is appropriate for rural woodlands; precluding its use will result in increased cost to the public with no significant benefit.

At the public hearing Wednesday a gentleman from Fairmont spoke in favor of the proposed higher standards and in opposition to the use of the open-sight compass. I wish to address some of his comments because they seem typical of the arguments made by those who share his views. I understood him to say that those who propose to use the method be required to demonstrate their proficiency by surveying a tract with a 1500' perimeter and closing within one foot, 1 in 1500 being the prior standard. That suggestion reveals a lack of understanding of the propagation of errors in a compass survey and the kind of work for which it is appropriate. There may be small tracts where satisfactory results can be obtained but they are the exception. The concern among compass surveyors is with large rural tracts, usually wooded, frequently having descriptions which date to the 1800's, and often with descriptions calling for surface measure. These are the conditions for which the compass method is both appropriate and usually the most cost-effective method.

Like many surveyors and engineers who do most of their work in urban areas this gentleman seems to focus more on property corners than property lines. That's not surprising; more often than not one can see from corner to corner on a city lot or small suburban tract. He states that in his area most properties are fenced and that there is no need to survey on or along a line when a measurement can be made from hilltop to hilltop in order to locate or set corners. Aside from the fact this is seldom the circumstance in those areas where compass surveys are made, he seems not to consider whether or not the fence is on the line. In my experience rural property owners are concerned with where their lines are as well as where the corners are.

In 1980 I bought a tract of about 209 acres; about 70% was wooded. The tract had been surveyed in 1977 for the previous owner. The lines were not marked and/or painted and I could not find corners set by the surveyor; I did find many of the same corners he found during the survey. Only about half of the outside lines were fenced. And while some of the fences appeared to follow the lines shown, others did not. Several years later when I sold timber on the property, the lines had to be re-surveyed so that they could be marked and painted. The 1977 survey was probably made with a transit and tape using a three-man crew (this surveyor does not use a compass). If the survey had been made with a compass using a two-man crew the savings would have been more than enough to cover the cost of marking and painting the lines, as required by the regulations at that time.

This surveyor may well have achieved a precision of 1 in 5000 in his survey. But as a property owner it was of little value to me that the corners were surveyed within an inch or two of their true position when, only a few years later, I could find only 30% of my corners and lines. In fact in re-surveying the lines we recovered a wooden stake in the position of a corner where the plat and description called for an iron pipe set by the surveyor. Did he in fact set the markers he called for? It seems doubtful that four adjoining owners on three sides would have removed all of his markers; they would all have been located in the woods. As a property owner I would have been well satisfied to know where my corners were within a foot or so, to have had them well monumented, to have had the lines marked and painted, and to have had a report of survey explaining the basis for the lines, the adjoining response to them, and explaining a 10% change in area from the previous descriptions for the property. And this work was done by a surveyor who has been actively engaged in private practice for 10 years and continues so today.

Summary

There is something in the comments by the surveyor from Fairmont I find curious. He stated that he is a licensed surveyor and his partner is a registered engineer. And they do all of their work under his partner's signature and seal because they cannot be competitive if he signs the work as a surveyor and follows the rules and regulations for surveyors. Yet he argues in favor of raising the standards for surveyors. Are we to suppose that the higher standards will make them more competitive? That he would then begin signing his work as a surveyor and adhering to those rules and regulations?

As I indicated above I believe it is important that the Board adopt reasonable rules and regulations. For one class of work in at least some parts of West Virginia the compass method is appropriate and sufficient, and will continue to be for some time. A refinement in the classes of work as proposed by Sipe may serve to reduce the confusion in the minds of some as to where the compass is being used. Many, if not most, other elements of the rural boundary survey have a greater impact on the public than precision. Surveys which must be re-done after a few years are a disservice to the public and reflect poorly on the profession.

The level of compliance with the existing regulations is not what it ought to be. Higher standards for precision will not likely improve this situation. A change in the regulations which serves to refine and/or clarify them may be beneficial. A change which results in the alienation of a significant group of competent surveyors and increases cost to the public is of doubtful value. I recommend that the Board reconsider the rules and regulations as proposed; that you adopt such rules and regulations as will have the support of responsible surveyors and will take into account conditions in different parts of the state; that you strive to improve compliance with the rules and regulations when adopted; and that you work toward the goal of having all those who practice surveying in West Virginia subject to those rules and regulations.

Respectfully submitted.

Thomas J. Cronin, L.L.S., P.E.

W.V. STATE BOARD OF EXAMINERS
OF LAND SURVEYORS
P.O. BOX 925
FAYETTEVILLE, WV 25840-925

COMMENTS ON THE PROPOSED RULES AND REGULATIONS TO BE DISCUSSED AT THE PUBLIC
MEETING ON FEBRUARY 26, 1987:

To all concerned;

I work for a surveying firm in the north central part of the state and at the rate things are going, we will soon be out of business. The reason being is that half of the people who hold a Engineering degree are picking up a compass and a chain and practicing surveying. They operate with no rules and regulations. This means they do not have to set permanent corners or do research work at the courthouse. This means they can do what they call a (Boundary Line Inspection) for the banks in half the amount of time it takes a Licensed Land Surveyor and at half the price.

I would like to see all Engineers who are practicing surveying operate under the same rules and regulations that apply to the Licensed Land Surveyor. If something is not done about this, I believe the Licensed Land Surveyor will soon become extinct, because we cannot keep our prices competitive with the Engineers.

Sincerely,

Paul L. Harbert
Paul L. Harbert

WV BOARD OF EXAMINERS
OF LAND SURVEYORS
P.O. BOX 925
FAYETTEVILLE, WV
25840-925

COMMENTS OF NEW RULES AND REGULATIONS:

DEAR SIR,

I FEEL THE ENGINEER SHOULD FOLLOW THE RULES AND REGULATIONS SET FOR THE LICENSED LAND SURVEYOR. I RECENTLY WORKED FOR A SURVEYING COMPANY IN WEST VIRGINIA. I AM NOW UNEMPLOYED. THE COMPANY I WORKED FOR WAS NOT GETTING ENOUGH WORK TO KEEP ALL OF ITS EMPLOYEES. ONE OF THE MAIN REASONS JOBS WERE NOT COMING OUR WAY, WAS BECAUSE ENGINEERS ARE SURVEYING PROPERTY FOR ALMOST NOTHING.

IF SOMETHING ISN'T DONE SOON ABOUT THE ENGINEERS NOT HAVING RULES AND REGULATIONS, I DON'T FORESEE GETTING CALLED BACK TO WORK. INFACIT, I FEEL MORE JOBS WILL BE LOST.

SINCERELY,

Kim P. Yarners

KIM PHILLIP YARNERS

W.V. BOARD OF EXAMINERS
OF LAND SURVEYORS
P.O. BOX 925
FAYETTEVILLE, WV
25640-925

COMMENTS FOR THE PUBLIC HEARING:

GENTLEMEN,

I AM A SURVEYOR IN WEST VIRGINIA. I FEEL THERE ARE SOME SERIOUS PROBLEMS WITH THE LACK OF RULES AND REGULATIONS GOVERNING THE ENGINEER. I BELIEVE THE RULES AND REGULATIONS SHOULD BE THE SAME FOR BOTH, THE ENGINEER AND THE SURVEYOR.

SEEING THAT ENGINEERS HAVE FEWER REGULATIONS TO FOLLOW, THEIR JOB IS MADE EASIER AND LESS EXPENSIVE FOR THEM TO EXECUTE.

IT ISN'T FAIR TO THE PROPERTY OWNER WHO PAYS AN ENGINEER TO SURVEY HIS LAND AND HE DOESN'T GET PERMANENT MARKERS SHOWING THE PROPERTY CORNERS. LATER THIS PROPERTY OWNER HAS TROUBLE WITH A NEIGHBOR AND MUST HIRE SOMEONE TO RE-SURVEY THE PROPERTY ONCE AGAIN TO LOCATE THE PROPERTY CORNERS, WHICH SHOULD HAVE BEEN SET THE FIRST TIME, AND HE MUST PAY FOR THIS SERVICE AGAIN! WHEN A PERSON HIRSES SOMEONE TO DO A JOB, THEY EXPECT QUALITY WORK! NO ONE WANTS TO PAY TO HAVE THE SAME JOB PERFORMED 2 OR 3 TIMES; THEY WANT IT DONE RIGHT THE FIRST TIME.

I FEEL ENGINEERS SHOULD BE REQUIRED TO DO THE SAME WORK THAT A SURVEYOR IS REQUIRED TO PERFORM. I BELIEVE THAT NOT ONLY ARE THE SURVEYORS BEING PUT OUT OF WORK BY THE ENGINEER, BUT THE PROPERTY OWNERS IN THIS STATE ARE BEING RIPPED OFF. SURVEYING PROPERTY IS SURVEYING. ANYONE PERFORMING THIS TYPE OF SERVICE FOR A PROPERTY OWNER SHOULD FOLLOW THE RULES AND REGULATIONS GOVERNING THE LICENSED LAND SURVEYOR.

SINCERELY,

Steven L. Murphy
STEVEN L. MURPHY

WV STATE BOARD OF EXAMINERS
OF LAND SURVEYORS
P.O. BOX 925
FAYETTEVILLE, WV 25840-925

DEAR SIR,

I AM A SURVEYOR IN NORTHERN WEST VIRGINIA. I THINK WE HAVE SOME PROBLEMS WITH LACK OF RULES AND REGULATIONS CONCERNING PROPERTY SURVEYING IN THIS STATE. THE RULES AND REGULATIONS SHOULD BE THE SAME FOR BOTH ENGINEERS AND SURVEYORS. THE ENGINEER HAS LESS REGULATIONS TO FOLLOW THAN THE SURVEYOR, MAKING THEIR JOB EASIER AND LESS EXPENSIVE. JUST BECAUSE THEY ARE ENGINEERS, DOESN'T MAKE THEM MORE QUALIFIED TO DO A PROPERTY SURVEY. I THINK ENGINEERS SHOULD HAVE TO DO THE SAME WORK AS SURVEYORS.

SINCERELY YOURS,

Mark Talmington

MARK TALMINGTON

WV BOARD OF EXAMINERS
OF LAND SURVEYORS
P.O. BOX 925
FAYETTEVILLE, WV 25840-925

COMMENTS FOR THE PUBLIC HEARING:

I MAKE MY LIVING SURVEYING PROPERTY IN WEST VIRGINIA. I FEEL IT IS UNFAIR THAT ENGINEERS ARE PRACTICING SURVEYING WITH NO RULES AND REGULATIONS. ENGINEERS ARE UNDER BIDDING MY PRICES AND TAKING MY JOBS. THE FUTURE OF THE LICENSED LAND SURVEYOR IS AT STAKE. I BELIEVE THAT ANYONE PRACTICING SURVEYING SHOULD FOLLOW THE RULES AND REGULATIONS OF THE LAND SURVEYOR.

SINCERELY,

J. D. McCoy
JEFFREY D. MCCOY

RECEIVED

February 16, 1987

State Board of Examiners of Land Surveyors
P.O. Box 925
Fayetteville, WV 25840

Dear Sirs:

As a landowner in West Virginia, I feel a mandatory error of closure of 1 in 5000 should not be approved for rural land because this would increase the cost of rural surveys without any corresponding benefit. This would also include oil and gas drilling locations. Since the drill hole is rarely perfectly plumb, what would be gained by an error of 1 in 5000 surface accuracy? We need more integrity, not more mandatory guide lines.

Since every survey is a problem in itself the surveyor should, with the help of suggested guide lines, use his own judgement to determine the limit of error.

Elmer H. Harvey

DAVIS / ELKINS COMPANY

RECEIVED FEB 07 1987

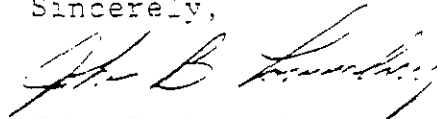
February 5, 1987

State Board of Examiners
of Land Surveyors
PO Box 925
Fayetteville, WV 25840-0925

Dear Sirs:

I have recently been provided with a copy of your proposed changes to the regulations governing surveyors. This issue has come up regularly for the last few years. I will commend you to the extent that most of the requirements which were objectionable to me have been removed. However, your requirement for mandatory closure of 1 in 5,000 for rural surveys is excessive. Here in Randolph County the vast majority of surveys concern wild timberland. Present surveying costs are barely affordable. A requirement for 1 in 5,000 closure in land that sells for \$200 per acre shows that the Board is not familiar with the type of surveying done in mountain counties. The present guideline of 1 in 1,500 closure is currently adequate for timberland. A 1 in 5,000 requirement places an unnecessary burden on timberland owners.

Sincerely,



John B. Lounsbury
Land Surveyor

JBL/sj

February 22, 1987

To: West Virginia State Board of
Examiners of Land Surveyors
P.O. Box 925
Fayetteville, W.Va. 25810

Gentlemen:

I understand that the present rules governing Land Surveyors in West Virginia has expired. Also I understand that there will be a public hearing on February 25, 1987 in Fayetteville, W.Va. .

I would like this letter to be part of the record.

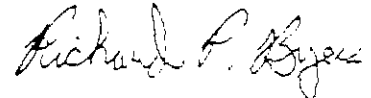
- 1) The biggest change needed would be to require professional engineers to put the same things on plat as a land surveyor is required to do.
- 2) Also to set permanent markers for corner monuments.
- 3) To stop doing title inspections in place of a bonafied survey.

Many people think that they are going to get corners staked along with the plat and the house sketched on it. And they do not get it. These inspections are done at a greatly reduced price and give the property owner a false sense of security. I mean by this showing dimensions from the house or building to the property lines.

- 4) The minimum accuracy of all surveys should be 1 foot in 5000 feet.

Sincerely;

Richard P. Byers
1 Woodside Drive
Fairmont, W.Va. 26554



STATE BOARD OF EXAMINERS
OF LAND SURVEYORS
P.O. BOX 925
FAYETTEVILLE, WV 25840-925

DEAR SIR,

I AM CURRENTLY EMPLOYED AT A SURVEYING COMPANY IN THE NORTHERN PART OF THE STATE. I WOULD LIKE TO KEEP PRACTICING SURVEYING AND MAYBE SOME DAY BECOME A LICENCED LAND SURVEYOR. THE UNEMPLOYMENT RATE IN THIS COUNTY IS HIGH AND WORK IS SCARCE. I WOULD LIKE TO STAY OUT OF THE RANKS OF THE UNEMPLOYED, BUT THINGS ARE NOT LOOKING GOOD FOR MY CO-WORKERS AND I. ONE OF THE MAIN REASONS WE ARE LOSING JOBS, IS THE ENGINEER. THEY HAVE NO RULES AND REGULATIONS SET FORTH FOR THEM TO FOLLOW, AS DOES A LICENCED LAND SURVEYOR. THEIR COURT HOUSE WORK IS HELD TO A MINIMUM, BY NOT HAVING TO GET SURROUNDING PROPERTY DEED BOOKS, PAGE NUMBERS, TAX MAP AND PARCEL NUMBERS; ALSO THEY ARE NOT REQUIRED TO SET PROPERTY CORNERS. THIS IN TURN MAKES THE JOB QUICKER, EASIER, AND LESS EXPENSIVE FOR THE ENGINEER TO PERFORM. THE SHORT CUTS THEY ARE TAKING ENABLES THEM TO UNDER BID SURVEYORS AND TAKE OUR JOBS. I WOULD LIKE TO SEE ENGINEERS AND SURVEYORS HAVE THE SAME SET OF RULES AND REGULATIONS. IF THIS PROBLEM IS NOT SOLVED MY CO-WORKERS AND I WILL BE JOINING THE UNEMPLOYMENT LINE IN THE NEAR FUTURE.

SINCERELY,

Ronald A. Talkington
RONALD TALKINGTON

Route 1, Box 272
Parsons, WV 26287
February 23, 1967

WV State Board of
Examiners of Land Surveyors
P.O. Box 925
Fayetteville, WV 25840

Dear Sirs:

I am writing to express my opposition to the proposed mandatory error of closure of 1 in 5000 for all rural surveys. As a licensed land surveyor, working primarily in rural surveys for the past twelve years, I am opposed to an error of closure of 1 in 5000 in strictly rural wooded forest land.

The difficulty of surveying large acreages over steep, rocky terrain and measuring to the center of a tree or rock makes it rather difficult to obtain an error of closure of 1 in 5000. I deem it much more important to have well blazed lines and well marked corners with proper documentation than the higher error of closure being proposed.

I am in favor of the suggested changes as proposed by Mr. Henry Sipe; namely, to divide rural land into three classes and make them GUIDE LINES, not mandatory, the classes would be as follows:
WOODLAND (devoted to growing natural forests) 1 in 1,500;
FARMLAND (devoted to agriculture, pasture, stock raising,
or some allied industry) 1 in 2,500;
RURAL OR SUBURBAN RESIDENTIAL 1 in 5,000.

I believe that these classes would be much better for surveying in West Virginia than a mandatory requirement of 1 in 5,000 for all rural land.

As licensed land surveyors, I am sure that you are aware of how economically difficult it is for many landowners to have survey work performed. A mandatory error of closure of 1 in 5,000 for rural survey work will increase the cost substantially and most probably result in many persons passing up surveys simply because of the financial burden.

I ask that you give serious consideration to the proposal outlined by Mr. Sipe.

Thank you for your consideration of this matter.

Sincerely,

Eldon R. Plaugher
Eldon R. Plaugher
L.L.S. No. 541

REPORT PREPARED FOR THE PUBLIC HEARING ON THE PROPOSED
REGULATIONS OF THE WEST VIRGINIA STATE BOARD OF EXAMINERS OF LAND
SURVEYORS - FEBRUARY 21, 1968

The state statute which created the Land Surveyor License placed a duty on the Board of Examiners to promulgate "reasonable rules and regulations" defining and governing the practice of land surveying. There can be no doubt that the Board must be guided by the public interest in this endeavor. The public's desire is, and will continue to be, to receive a professional service performed in a professional manner. The scope of those services may vary, with need, land value, and land use. It is essential that the regulations adopted take that variety of scope into account.

Where minimum standards preclude legal surveys being performed by unqualified persons, they are desirable, and necessary. But where the standard precludes the acceptability of surveys performed by a licensed Land Surveyor, in a manner consistent with the standard of care exercised by other surveyors in a similar situation, undue injury may result, and a livelihood may be lost. There is a demand for many, diverse types of surveys to meet the needs of the public and of industry. To provide for these needs in the most economical manner, some accommodation may be in order. A two-tier system based on land size or land use may be appropriate. The smaller, urban, suburban, or rural tracts could be held to a higher standard than the larger, rural ones where often the purpose of the survey is merely to retrace and mark existing lines, a task which some argue can be best accomplished with equipment similar that used in the original survey. The higher standard could still be applied to any survey which involved the creation and conveyance of a new parcel, thereby putting out the old techniques through the passage of time.

Special conditions, such as high land value or proposed intensive use, may require much more precise work, but nothing in a minimum standard prevents one from obtaining higher accuracy. It is a function of the marketplace to pay for greater certainty of location. Although the Board of Examiners asserts, in the fiscal note attached to the proposed rules, that there would be no increase in cost as a result of the adoption of these regulations, I think it is fair to say that some surveyors are presently using equipment which is not capable of obtaining the proposed minimum accuracy standard in every situation. Therefore, the Board must clearly show the damage caused by this equipment, based on specific complaints or court cases, or revise its estimate of the economic impact of the regulations on the profession and on the public. To do otherwise would not serve the public interest.

I believe that the Board should explain why a new section, namely section 6, dealing with the granting of licenses, the renewal of licenses, and the amount of renewal fees has been added to the regulations. This provision is a verbatim restatement of the language in Section 30-13-a-6 of the state code. It would appear that the original intention of that statute was to make these matters subject to the action of the

legislature, and not the Board. If the Board of Examiners desires to make renewal fees subject to administrative rule, then it should seek the required changes in the statutes prior to incorporating such language in its rules.

Very much the same argument must be advanced with regard to Section 9, dealing with disciplinary procedures. Its provisions dealing with license suspension and revocation, procedure for hearings, and judicial review are substantially a restatement of what is already spelled out in the state code in Chapter 30-13-a, sections 8, 9, and 10. It has been said that there should be no more regulations advanced than are necessary, and with that I heartily concur. But there is an even greater danger to this course of action. Any pertinent changes to the statutes enacted in the future could automatically make the regulations advanced in Sections 6 and 9 completely null and void, since they would not be in conformity with state statute. I urge the Board of Examiners to delete these unnecessary sections from the proposed regulations in the interest of effective future administration of the statutes and the regulations.

The Board of Examiners has stated that one of the objectives of these rules is to "insure boundary corners or lines of properties are identified by the surveyor." To that end I urge the Board, in Section 10.06 to further require that all corner markers set be detectable by magnetic detection devices and be identified with the license number of the surveyor who performed the survey. These two requirements will serve as an invaluable aid in the future to the location and identification of corners and lines.

Finally, whatever minimum standards are adopted, they should be implemented in a fair and even manner. I call upon the Board of Examiners to adopt procedural rules which would spell out, among other things, how complaints would be handled, how investigations would be carried out, how hearings would be conducted, and how long each step in the process could reasonably be expected to take. The adoption of procedural rules would greatly enhance continuity in the administration of the regulations and the licensing procedure by the Board. Procedural rules would provide board members and licensees alike with a set of ground rules for successful dialogue, and an enjoyable practice of one's chosen profession.

Tom M. Henderson, LLS
President, West Virginia Association of Land Surveyors

D. L. WHEELER & ASSOCIATES, INC.

ROUTE 1, BOX 346
CLARKSBURG, WEST VIRGINIA 26301

WM-623-5214

RECEIVED FEB 20 1987

February 18, 1987

State Board of Examiners of Land Surveyors
P.O. Box 925
Fayetteville, West Virginia 25840

Members of The Board:

It is my understanding that our present Board of Examiners are proposing changes in certain regulations affecting the practice of Land Surveying here in West Virginia. One of those possible changes would be in the accuracy of oil and gas well location surveys.

Your proposal would require surveyors to maintain a minimum error of closure of not less than 1:5000, apparently covering all well surveys. You are also requiring the proposed well location to be tied into two permanent property corners or a U.S.C.S. monument or State Plane Coordinate monument.

I would urge the Board to reconsider your proposals concerning the above changes. My surveying practice consists of about 80% Oil and Gas related surveying and I can assure the Board that if these changes in the surveying regulations do occur, it will have a drastic effect upon my ability to compete within the Oil and Gas industry.

Current West Virginia Department of Energy, Oil and Gas regulations and laws adequately cover surveying requirements for oil and gas well surveys. Under current Administrative Regulations, Chapter 22-4, Part 11, "Form and Contents of Plats", page 125 you will find a complete breakdown of those requirements.

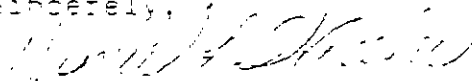
Between the years of 1983 and 1986 I had the pleasure of serving as an elected Board member of the Independent Oil and Gas Association of West Virginia (IOGA). During that period I had the opportunity to work with the Oil and Gas Division of the DOI concerning many issues pertaining to our industry. One of those areas that was of concern was the upgrading of not only oil and gas plats, but surveys as well. I can report to you that from my observations as well as the Oil and Gas Division, Land Surveyors do perform the bulk of Oil and Gas surveying here in West Virginia. Several changes were made by the Oil and Gas Division concerning plats and well surveys. The Permitting Section of the Oil and Gas Division seemed very pleased at the professionalism Land Surveyors reflect in the plats that are submitted for permitting.

Page 12-

State Board of Examiners of Land Surveyors

Again, I would strongly urge the Board to reconsider making any changes in the current regulations concerning oil and gas well location surveys. Not only will it raise the current cost of well surveys, but also place the Land Surveyor at a disadvantage in competing for work in an already economically depressed industry.

Sincerely,



Daniel L. Wheeler, LLS

February 19, 1987

P.O. Box 112
Richwood, WV 26261

State Board of Examiners
of Land Surveyors
P.O. Box 925
Fayetteville, WV 25840

RECEIVED
FEB 20 1987

Gentlemen:

I would like to express my opinion on the proposed guideline changes for closure error being considered by the Board.

By changing the Guide to mandatory 1 in 5000 would compel most surveyors to purchase very expensive equipment, thereby increasing the cost of surveys for the landowners who are not asking for such a high degree of accuracy.

In many of our rural areas, landowners are affected by poor economic conditions and higher property taxes. If we are not careful, the private surveyor will be priced out of business due to rules and regulations. Land surveying will suffer a setback if the small landowners cannot afford the increased cost.

I am recommending closure error of 1 in 1500 as in former regulations and forget the work mandatory.

Let the surveyor decide what degree of accuracy is needed for a particular survey.

It seems to be a habit--that everytime the Legislature convenes, somebody wants to change rules and regulations governing land surveyors.

Sincerely,

Homer (Jack) Ransberger
Homer (Jack) Ransberger
L.L.S.

cc: Larry A. Tucker, Senator
Linda Garrett, Delegate
Farrell Johnson, Delegate
F. Henry Sipe, L.L.S.

RECEIVED 11 2 11

LYNDELL F. SNYDER
514 OFCHART STREET
WESTFORD SPRINGS, W. VA. 26282

February 18, 1987

Board of Examiners
Land Surveyors
P. O. Box 925
Fayetteville, W. Va. 25840

Gentlemen:

I am objecting to the proposed error of closure of 1-5000 for all rural land surveys. I do not think that the added cost to the landowner justified. Neither is the cost of \$10,000 to \$15,000 to the surveyor for expensive equipment justified.

My idea of rural land surveys is better monumentation of corners and being agreements with adjoining landowners as far as possible. One has only to read some of the deeds in our courthouses to realize the difficulty encountered in many of these rural surveys.

I do appreciate the efforts of the Board to insist upon better and more accurate surveys and respectfully suggest the following guidelines:

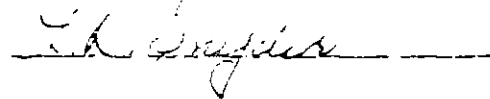
Undeveloped woodland, not suitable for farming or residential, error of closure 1-1500.

land for farming, buildings and pastureland, livestock, 1-2500 error of closure.

Suburban residential, 1-5000. (error of closure).

Respectfully yours,

Lyndell F. Snyder



DALLAS L. LOVEJOY, LLS
& ASSOCIATES, INC.
LICENSED LAND SURVEYOR

RECEIVED

1245 1/2 Pike Street
Milton, West Virginia 25541

1967
10-17-67
10-17-67

2-7-67

STATE BOARD OF EXAMINERS OF LAND SURVEYORS
P.O. BOX 908
FAYETTEVILLE, W.V. 25840

Dear STATE BOARD,

I object to the mandatory closure for rural surveys of 1 in 2000.

The 1 in 1500 eliminates most errors now found in missing calls and
deeds with no bearings or distances at a cost affordable to the
Public.

Do not mess with a good thing.

The 1 in 1500 would be very profitable to the Public.

I beg to let this die.

Respectfully,

Dallas L. Lovejoy

Dallas L. Lovejoy, LLS

State Board of Examiners

Box 925

Jayettesville, WV 25840

RECEIVED FEB 19 1987

Sir:

I understand your Board is making new rules for surveying that allow no more than one foot per 5000 feet error for rural surveys.

I have had some experience with rural property surveys and would say that such surveys do not need to be that accurate and it would increase the cost to the owner.

The old one in 1500 would be ok for most woodland.

Please consider the rural farm owners. Thank you

Sincerely

Gerraine Brown
100 Stonebrooke Road
Clarksburg, WV 26301

RECEIVED FEB 19 1987

Route 2, Box 276
Mannington, W.Va. 26582
February 12, 1987

State Board of Examiners of Land Surveyors
P.O. Box 925
Fayetteville, W.Va. 25840

Dear Board Members:

I am writing with reference to the proposed changes by the State Board of Examiners of Land Surveyors to raise the accuracy of rural surveys to 1 foot in 5000 feet. In my opinion this is just another example of bureaucratic good intentions that, after the regulations are put into effect, will not serve a justifiable end result. Having used the survey compass for farm and woodland surveying, I see no beneficial need to require a transit in all rural situations.

I don't believe that rural land should be divided into classes which differentiate between woodland and farmland. An accuracy of 1 in 1500 should be sufficient for all rural land.

I see no reason to change the accuracy of oil and gas well location surveys.

Sincerely yours,

Herbert C. Rockwell Jr.

Herbert C. Rockwell Jr.

RECEIVED

Rt 65, Box 18
Heaters, W.V. 26627
Feb. 18, 1987

State Board of Examiners of Land Surveyors
P.O. Box 925, Fayetteville, W.V. 25840

Dear Sir:

Regarding the changes in Land Surveying Regulations in the State of W.Va. I am opposed to S.B. 290, it would eliminate many of the surveyors in the State, if passed. I am opposed to the proposed change in rural land survey accuracy to 1 in 5000 because that would increase the cost of rural land surveys to the point in some cases that the survey would cost as much as the land is worth.

I am in favor of the three suggestions to the proposed regulations; make them Guide Lines not mandatory:

Woodland — 1 in 1500

Farmland — 1 in 2500

Rural or Suburban Residential — 1 in 5000.

Sincerely yours,

James L. Hinkman, Surveyor

Robert D. Hough
P. O. Box 308
Elkins, W. 26241

RECEIVED FEB 10 1967

February 9, 1967

State Board of Examiners of Land Surveyors
P. O. Box 925
Fayetteville, WV. 25740

Gentlemen:

I note that there is a public meeting scheduled to hear proposed changes in the regulations governing Land Surveyors on February 25th, 1967 in Fayetteville a date and location I cannot make to participate in personally, therefore, I would like to submit my comments by letter.

I find that the proposed change in Error of Closure for rural land from 1 in 1500 to 1 in 5000 to be not in the best interests of farmers and owners of large tracts of timber. I have found that in surveying large tracts of timber that an error of closure of 1 in 5000 to be totally improper and almost unobtainable. Also it would run up the costs of a survey of this magnitude to the extent that I think it would be difficult for the average surveyor to stay in business. My experience with retracement surveys of deeds up to 200 years of age, where the error of closure was no better than 1 in 50, makes me wonder the purpose of, and the results of, a resurvey to an error of closure of 1 in 5000.

I, therefore, object to a change in Error of Closure of 1 in 1500 to 1 in 5000. I believe the present regulations are good and should remain as they are.

Very truly yours,


Robert D. Hough, LIS-416



STATE OF WEST VIRGINIA
DEPARTMENT OF ENERGY
301 TOWN STREET, SOUTHEAST
CHARLESTON, WEST VIRGINIA, 25304
TELEPHONE: 348-3741

RECEIVED FEB 13 1987

ARCHER MOORE JR.
GOVERNOR

KENNETH G. FARRER
COMMISSIONER

DOE/DO&GM-0186

TO: W. VA. STATE BOARD OF EXAMINERS OF LAND SURVEYORS
FROM: TED M. STREIT, DEPUTY DIRECTOR ENFORCEMENT & INSPECTION
RE: COMMENTS ON PROPOSED RULES
DATE: FEBRUARY 13, 1987

I have enclosed a copy of the Department of Energy, Division of Oil and Gas rules concerning oil and gas well location surveys.

We, at the Department of Energy, feel that our rules are adequate in accuracy to facilitate the legal and practical matters of oil and gas well surveying. By forcing land surveyors to provide surveys more accurate than engineers provides no benefit to the industry or the public as a whole. We also feel that the plat requirements are the exclusive jurisdiction of the Division of Oil and Gas as provided in W. Va. Code 22B-1-2 and 22B-1-12.

Thank you for your consideration in this matter, and I respectfully request that you remove this regulation from your proposed regulations.

10.04. Notice to Review Board of Objection; Copies to Applicant. If a coal operator, owner or lessee files or the Department makes objection under Code § 22-4-3b, the Department shall notify the Chairman of the Review Board by means of Form IV-15, "Notice to Shallow Gas Well Review Board of Objection under Code § 22-4-3b to a Proposed Drilling Site", attaching copies of all objections made under Regulations 10.01 and 10.02, and all other information required by Code § 22-4-3b. Copies of all such documents shall be sent to the applicant well operator as his notice of objection.

11. Form and Contents of Plats.

11.01. Statutory Requirements for Plats. Any plat required to be furnished under Code §§ 22-4-2 or 22-4-2b (see Regulation 7.02) shall contain all information specified in the statutory section requiring the plat.

11.02. Additional Requirements for Plats. Any plat required to be furnished under Code §§ 22-4-2 or 22-4-2b, or under Regulations 8.01(b) or 17.01, shall be recorded on Form IV-6, "Well Plat", and shall conform to the following standards of accuracy and depiction:

(1) Accuracy. An accuracy of one part in 2500 is required for location of wells on land containing workable coal beds which are tributary to operating coal mines. All other plats require a minimum accuracy of one part in 200. The attained accuracy standard shall be stated on every plat.

(2) Permanent Landmarks. At least two permanent monuments or landmarks with courses and distances to the subject well shall be shown on the basis of an on-the-ground survey; and, if any such monument or landmark is not a permanently established property corner, it shall be referenced to a property corner by courses and distances on the basis of an on-the-ground survey.

(3) Physical Location of Well. Every well shall be drilled within ten feet of the exact location designated on the plat. To facilitate compliance and, if desired, verification, the plat for a new well shall designate at least two reference points from which, after the drilling site has been cleared and graded, the proposed well location can be accurately reestablished by the well operator and, if desired, subsequently verified by the oil and gas inspector or any interested person. When the survey party stakes the proposed well location, it shall flag or otherwise mark the reference points, which may be permanent, such as standing trees, or temporary, such as set stakes; and they shall be beyond the limits of the drilling site but within 300 feet of the well location. A description of the reference points and their location with reference to the well location shall be indicated on a detail drawing or a narrative statement on the face of the plat.

(4) Description. Landmarks and permanently established property corners used shall be named and described on all plats. They shall include standing corner trees, set stones, iron pipes, T-rails, or other manufactured monuments; and existing wells (operating or abandoned) shall also be considered established

landmarks if said wells are platted and on file with the Department. If landmarks used are not property corners, they must be adequately referenced to property corners to permit their future location.

(5) Method of Showing Property Lines. The courses and distances of all farm lines adjoining and those connecting the said landmarks or farm corners within the scope of such well location plat, shall be shown thereon. All lines actually surveyed shall be shown on such plat in solid lines. Lines taken from deed descriptions only shall be shown by broken lines.

(6) Proven Elevation. The elevation of the surface of the location shall be given and it shall be tied to either a government bench or other point of proven elevation. The location of the government bench mark or the point of proven elevation shall be noted and described on the plat.

(7) North-South Line. A north and south line shall be given and point to the top of the plat.

(8) Scale and Size of Plat. If practicable, all plats shall be drawn to a scale of 1" = 2000' (1:24,000) or even multiples thereof for easy reduction of the plat photographically to a scale of 1" = 2000'. The plat shall be 8½ inches by 14 inches in size.

(9) Topographic Map Location of Well. The topographic map location of the well for which any permit under § 22-4-1k is being sought shall be shown on the plat by a "cross" with the measured distance in feet from the nearest 5 minute latitude and longitude intersection using the North East (upper right) border of the plat on the 15 minute (1:62,500 topographic map). If the 7.5 minute (1:24,000) topographic map is used, the topographic location shall be shown on the plat at a "cross" with the measured distance in feet from the nearest 2.5 minute latitude and longitude intersection using the North East (upper right) border of the plat. Each plat shall indicate the topographic map name and series whether 7.5 minute or 15 minute is used to show the well location.

(10) Wells. All wells within the scope of the plat, whether active, drilling or abandoned, shall be shown. The scope of every plat shall be sufficient to show all wells within 1,200 feet of the well which is the subject of the application; and in the case of an application for a shallow gas well with a depth of 3,000 feet or more that will penetrate a coal seam, the scope of the plat shall be sufficient to show all wells within 2,400 feet of the well which is the subject of the application. Each well so shown, including the subject well, shall bear a designation that permits the kind (oil, gas, liquid injection under Code § 22-4-4a, waste disposal, underground storage, or storage observation) and status (active, abandoned, or drilling) of each such well to be determined by the use of (i) API permit number (excluding State and County) for each well having such a permit number, (ii) in parentheses, and following the API number of such is listed, the kind and status numbers provided, below, and (iii) the symbols provided below. The kind and status numbers shall be as follows:

Oil wells

01- Shallow, active	04- Deep, active
02- Shallow, abandoned	05- Deep, abandoned
03- Shallow, drilling	06- Deep, drilling

Deep Gas wells

- 07- Production, active
- 08- Production, abandoned
- 09- Production, drilling
- 10- Underground storage, active
- 11- Underground storage, abandoned
- 12- Underground storage, drilling
- 13- Storage observation, active
- 14- Storage observation, abandoned
- 15- Storage observation, drilling

Shallow gas wells

- 16- Less than 3,000 feet, production, active
- 17- Less than 3,000 feet, production, abandoned
- 18- Less than 3,000 feet, production drilling
- 19- Less than 3,000 feet, underground storage, active
- 20- Less than 3,000 feet, underground storage, abandoned
- 21- Less than 3,000 feet, underground storage, drilling
- 22- Less than 3,000 feet, storage observation, active
- 23- Less than 3,000 feet, storage observation, abandoned
- 24- Less than 3,000 feet, storage observation, drilling
- 25- 3,000 feet or more, production, active
- 26- 3,000 feet or more, production, abandoned
- 27- 3,000 feet or more, production, drilling
- 28- 3,000 feet or more, underground storage, active
- 29- 3,000 feet or more, underground storage, abandoned
- 30- 3,000 feet or more, underground storage, drilling
- 31- 3,000 feet or more, storage observation, active
- 32- 3,000 feet or more, storage observation, abandoned
- 33- 3,000 feet or more, storage observation, drilling

Liquid injection wells under Code § 22-4-10a

- | | | |
|------------|---------------|---------------------------------|
| 34- Active | 35- Abandoned | 36- Drilling or being converted |
|------------|---------------|---------------------------------|

Waste disposal wells

- | | | |
|------------|---------------|---------------------------------|
| 37- Active | 38- Abandoned | 39- Drilling or being converted |
|------------|---------------|---------------------------------|

The symbols shall be as follows:

New drilling location



New fracturing or stimulating location



Cancelled application or permit



Oil well



Gas well



Dry hole



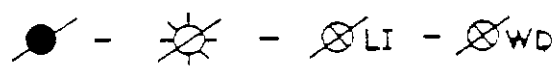
Liquid injection well under Code § 22-4-10a



Waste disposal well



Abandoned well



(11) Other Surface Features. In addition to the surface features and owner identification data required by statute or by the foregoing specifications in this Regulation 11.02, the plat shall also show the following surface features lying within the scope of the plat: (i) water wells within two hundred feet of the well for which any permit under Code § 22-4-1k is being sought except for liquid injection or waste disposal wells, in which case water wells within one thousand feet of the well shall be shown; (ii) dwellings within two hundred feet of the well of which any such permit is being sought; (iii) streams; (iv) roads and highways; and (v) railroads, with the owners' names.

(12) Names. The plat shall state the names of the surface owners and the royalty owners of the land at the well location.

11.03. Plat Certification. Surveys and plats shall be made under the supervision of a registered professional engineer or licensed land surveyor entitled and licensed by law to practice in the State of West Virginia. The certificate shall be signed and certified by the registered professional engineer or licensed land surveyor in the following manner:

"I, the undersigned, hereby certify that this plat is correct to the best of my knowledge and belief and shows all the information required by law and the regulations issued and prescribed by the Department of Mines."

11.04. Re-use of Plats. After the initial permit for drilling a well, a subsequent application for any new permit involving the same well may be accompanied by an accurate copy of the plat accepted by the permit issued for the most recent previous application, updated as necessary to reflect new data or additional data now required by statute or these Regulations: Provided, That a new certification shall be necessary in the form required by Regulation 11.03.

11.05. Permanent Character of Plats. Every plat submitted under Regulation 11 shall be of permanent character, that is, on linen or plastic or other material of comparable quality and with india or other ink of a nature to result in a depiction not subject to substantial degradation through time from exposure to ordinary conditions of temperature, humidity and light.

12. Performance Bonds for Well Operators.

12.01. Separate Bonds. A separate bond furnished by a well operator in compliance with any section of Article 4, Chapter 22 of the Code shall be on Form IV-7, "Bond for Single Oil or Gas Well, Single Liquid Injection

February 1967
S.P. 1. Box 425
Mt. Storm, West Virginia

State Board of Examiners of Land Surveyors
P.O. Box 425
Fayetteville, WV 25840

Gentlemen:

I am writing regarding the proposed new regulations requiring a mandatory 1 in 5000 closure for rural surveys. I am opposed to a mandatory closure of 1 in 5000 for rural surveys in that the added cost of such a closure to surveyors and ultimately to landowners will exceed any benefit of the proposal.

Being both a professional engineer and land surveyor involved in all types of surveying from construction lay-out to rural type surveying, I appreciate the need for accuracy relative to the nature of the project. To require a mandatory accuracy of 1 in 5000 for rural woodland surveys cannot be justified considering the value of such land and nature of the survey. I do not know of any rural landowner boundary disputes evolving because of a survey accuracy of 1 in 1500 rather than 1 in 5000. Many disputes do occur because of inadequate courthouse research or failure to locate an existing corner on the part of the surveyor.

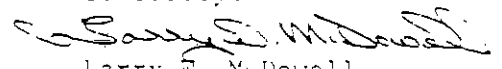
Mandatory closure of 1 in 5000 for all rural surveys will definitely increase the cost of these surveys realized by the landowner without any corresponding benefit to the landowner. In woodland rural surveys, the method of marking the boundary (hacking trees within 2 or 3 feet of the line) is not consistent with a mandatory closure of 1 in 5000.

I would propose that rural land be divided into classes with corresponding guide lines rather than mandatory closures. A professional should possess the expertise within his field to establish the limit of error acceptable relative to the nature of the survey. Suggested classes and guide lines are as follows:

WOODLAND (natural forest land)	1 in 1500
FARMLAND (agriculture, pasture, etc.)	1 in 2500
RURAL OR SUBURBAN RESIDENTIAL	1 in 5000

The aforementioned classification and guide lines are more consistent with land values and in the best interest of surveying and the landowner.

Sincerely,


Larry W. McDowell
Licensed Land Surveyor
Professional Engineer
West Virginia and Maryland



L. L. MOSS

DEALER IN

Quality Used Cars

Telephone 472-2345

ROUTE 2

BUCKHANNON, W. VA.

(at Sand Run)

26201

IN BUSINESS

SINCE SEPTEMBER 1, 1932

We Buy Wrecked Cars
and Cars for Salvage

RECEIVED FEB 19 1987

2/8/87

State Board of Examiners of Land Surveyors
P.O. Box 925
Fayetteville, W. VA. 25840

Gentlemen:

Here we go again, Nobody in the Legislature desires to do anything EXCEPT Spend more money. The cost of Surveying NOW is costing almost as much as the land you are purchasing and that cost is rising with out the UNREASONABLE Closing accuracy of 1 in 5000. Even if this is passed it will not STILL Make it equitable, Because somebody will have to compromise, AND YOU KNOW THAT IS TRUE. Rural Lands cannot be made that Accurate without some one giving.

I implore you to leave Good enough alone. You or any one else can not Get truly accurate 1 in 5000 and YOU KNOW IT. Please leave us woodland owners alone. The cost of surveying is expensive enough and It will not be better Surveying Regardless of how much you make a Land owner Spend.

Spending yourself RICH did not work in 1932 and it Certainly will not do so now. Why not give West Virginia a Chance to get its breath. We are having enough trouble with the REAPPRAISES. Some of my Property has been raised 3.355 % and that increase came only after 1 year of Ownership and which property was purchased at Public Auction in Front of the Court House

Sincerely yours,

L. L. Moss

L. L. Moss

RECEIVED FEB 19 1987

152 Iroquois Trail
Ona, W. Va. 25545
February 9, 1987

State Board of Examiners
for Land Surveyors
PO Box 925
Fayetteville, W. Va. 25840

Dear Sirs:

Having had conversation with fellow land surveyors concerning the proposed regulation of 1 in 5000 for the closure error for land surveys, I believe that reasonable guidelines be established and not to have this made into a mandatory regulation.

Attached here-to are several reasons for this decision.

Sincerely,



John H. Gibson, L.L.S.

Enc.

CC: F. Henry Sipe, L.L.S.
Bob Childers, Delegate
Ned Jones, Senator

RECEIVED FEB 19 1987

TO WHOM IT MAY CONCERN:

On February 17, 1984 the State Board of Examiners of Land Surveyors held a public hearing at Romney about revised regulations proposed for land surveying. Some of the regulations were objected to by landowners, surveyors, foresters and others. The proposed rules were finally rejected by the Government Organization Committee of the House of Delegates on February 12, 1986.

Since then two new persons have been appointed to the Board of Examiners. The Board has recently proposed new regulations which are mostly similar to those that were in effect for many years without complaint!

Unfortunately for rural landowners, the error of closure for rural surveys is still proposed as mandatory for 1 in 5000 whereas the former guide (which had been in effect since 1969) was 1 in 1500. A closure of 1 in 5000 for all rural land should not be approved for these reasons:

1. It is neither desirable nor necessary for all rural land to be surveyed with such accuracy.

2. Authorities on surveying such as DAVIS & FOOTE agree that "There can be no fixed rules for the relative accuracy of different classes of surveys ... Each survey is a problem in itself, for which the surveyor must establish the limit of error, using his own judgment ... to guide him."

3. The cost of 1 in 5000 accuracy will increase the cost of surveys to landowners without any corresponding benefit.

4. To comply with such accuracy, many surveyors will have to buy very expensive equipment (\$5000 to \$10000) or go out of business, at a time when there is a shortage of land surveyors in West Virginia. For example, there is not a single licensed land surveyor today in Randolph County who makes his living entirely from land surveying.

Another questionable change is that oil and gas well location surveys must have an accuracy of 1 in 5000.

A public hearing on the proposed regulations will be held on February 25, 1987 at the American Legion Hall, 205 W. Maple Avenue, Fayetteville, West Virginia, at 9:00 AM. Oral and/or written comments will be accepted at that time.

Persons who do not attend the hearing may submit written comments which must be received before 12:00 noon on March 2, 1987. It is suggested that such comments be mailed on or before February 28 perhaps by certified mail, to:

State Board of Examiners of Land Surveyors,
P.O. Box 925, Fayetteville, WV 25840

Certain changes are suggested to the proposed regulations, namely to divide rural land into three classes and make them GUIDE LINES not mandatory:

WOODLAND (devoted to growing natural forest trees) - 1 in 1500.

FARMLAND (devoted to agriculture, pasturage, stock raising or some allied industry) - 1 in 2500.

RURAL OR SUBURBAN RESIDENTIAL - 1 in 5000

January 20, 1987

3 Copy

LEON LIPSCOMB
Rd 2 P.O. Box 334
BELINGTON, WEST VIRGINIA 25814

State Board of Examiners for Land Surveyors
P. O. Box 925
Fayetteville, West Virginia 25840

Dear Sirs:

Certain changes are suggested to the regulations; namely to
divide Rural Land into three categories;

Woodland, 1:1500

Farmland, 1:2500

Rural and suburban Residential 1:5000

Guidelines not mandatory.

Very truly yours

Leon Lipscomb
Leon Lipscomb

RECEIVED

131

OFFICE OF THE ATTORNEY GENERAL
STATE OF NEW YORK
ALBANY, N.Y. 12224
JAN 24 1975

State Board of Insurance of New York
P.O. Box 995
Albany, NY 12219

Dear Sir:

It has come to our attention that your
body is considering a change in the
regulations to make mandatory on
all surplus a clause of \$10,000
plus the actual cost of the
officer's change for such a
mandatory larger amount. This
would make the change to
our favor. We are very
very truly yours,
Robert T. Farn

RECEIVED FEB 2 1987

Comments
on
Rules and regulations 1987

I have a few suggestions on the proposed rules and regulations that the Board of Examiners are currently proposing.

Section 10 10.05 Should you have includes the GPS system in this?

Section 10 10.07

All corner trees should be marked with three hacks and all reference trees should be marked with two hacks with a blaze between them. This would make all line marking consistant among all surveyors. I have some reservation about requiring the marking of lines in all cases as it would be a high cost in many of my rural areas especially on long lines where I have used an EDM from one ridge to another. With the EDM technology my surveys are more affordable to the public but would be far less affordable if all lines were to be marked.

Section 10 10.09

Calculating area by triangles and planimeters are not extremely accurate and probably should be done away with.

Section 10 10.11 The shall should be changed to should. This and the next item will ensure the defeat of getting any regulations passed and they are not all that important. Technology and education will take care of this problem in the next few years. Obsolete equipment including transits (except in mine surveying and a few other uses) will not be used because they are too slow and inefficient. Theodolites with data collectors will be the fast and efficient way to survey. This change is rapidly being implemented in W.Va. and those surveyors who are inefficient will be eliminated from the market place.

The chances of the board revoking a license or giving a reprimand only on the grounds of error of closure to a surveyor are very unlikely so please give a little ground and lets implement some regulations. Since several surveyors violated the past rules and regulations repeatedly why make more regulations that are not enforced. There are still plenty of surveyors to reprimand for ignoring many rules and regulations and not just one regulation involving error of closure.

Section 10 10.12 A surveyor would still need to tie to two state plane coordinate stations or a reference mark to orient a survey to state plane coordinates. The 1:5000 is unrealistic when the well can be moved 10 feet. I would suggest that you drop this to at least 1:2500. Do'nt worry, the surveyor will know he has goofed up when he has to buy a well.

Section 11 11.05

It may not be feasible to traverse from the outside of one large subdivision to another subdivision and won't add any benefit to the survey. In some instances this would be good if they were next to the lot that you were surveying.

Generally I think the regulations are good and are needed. I wish you luck with their passage. I wish that they had been published in the surveyor magazine so as to give all surveyors a chance to respond to them. Thank you for the opportunity to comment on these.

Pick Sypolt

GALTJO L GEERTSEMA
LAND SURVEYOR-FORESTER
~~304-267-6172~~ 1225 West King Street
MARTINSBURG WEST VIRGINIA 25401

304-267-6172

WV LICENSED LAND SURVEYOR
MEMBER WV ASSOCIATION OF LAND SURVEYORS
MEMBER AMERICAN CONGRESS OF SURVEYING & MAPPING

WV REGISTERED FORESTER
~~304-267-6172~~

27 February 1987

State Board of Examiners of Land Surveyors
P. O. Box 925
Fayetteville, WV 25840

Dear Sirs:

This is in reference to the Board's proposal of a mandatory maximum error of closure of 1 in 5000 for all rural surveys.

I am strongly opposed to this change and quote my 17 February 1984 general comments on the issue:

General Comments

Chapter 30, Article 13A, of the West Virginia Code, for the regulation of land surveying, was enacted to protect the public from the harm of high priced, low quality surveying.

West Virginia surveyors are usually specialists. Some specialize in high accuracy and subdivision work, have high overhead with computers, electronic distance measurement equipment, trained office staff, field crews, etc., and feel that they can not make money on sufficient boundary retracement surveys. Others specialize in boundary retracement and can make money because of low overhead and offer a one man practice.

It takes a special mentality to do a competent resurvey, often requiring days or weeks of records research and contact with neighbors. It is highly preferable that the surveyor doing the records work also does the field work. Failure to do this often results in serious mistakes by the larger surveying organizations that have division of labor.

Just as the ideal man for doing a complicated subdivision is a surveyor with a large organization, so is the single surveyor with low overhead the ideal man for a difficult retracement survey. The single surveyor with low overhead may not have EDM equipment or a regular field crew and may use a compass for most of his work, attaining precisions of measurement of about 1 in 1500, which is sufficient for most rural lands.

In the past, complaints about poor surveying have been due to poor records work, not to precision of measurement.

Requiring all surveys to be made to 1 in 5000 precision will encourage the single surveyor to cut corners on records research in order to be able to use his high cost equipment and crew as much as possible and/or to fudge the results of his field work. It will put some surveyors out of business, or force them to join larger surveying organizations. All this will lower the quality and raise the cost of surveying in West Virginia, harming the public in two ways.

In my opinion the stringent 1 in 5000 requirement for land below \$10,000 per acre provides no economic benefit, and is an unwarranted and un-american restriction of free trade. Precision of survey should be determined by the landowner in consultation with the land surveyor, considering land value and survey costs.

Last year I surveyed mountain lands sold for \$165 and for \$750 per acre. In twenty years of surveying I have only met two persons requiring precision of more than 1 in 1,000.

I propose that rural land be divided into two or three classes:

Woodland and low value farmland	-	1 in 1500 (guide line, not mandatory)
Farmland (over \$2000/ac. e.g.)	-	1 in 2500 (guide line)
Residential	-	1 in 5000 (probably mandatory)

Very truly yours,

Galtjo L Geertsema

Comments on the January 1984 proposed changes in the
Rules and Regulations for the Practice of Land Surveying in W.Va.

General Comments

Chapter 30, Article 13A, of the West Virginia Code, for the regulation of land surveying, was enacted to protect the public from the harm of high priced, low quality surveying.

West Virginia surveyors are usually specialists. Some specialize in high accuracy and subdivision work, have high overhead with computers, electronic distance measurement equipment, trucks, office staff, field crews, etc., and feel that they can not make money on difficult boundary retracement surveys. Others specialize in boundary retracement and can make money because of low overhead and often a one man practice.

It takes a special mentality to do a competent resurvey, often requiring days or weeks of records research and contact with neighbors. It is highly preferable that the surveyor doing the records work also does the field work. Failure to do this often results in serious mistakes by the larger surveying organizations that have division of labor.

Just as the ideal man for doing a complicated subdivision is a surveyor with a large organization, so is the single surveyor with low overhead the ideal man for a difficult retracement survey. The single surveyor with low overhead may not have EDM equipment or a regular field crew and may use a compass for most of his work, attaining precisions of measurement of about 1 in 1500, which is sufficient for most rural lands.

In the past, complaints about poor surveying have been due to poor records work, not to precision of measurement.

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Specific Comments

3.02b.(1) ... minimum accuracy of one minute ... - is too restrictive and unreasonable, leaves insufficient judgement to the land surveyor.

3.02b.(2) ... with metal tapes ... - is too restrictive.

8.01 of the old regulations should be kept (proper precisions for job to be done).

8.04 of old regs. should be kept (magnetic variation calculation).

8.04 1 in 5000 error of closure is much too restrictive. Precision should be sufficient to solve the problem in the surveyor's judgement and in line with the landowner's wishes and finances.

8.07 e. Bearings to 10 seconds is misleading if precision is less than 1 in 30 to 40000.

8.07 f. Distances to 0.01 foot is misleading for longer distances.

8.07 g. Areas to 0.01 acre may be misleading for larger tracts of land.

8.08 a. Attaching to monuments a disk with 7 or more words is not necessary if adjoining are contacted, and may invite destruction by vandals, and will raise survey costs.

9.06 of old regs.(declination), 9.07 (consistent with precision employed), 9.09 (scale) and 9.14 (date of survey) should be kept.

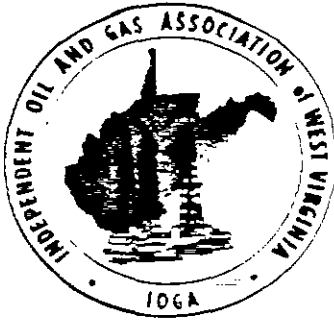
9.02 ... names of adjoining ... (old regs. 10.02) should not be deleted.

11.02 This certificate is redundant (see 3.01), does nothing to improve the plat or survey, uses up space on the plat, increases the cost of preparing the plat, and makes the plat look more ridiculous.

Respectfully submitted 17 February 1984

Galtjo L. Geertsema

Galtjo L. Geertsema, ILS No. 204
Martinsburg, West Virginia



Independent RECEIVED
Oil & Gas Association of West Virginia

22 Capitol Street, Charleston, West Virginia 25301-2893 Telephone (304) 344-9867
February 26, 1987

State Board of Examiners of Land Surveyors
P. O. Box 925
Fayetteville, WV 25840

Dear Sirs:

I am writing to you on behalf of our organization, the Independent Oil and Gas Association (IOGA) of West Virginia.

It has come to our attention that you are considering a change in the "degree of accuracy" regulations governing land surveyors. Upon further review of the present guidelines by which surveyors are now abiding, we feel it is necessary to ask you to reconsider your position on the new proposal.

Under current West Virginia Department of Energy law, a surveyor can presently survey with a minimum degree of accuracy of "one part in 200". A new regulation raising the degree of accuracy to "one part in 5,000" would, we believe, adversely affect land surveyors who are helping us in the oil and gas industry.

A registered engineer, on the other hand, could still survey with an accuracy of "one part in 200".

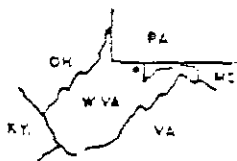
It appears to us that this call for renewed guidelines for land surveyors would put surveyors in a position where they could not compete with registered engineers in securing contracts to survey well sites.

In West Virginia, land surveyors perform most of the surveys for those well sites. But if the current proposal is enacted, the surveyors' costs would undoubtedly rise; therefore, it is easy to assume that many potential jobs that could be handled by surveyors would then go to engineers. Given that most of the state's oil and gas well sites are in rural areas, the availability of registered engineers would be questionable.

These are just some of the concerns our association has with the new proposal. We respectfully ask that you not raise the accuracy requirements for land surveyors.

Sincerely,

Ed Hamrick
J. Edward Hamrick
Executive Director
IOGA of W. Va.



MOUNTAIN STATE SURVEYING COMPANY

SURVEYING - MAPPING - MINING CONSULTANTS



RAYMOND T. STILES LLS

February 27, 1987

P.O. BOX 83
KINGWOOD W. VA 26537
Phone 304 329-0866

Chairman
State Board of Examiners
of Land Surveyors
P.O. Box 925
Fayetteville, WV 25840

RECEIVED

Dear Mr. Chairman:

As a licensed land surveyor and the owner of a Land Surveying Company in West Virginia I have some very serious questions about the proposed regulation changes.

As for the changes of degree of accuracy from 1 in 1,500' to 1 in 5,000' for rural land, I am adamantly against this. I do not agree totally with the concept that 1 in 5,000' surveys will force surveyors to obtain \$5,000.00 to \$10,000.00 worth of equipment, for several years I surveyed under contract for Consolidation Coal Company with a 1' Gurley transit and a 300' Lufkin chain and met their 1 in 5,000' requirements. It took skill, perseverance and time. I do agree it was more costly to the client and the cost could be cut by electronic methods, "hence the \$5,000.00 to \$10,000.00 investment".

I don't feel that any of this is pertinent in that I have yet to see a reason for 1 in 5,000' surveys. It will serve no purpose except to either raise costs by time expended or investment of equipment. It does present the problem of allowing an "R.P.E." to perform less than 1 in 5,000' surveys at lower costs. It also allows timber, gas and coal companies to hire unlicensed personnel to survey for them as "company personnel" (see 30-13A-7) to perform less than 1 in 5,000' surveys at lower cost thus impeding the livelihood of L.L.S. by regulation for no apparent reason.

All of this is immaterial to me as a licensed land surveyor and company owner as we use electronic equipment 95% of the time anyway but the reasoning behind it is totally absurd, therefore I am totally against it.

Another problem I have is the proposal of 1 in 5,000' for gas and oil well locations.

I don't feel that the burden of this should be on licensed land surveyors.

We currently have L.L.S. and R.P.E.'s alike performing these locations wholesale on Saturdays and Sundays with help from siblings, girl friends and wives etc, which is wrong. But why penalize me as a licensed land surveyor by regulations and bypass someone else "R.P.E." and bar me cost wise merely because I am a licensed land surveyor?

This 1 in 5,000' regulation should not be addressed by the State Board of Examiners of Land Surveyors but by the Oil and Gas Division of the Department of Energy as it is with under ground surveying, a regulation for all.

Sincerely,


Raymond T. Stiles J.L.S. 4018

RECEIVED FEB 2 1987

February 25, 1987

Marvin J. Hardy, LLS
Route 5, Box 183
Petersburg, WV 26847

State Board of Examiners
of Land Surveyors
Fayetteville, WV 26840

Dear Sirs:

I regret that I was unable to attend the hearing on February 25, 1987, at Fayetteville, concerning survey accuracy guide lines. I am opposed to higher guide lines, and feel that accuracy standards should not be mandatory. However, if the minimal requirements are reasonable, a responsible surveyor will have no problem exceeding such mandatory guide lines. I believe that a land survey with an accuracy ratio of 1:5000 can be inferior to one of 1:1500 when the lines are not marked, the recorded monuments are not found (but exist), and court house research was poorly conducted. The surveyor needs to use his own judgement to determine the accuracy needed for a particular survey. Our company purchased a 10-second theodolite with electronic distance meter for about \$10,000. With this instrument and our survey methods, we normally achieve accuracy ratios from 1:10000 to 1:20000. This is up-to-date equipment, and the accuracy is not far above the 1:5000 proposed standard.

Land Surveyors are determined to be qualified and responsible, to perform surveys, by the State Board of Examiners. Most of the surveyors I know are responsible and take pride in doing a good job. They consider all aspects of a survey, and strive to use good judgement in boundary locations. I, therefore believe that the existing 1:1500 standard is reasonable and should not be increased.

cc: F. Henry Sipe, LLS

Very truly yours,
Marvin J. Hardy
Marvin J. Hardy
Licensed Land Surveyor

Mr. Leon K. Spencer, Secretary,
State Board of Examiners of Land Surveyors,
P.O.Box 925,
Fayetteville, WV 25840

COMMENT ON RULES AND REGULATIONS PROPOSED FOR LAND SURVEYING
FILED JANUARY 16, 1987 WITH THE SECRETARY OF STATE.

My name is F. Henry Sipe. I moved to West Virginia in June 1953 and have resided at 1404 Harrison Avenue in Elkins since that time. During 34 years here, I have made hundreds of surveys of rural property and city lots, from a fraction of an acre to over a thousand acres. I am author of several books on land surveying and codeveloper of a surveyor's L-minute vernier compass.

I have been surveying part-time for over 60 years. In 1968 I organized the West Virginia Association of Land Surveyors, was its first President. I am a member of WVALS, American Congress on Surveying and Mapping and Society of American Foresters. I helped enact the law that your Board now administers and was a member and secretary of the Board for its first 12 years. During my term on the Board I reviewed thousands of rural survey documents submitted by applicants for a survey license.

As a consultant land surveyor I have helped solve disputes over land boundaries, having been appointed by the Courts in some cases. In summary, probably few persons in this State have had a wider experience with rural land surveys and problems associated with them.

The rules proposed are better than the rules proposed at a public hearing on February 17, 1984, which were rejected by the Legislature on February 12, 1986. Unfortunately for rural landowners, the rules now proposed still contain the unreasonable 1 in 5000 closure for rural surveys which I later comment on at greater length.

First I comment on certain items of lesser importance:

Section 3. As Section 30-13A-5(b)3 of the Code is likely to be removed sooner or later, it would be wise to remove it as a reference.

Section 4. It is good to add "direct" to supervision. However, partial credit should be considered for rod and chain work. Most surveyors begin their careers with rod and chain and ought to be given some credit for it, especially if the length of experience requirement is increased from 4 to 6 years.

Section 5 repeats the Code and is redundant. The application fee of \$70.00 may be changed by the Legislature.

Sections 6 and 9 also repeat the Code and seem redundant.

Section 10.03 removes pressure to place all subdivision surveys on true bearing orientation. This appears to be a step backward, but Section 11.06 remedies this to some degree.

Section 10.11 contains the objectionable error of closure for rural surveys which will be discussed later.

Section 10.12 omits compliance with State Oil & Gas Division laws and regulations; it should be included. It specifies closure for well location surveys of 1:5000. Such accuracy is unnecessary except in cases that can be identified by the surveyor.

Section 11.05 deletes ties to 3 nearest streets. Such ties are almost a necessity for relocating corners of a city lot within a "block". This seems to be a step backward.

As a separate item, former Section 9.13 that called for general locative data has been omitted. This is a step backward and should be included.

This concludes my comment on all but Section 10.11.

Section 10.11

This section provides a mandatory error of closure of 1 in 5000 for rural surveys, which was included in rules rejected by the Legislature on February 12, 1986. My objection to 1:5000 for rural surveys is based on the following reasons:

A closure of 1:1500 is usually adequate for woodland. No evidence has been submitted to show that rural landowners would be adversely affected by 1:1500 or that 1:5000 is necessary to protect the public interest. Counsel for the Legislative Rule-making Review Committee (M.E. Mowery)* analyzed the 1:5000 proposal in 1985 and concluded:

"... the statement submitted by the Board sets forth conclusions as to the need for the proposed rules and regulations, but does not present the underlying facts to support those conclusions...there are no facts which the Legislature could examine to determine whether the circumstances require the rule in question." Counsel then propounded 11 questions which the Board did not answer, and concluded, among other omissions, "The agency has failed to sustain the burden of proof with respect to essential facts..."

There is a very good reason why the Board did not submit evidence to support a closure of 1:5000 for rural surveys - no such evidence exists. The fact is that if rural surveys are made following previous rules (which no longer exist because of failure to refile as required by Code 29A-2-5 enacted in 1982) that called for 1 in 1500 as a guide line, no damage to landowners or the public will occur. Inadequate surveys are now being made, but the causes thereof result from failure to follow other rules and procedures that will not be discussed here.

Another objection to 1:5000 is economic. It requires different equipment to perform different kinds of surveys. With a good compass and tape, a closure of 1:1500 can be attained by a competent surveyor; 1:5000 can almost never be attained by compass. To attain 1:5000 consistently a surveyor must have at least a transit and tape and use extraordinary care. Surveyors testifying at the February 17, 1984 hearing said they had difficulty obtaining 1:5000 even with transit in the woods and also with an electronic distance measuring (EDM) instrument.

Although most surveyors have a transit, they do not have an EDM or a "Total Station" unit. A transit costs from \$1000 to \$3000, and a "Total Station" (a combined transit and EDM) costs from \$8000 to \$25,000. Few surveyors in this State have Total Stations. Because these instruments cannot see through trees, boulders, etc. it is more time-consuming to survey with them. A compass line can more easily bypass such obstacles, and uses only two persons whereas more expensive instruments need three or more persons, hence higher costs to the consumer.

I have compared the cost of a survey of a 3900 foot line by compass and transit. I found the field transit survey cost 2.7 times as much as the compass survey, with no corresponding benefit to the landowner.

Ample evidence of higher cost for higher error of closure is found in the February 17, 1984 transcript at pages 33, 38, 48, 92 (Guseman), 97 (McDowell), 102 (Moss), 107 (Cox), 114 (Saville), 115 (Lipscomb), 116 (Coastal Lumber Company), 127 (Kitzmiller), 134 (Marsteller), 135 (Lounsbury), 137 (Mongold Lumber Company), 176 (Ransberger), 177 (Spencer), 180 (McClung), 181 (Hough), 186 (Crawford), 197 (Smith), 199 (Huffman) and 239 (Silver).

SHALL WE COPY OTHER STATES' RULES?

The argument is often advanced that West Virginia should adopt accuracy standards of adjoining states, particularly Virginia. If terrain and land values were comparable, the argument has some validity. But our terrain is mostly rough and mountainous woodland; surveying is more difficult; our land values are lower and our economy is not as good as adjoining states. Our net farm income, for example, was only 40% of Virginia's in a recent year.

Although some states specify 1:5000 closure for rural surveys, their terrain is easier than ours (and there is evidence that such closure is seldom adhered to). However, Tennessee has more reasonable standards and uses 1 in 1000 for its lowest value land and 1 in 2500 for farmland surveys. Each state should set guide lines to suit its own conditions.

UNFAIR ENGINEER COMPETITION

Registered professional engineers may survey land in this state without being licensed as land surveyors (see Code 30-13A-7(a)). They are not subject to any survey rules. This discriminates against licensed land surveyors, who must compete with engineers who are free from all rules. This may be a "restraint of trade" and violation of anti-trust laws. Blacks Law Dictionary describes restraint of trade as interfering with free competition, affecting prices and contracts to the detriment of consumer services. Surveyors efforts to eliminate the exemption of engineers has met with failure. Creation of mandatory 1:5000 closures for rural surveys would worsen this bad situation.

WHAT IS CLOSURE?

Error of closure is not well understood by the average person. To explain what it means, consider this example: You own 40 acres of rough steep mountain woodland. Its perimeter could be about 5000 feet. Assume corners are marked with trees, pipes, stone piles, fence corners or road junctions. If a resurvey is required of this land to 1 in 5000, a complete traverse around it would have to calculate within one foot of its theoretically perfect dimensions. However your survey closes on paper only within $1\frac{1}{4}$ feet, which is 1 in only 4000; it does not meet the standard. Yet there are good corner markers, each just a few inches from where they calculate to be. Should the surveyor be subject to losing his license or have it revoked? Certainly not.

What can the surveyor do to "correct" his survey? He finds a place in his notes where the survey was particularly rough and makes a 3" adjustment, and he has his 1 in 5000.

WHAT THE EXPERTS SAY

Davis & Foote are authors of one of the best books on land surveying. Here is what they say about accuracy in their book titled SURVEYING THEORY AND PRACTICE (3rd ed.)

"The accuracy should be consistent with the purpose of the survey...There can be no fixed rules for the relative accuracy of different classes of surveys, for the objects and conditions are too many and too complicated...Each survey is a problem in itself, for which the surveyor must establish the limit of error, using his own judgment... The best surveyor is not the one who is extremely accurate, but the one who makes a survey with sufficient accuracy to serve its purpose without waste of time or money."

Other authorities agree. See page 205 of the transcript of the February 17, 1984 hearing.

ARE THE RULES REASONABLE?

The West Virginia Code authorizes the Board of Examiners to promulgate "reasonable" rules and regulations (30-13A-4(3)). How do authorities define "reasonable"?

Black's Law Dictionary describes it as: fair, proper, just, moderate, suitable under the circumstances, tolerable, not excessive. Webster's unabridged 1934 dictionary defines it as "inexpensive" and "moderately priced."

Black describes "unreasonable" as unwise, absurd, exorbitant, capricious, arbitrary and confiscatory.

The Code of West Virginia (29A-4-2) allows a declaratory judgment to be sought to void a rule that interferes with rights and privileges or is arbitrary or capricious. I believe a Court would void a 1 in 5000 closure for surveys of low value, rough mountain forest land.

GUIDE LINES ARE BEST

The proposed regulations make closures mandatory and minimum. This is contrary to what authorities suggest in the quotation from Davis and Foote. Closure standards should not be mandatory; they should be guide lines. As pointed out by Frank Silver, a competent licensed land surveyor on page 218 of the transcript of the February 17, 1984 hearing (my Exhibit H), error of closure is far down the list of priorities for a surveyor to consider when making a survey.

RECOMMENDATIONS

For reasons heretofore stated, it is recommended that accuracy for rural land surveys in West Virginia be GUIDE LINES, as follows:

WOODLAND (devoted to growing natural forest trees*)
1 in 1500.

FARMLAND (devoted to agriculture, pasturage, stock raising or an allied industry*) 1 in 2500.

RURAL OR SUBURBAN RESIDENTIAL - 1 in 5000.

*Black's Law Dictionary definitions.

THE FUTURE

It is time for all parties to get down to the task of solving problems such as, in the short run:

1. Reasonable guidelines for the practice of land surveying.
2. Adequate fees for examinations and renewals.
3. Appropriate examination content and procedures.
4. Cooperation with WVALS.
5. Demonstrate Board professional leadership.

In the longer run are these problems, but not necessarily in this order:

6. The County Surveyor.
7. Disciplinary procedures.
8. Better relations with lawyers and realtors.
9. Exemption of engineers.
10. Continuing education.

Now is the time to formulate reasonable guide lines for surveyors. Mandatory rules will create a difficult if not impossible job of enforcement. Courts have not been inclined to support revocations or suspensions imposed by the Board.

Let's get on with the job of protecting the public from gross negligence and incompetence of some surveyors, and educating all of us to do better work.

Respectfully submitted,

F. Henry Sipe
F. Henry Sipe LLS

February 25, 1987

J. HERBERT HIGGINBOTHAM, LLS

BOX 19

BIG RUN, W. VA. 26561

PHONE (304) 832-2144

Feb 9, 1988

RECEIVED FEB 17 1988

HERE WE GO AGAIN AND TO ALL CONCERNED

Everyone with a conscience of what is right or wrong seems to have believed or hoped that the issue of accuracy requirements for various types of surveying had been laid permanently to rest after the hearings that culminated in rejection by the Government Organization Committee by The House Deleapates in Feb 1986.

The ground training of a surveyor should quite sufficiently prepare him to determine-without guide lines or legaleese-what the job requirements are for the particular survey he is doing. To even infer otherwise is to declare to the world in advance that the surveyor is not sufficiently capable of making judgement.

If he is capable enough to know his job he is quite capable to decide what the REQUIREMENTS should be and if not he shouldn't be licensed in the first place.

In some 50 years of practice I find that seldom, or even, am I called to do a job that first does not require the location or relocation of a property line between at least two parties and many times half a dozen of them. A lot of the time these lines have not been reset or relocated since soon after the turn of the century when large tracts were often divided up between heirs and sometimes the survey is so bad that adjoining owners lands have to be at least partly surveyed to find them.

What to do and how to do it is a matter trained judgement only can do. It cannot be legislated.

How how accurate the job is is also a matter for reasonable judgement and should not attempt to be legislated any further than where it is now. Anything else is a stroke screen that usually includes what is commonly referred to as "balancing" the survey which is in effect a way of covering over and compensating for errors to look good on paper and can very well be and many times is the mark of POOR work.

The worst that is happening under the guise of SUPER ACCUPACY is that many times, in fact most of the time, this SUPER ACCUPATE survey is in THE WRONG PLACE. The research of records for where the land came from is not done sufficiently to relocate it properly.

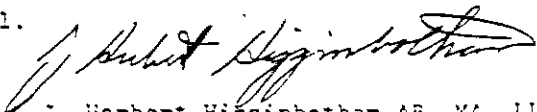
It may close on paper to less than 1 in 10,000 and be ENTIRELY in the wrong place.

This is not solely relegated to rural land-it is happening in our cities and towns also. It happens because not enough research is done and proper judgement is lacking- sometimes in the name of cost saving.

A proposed accuracy requirement of 1 in 5000 for rural lands is so out of touch with reality that only a lunacy fringe could possibly consciously support it. It cannot be allowed to happen.

As an example, at the present time I am in the process of trying to carve about 8 acres from a 106 acres tract. I FIRST HAVE TO FIND AT LEAST A FEW LINES of the 106 acres parent tract. I traced it back and found various discrepancies in the description in the past 80 years because the present one fails to close by 1500 ft. Even the CO/L survey in 1901 fails by 400 ft-and someone would have us believe that it can be relocated to 1 in 5000 with the corner trees all long since gone. Even if the tree were still there-did they measure to the surface that has by growth upset our accuracy, or did they measure to the center that has been gone for nearly a century. Even the most illiterate can see the fallacy of such a proposal.

Lets have reason prevail.



J. Herbert Higginbotham AB, MA, LLS