2021 Suggestions (as of 02/28/20)

NOTE: The Chair of the committee has committed to documenting all suggestions, thus appearance on this list of any particular items does not necessarily represent his endorsement. When work begins in earnest on the next version of the ALTA/NSPS Standards (circa Spring 2020), the NSPS and ALTA committees will review every suggestion and make a corresponding recommendation to address it, or not, in the next version.

Red and Green are comments based on the 9/26/19 NSPS Committee meeting in Orlando and/or the Joint ALTA/NSPS Committee meeting in Austin on 10/21/19. Red suggestions were rejected. Green were conceptually accepted.

Blue are comments added since 9/26/19 regarding sections of the standards that were already reviewed on 9/26/19.

Purple comments were received after 10/21/19.

A section on definitions? [NSPS and ALTA/NSPS - consensus was that this is an interesting suggestion but is not needed.]

Prepare a comprehensive list of notes for ALTA/NSPS surveys [Todd E. 10/1/18]. [NSPS and ALTA/NSPS - consensus was that surveyors should be responsible for producing their own surveys and writing their own notes. Add sample notes to the list of FAQs.]

An introductory note? “This survey was prepared using the 20XX Standards as established by ALTA and NSPS for Land Title Surveys as said standards were in effect at the time of the initial request/contract for survey. It is understood and accepted by all parties involved that said standards may no longer be current but will still be used for the purpose of this survey.” [Todd D. 9/6/19] [NSPS and ALTA/NSPS sense was that this is a contract issue, not a standards issue. Add to FAQs.]

A section on “updates” that addresses:

- No updates if the original was done to an obsolete set of standards (duh)
- No updates if the title company has changed
- No updates if the surveyor who did the original died, retired or moved on
- No updates if the Table A requirements changed significantly [NSPS and ALTA/NSPS consensus was that this is a practice and/or contract, and likely a legal, issue (vis-à-vis State laws and standards)]

Section 1 – Add mention of mineral interests to list of atypical properties. [Discuss with ALTA general treatment of mineral interests vis-à-vis standards.] [NSPS consensus is that this is really just another atypical interest, and we do not need to list every potential atypical situation. Gary Kent will discuss with ALTA. See Section 2 comment below.]

Section 2 – Require that the contract indicate that the surveyor is to be paid directly, not through an intermediary to eliminate additional interests. [KY] [ALTA/NSPS - Not appropriate; contract issue.]

Section 2 – The client is advised to seek the guidance of flood plain, wetlands, environmental, archeological or other appropriate experts if there are concerns related to those or similar items. [NSPS and ALTA/NSPS consensus was that surveyors should handle this in their dealings with the client. Add to FAQ list.]
Section 2 - While Bureau of Land Management official surveys, conducted under the delegated authority of the Secretary of the Interior, often are not applicable to the ALTA/NSPS Standards model, when an official survey of Federal interest lands is conducted, the ownership status of subsurface rights, aka mineral interests, is important when marking the geographic limits of Federal interest lands, i.e., surface and subsurface interests. Most official surveys involve the "resurvey" of local surveys. While the subsurface rights may be "another atypical interest" for the purposes of the Standards, they probably are more than that for most official surveys. RE: Sections 1 and 4, and Table A.

Akin to the above can be said for "easements" affecting Federal interest lands. Many official surveys must locate, e.g., the geographic extent, of Federal interest easements and/or non-Federal easements across Federal interest lands. Again, most official surveys involve the "resurvey" of local surveys. RE: Sections 4 and 5.C. [Bureau of Land Management] [ALTA/NSPS – we need more guidance from ALTA; committee in attendance suggests simply adding ‘mineral interests’ to the list of atypical properties. Gary will send to Kelly Romeo for her to take to the ALTA Forms committee for discussion.]

Section 3.D. – “Resolution” of boundary implies the surveyor will solve problems. But gaps and overlaps are title issues, and boundary conflicts are issues that must be solved by the respective owners not the surveyor. Need to clarify what we mean by “resolve?” [NSPS and ALTA/NSPS consensus was this is a good idea Just have the title say “Boundary” and strike the word “Resolution.”]

Section 3.E.v. – Should read “0.07 feet (2 cm) plus 50 parts per million” in order to be consistent with reference to “feet and meters” in Section 3.E.i. (CA) [NSPS and ALTA/NSPS understands the suggestion that the listings of units should be in a consistent order. The original basis for the standard was metric, so we will change 3.E.i. from “feet or meters” to “meters or feet.”]

Section 3.E. – Measurement standards. See correspondence with Earl Burkholder on 4/25/16 and 7/20/17, et seq. Suggestions in SaGES Conference paper from 7/30-8/3/17 (read introduction): (1) Change the name of the criteria from relative positional precision to positional tolerance; (2) Stipulate that the standards are speaking to local accuracy as the basis for the comparison of the position of one point to another; (3) Be more specific as to the computational process such that it preserves mathematical and geometric integrity. [Gary Kent has had discussions with Earl Burkholder on this topic and he will talk more with Earl on his specific suggestions.]

Section 3.E. – Need to address U.S. Survey Foot if for no other reason than educating or intercepting client questions?

Section 4 – Reword/reorder this Section to make it all one distinct list rather than, for example, “The request shall set forth…” more clear that title work has to be provided. [grk] [Gary Kent will propose draft language to that end for the committee’s consideration]

Section 4 – Add wording, viz., “Except, however, if the documents outlined above in (i) and (ii) of this section, or if the current record description of the property to be surveyed or, in the case of an original survey, the current record description or recording information for the parent parcel that contains the property to be surveyed, are not provided to the surveyor, or if non-public or quasi-public documents are required to complete the survey, the surveyor shall be required to conduct only that research which is required pursuant to the statutory or administrative requirements of the jurisdiction where the property being surveyed is located and that research (if any) which is negotiated and outlined in the terms of the contract between the surveyor and the client.” [grk] [This will be also be addressed with above suggestion immediately above]

Section 4 - (i) The following documents from records established under state statutes for the purpose of imparting constructive notice of matters relating to real property (public records): [Justin E.] [NSPS and ALTA/NSPS Committee’s consensus was this is a good suggestion coming from the ALTA committee itself.]

Section 4(?) – What about mineral interests? See emailed primer from Justin Earley on 4/22/16 in ALTA Questions Outlook folder. [NSPS and ALTA/NSPS consensus was that this falls in the same realm as the
suggestion above regarding atypical properties. See related items above. Give to Kelly for ALTA Forms committee to consider.

Section 4 - What we would like to see is a type of ALTA/NSPS survey where a title commitment is not required up front; where the surveyor provides a title commitment with the deliverables. I think this would be a win-win for the surveyors because we would be bringing work and $ to the title company. The surveyor would have better knowledge about selecting a title company and of course would be able to mark up the fees for the title commitment. Rather than the Title Company recommending a surveyor, the Surveyor would hire the Title Company to do their part of the process. What they [US Army Corps of Engineers as related to the Southern Boundary Barrier] are trying to avoid here is getting title commitment on a 10,000-acre ranch, then going back and getting a title commitment on the 7 acres that we are going to purchase. (from USACE 9/19) [ALTA/NSPS Committee - Survey and description are required prior to title commitment being issued. Title insurance is regulated. Surveyors need to understand the process.]

Section 5 – Intro: clarify that the precisions outlined here are for physical features only and are independent of the boundary precision which is explained in Section 3. [NSPS and NSPS/ALTA consensus was that we should add wording stating that boundary precision is addressed in Section 3.E.]

Section 5.A. – Use the words “survey markers” rather than “monuments.” [OH Bar Assoc.] [NSPS and NSPS/ALTA consensus was that “Monuments” is the proper term of art in law and surveying and, besides, it also covers natural monuments, whereas “marker” would not.]

Section 5.B.ii. – Does the “travelled way” include sidewalks, especially where they adjoin the roadway? [WV] [NSPS and ALTA/NSPS Committees’ consensus was that Section 5.B.iv. covers this question, i.e., sidewalks or paths are to be shown regardless. ALTA/NSPS Committee - Provide additional in FAQs.]

Section 5.B.v. - Eliminate use of the word “encroaching” [also in Section 5.C.iii. and Table A item 11] [NSPS and ALTA/NSPS consensus was that this addressed with the “without expressing a legal opinion” wording prefacing each use of the word encroach and with the word “potential.”]

Section 5.C.ii. – Include “or occupation” in sentence on natural vegetation. i.e., “…unless they are deemed by the surveyor to be evidence of possession or occupation pursuant to Section 5.C.i.” [grk] [NSPS and ALTA/NSPS consensus was, Yes, do this.]

Section 5.C.ii. – What do we mean by “natural vegetation?” (i.e., does this include human-planted ornamentals?) [ALTA/NSPS - Delete the word “natural.”]

Section 5.C.iii. – Eliminate use of the word “encroaching” [also in Section 5.B.v. and Table A item 11] [See above under 5.B.v. – NSPS and ALTA/NSPS consensus was that this addressed with the “without expressing a legal opinion” wording prefacing each use of the word encroach and with the word “potential.”]

Section 5.D. – Buildings on foundations only? Or…? [WV] [NSPS and ALTA/NSPS – Leave as is. Mobile homes are addressed in Section 2 as atypical.]

Section 5.D. – Permanent buildings [NSPS and ALTA/NSPS - Leave as is. Mobile homes are addressed in Section 2 as atypical.]

[END OF ITEMS REVIEWED AT 9/26/19 NSPS Committee Meeting (except blue items above)]

Section 5.A.i. and ii. – Add wording, viz., “The location, size, character, type and origin (if known) of any monuments found during the fieldwork.” [ALTA/NSPS – no. This is above and beyond what is necessary on a Land Title Survey.]

Section 5.E.i., ii., iii. and iv. – Add utility locate paint marks as examples. [ALTA/NSPS – yes.]
Section 5.E.i. and/or ii. Nearby wind turbines existing, under construction or proposed (i.e., easements/setbacks from same could affect surveyed property). [a consideration: what would the surveyor’s responsibility be with respect to research? grk] (See Wind turbine suggestion also mentioned in Table A.) [ALTA/NSPS – This puts unnecessary liability on the surveyor and is not a due diligence item]

Section 5.E.ii. – Nearby airport runways? [ALTA/NSPS – This puts unnecessary liability on the surveyor and is not a due diligence item].

Section 5.E.ii. – Evidence of coal mines/stone quarries (See also suggestion in Table A) [ALTA/NSPS – This puts unnecessary liability on the surveyor and is not a due diligence item].

Section 5.E.iv. – Include paint marks as one of the examples [FL] [See above]

Section 5.F. – Pet cemeteries? [FL] [ALTA/NSPS - Leave as is. Cemetery definition does not specify human.]

Section 5.G.i. - I do think that the comma between the words “of” and “the” within the phrase “but within five feet of the perimeter boundary of, the surveyed property” could be eliminated, and the word “and” inserted before the word “observed”. The statement would then read: “The location of springs, ponds, lakes, streams, rivers, canals, ditches, marshes, and swamps on, running through, or outside, but within five feet of the perimeter boundary of the surveyed property, and observed during the process of conducting the fieldwork” [ALTA/NSPS - Yes.]

Section 5.G.i. – Add “unless access is restricted” and add reference to this in Section 6.B.xi., viz., “The location of springs, ponds, lakes, streams, rivers, canals, ditches, marshes, and swamps on, running through, or - unless physical access is restricted - outside, but within five feet of the perimeter boundary of the surveyed property, observed during the process of conducting the fieldwork.” [ALTA/NSPS – Modify Section 2 last sentence - “When required, the client will secure permission for the surveyor to enter upon the property to be surveyed, adjoining properties, or offsite easements.”]

Section 5.G.i. – Replace “marshes and swamps” with “standing water.” [ALTA/NSPS – Leave as is.]

Section 5.G.i. – Include bio-retention areas as an example? [CA] [ALTA/NSPS – Leave as is.]

Section 6.B.i. – Include record document number with record description [ALTA/NSPS – OK.]

Section 6.B.i. – Add something about requiring a note when the surveyor discovers errors in the Schedule A description. [ALTA/NSPS – practice issue.]

Section 6.B.i. – Include Schedule A description on the plat/map if it differs from the record description [ALTA/NSPS – leave as is. Address in FAQs.]

Section 6.B.i. – Require record document number of parent tract on an original survey, but the parent tract’s description does not need to be shown on the plat/map. [ALTA/NSPS - Agreed.]

Section 6.B.i.a. and 6.B.i.b. – Show the record description or the recording information. [ALTA/NSPS – Leave as is with respect to “a.” “b” is addressed immediately above.]

Section 6.B.1.a. - “the property description contained in of the commitment of title report issued by the insurer.” [ALTA/NSPS – Leave as is. Address in FAQs.]

Section 6.B.ii. – Prohibit writing a new description on a retracement survey except to correct scrivener’s errors in the prior description, to correct a closure error or, in the case of a metes and bounds description, when the measured does not match the record. [ALTA/NSPS - Leave as is.]

Section 6.B.iii. – Last sentence “… shall be horizontal, ground dimensions …” [ALTA/NSPS – OK.]
Section 6.B.iv. – Report mathematical misclosure of record description when it is an amount deemed significant by the surveyor. [ALTA/NSPS - Leave as is.]

Section 6.B.iv. - Report mathematical misclosure on metes and bounds descriptions only. [ALTA/NSPS - Leave as is.]

Section 6.B.iv. – Eliminate the requirement to report mathematical misclosure on the record boundary; boundaries can mathematically mis-close and still be fine. [ALTA/NSPS - Leave as is.]

Section 6.B.xi. – “A note on the face of the plat or map identifying areas, if any, on the boundaries of the surveyed property, to which physical access within five feet was restricted (see Sections 5.C.ii. and 5.G.i.).” [ALTA/NSPS – Leave as is.]

Section 6.C.(new subsection)) – Add a requirement that the surveyor contact the insurer if he or she is aware of a recorded easement that is not listed in the title commitment (or other title evidence) provided. If the title company reports that the easement has not been released, the surveyor must show it on the face of the plat or map even if not listed in the commitment. [NSPS Committee’s consensus was that this is a good practice, but that it should not be a requirement. [ALTA/NSPS - Gary Kent should develop draft language addressing this. This will help surveyors manage their liability.]

Section 6.C.i. – Should this item relate only to easements burdening the property? [ALTA/NSPS – Leave is.]

Section 6.C.i. – Treatment of off-site easements vis-à-vis Schedule A and Schedule B2 (Todd)

Section 6.C.ii. - “is or is not on the property...” Perhaps simply state if it is not on the property. There is some indication that surveyors may be using the current wording to avoid giving an opinion. (Mike W.) [ALTA/NSPS – Leave as is. Sub item d. covers this.]

Section 6.C.ii. –“(without expressing a legal opinion?), appears to affect or not affect the surveyed property?” [grk and Todd D.] [ALTA/NSPS – “Such summary shall include the record information of each such right of way, easement or servitude, a statement indicating whether or not it lies within or crosses the surveyed property, and a related note if:

(a) Its location is shown hereon
(b) the location cannot be determined from the record document;
(c) there was no observed evidence at the time of the fieldwork;
(d) it is a blanket easement;
(e) it is not on, does not touch, or – based on the description contained in the easement document – does not affect, the surveyed property;
(f) it limits access to an otherwise abutting right of way;
(g) the documents are illegible; or
(h) the surveyor has information indicating that it may have been released or otherwise terminated.

Section 6.C.ii – List any record easements found by the surveyor that are not listed in the title commitment and which for which the insurer cannot provide a release. [See Section 4 comments above]

Section 6.C.ii. – Clarify that the only Schedule B2 items to be referenced on the survey are those that are matters of survey. [ALTA/NSPS - “A summary of all survey-related rights of way, easements and servitudes burdening the property surveyed and identified in the title evidence...”]

Section 6.C.ii. – Note that “Affects” is a legal opinion, not a matter of survey. [WI] [See Sec. 6.C.ii. above]

Section 6.C.ii. – Surveyors needing to address multiple revisions to title commitment and no one wants to pay for that. [WI] [ALTA/NSPS – this is a contract issue. Add to FAQs.]

Section 6.C.ii. – Add a note that surveyors will not use the words “affects” or “does not affect” [FL] [ALTA/NSPS - Addressed above]
Section 6.C.iii. – Address public vs. private rights of way? And surveyor’s opinion as to public or private when not clear? [PA] [ALTA/NSPS – Leave as is.]

Section 6.C. vi - For non-platted adjoining land, recording data and, where available, assessor tax parcel number, identifying adjoining tracts according to current public records. For platted adjoining land, the recording data of the subdivision plat. [ALTA/NSPS – Agreed] Platted setback or building restriction lines which appear on recorded subdivision plats. [ALTA/NSPS – No. This is covered in sub item vii.] [AZ]

Section 6.C.viii. - A new item, viz., – “A note if no water features were observed.” [ALTA/NSPS – No, this could apply to many items.]

Section 6.C.viii - A new item relating to coal mines and stone quarries – perhaps, if the surveyor is aware of the possibility? Or? [ALTA/NSPS – No. See earlier discussion.]

Section 6.D.ii.(b) – Why note “no buildings” when other items do not require such a note (e.g., no cemeteries, etc.)? [AZ] [See proposed new item 6.C.viii. above!] [ALTA/NSPS – Leave as is.]

Section 6.D. new item – Require a Surveyor’s Report with guidance on what to include therein. [AZ SRP] If required, standards should provide the form of such report. [AZ] [ALTA/NSPS – No.]

Section 6.D. new item – Provide for standardized symbols. [ALTA/NSPS – No.]

Section 6.D. – Notes that there are “No encroachments” or that “all easements have been shown” etc. are problematic. Can we limit this sort of thing? [WI] [ALTA/NSPS – Nothing we can do.]

Section 6.D. – New subsection – changes are not allowed to surveys after 90 days; changes to surveys after 90 days cannot be undertaken without new fieldwork; something along those lines…

Section 7 – Discuss third party liability and certifying to third parties with no interest in the property. [ALTA/NSPS – Nothing to can be done on this.]

Section 7 - Discuss how the certification can be extended to any other party that is an “Insured” pursuant to the Owner’s Policy of Title Insurance issued in connection with the Commitment for Title Insurance [AZ] [ALTA/NSPS – Nothing can be done on this.]

Section 7 – The following comment is from an attorney re: declining a request to certify to successors and assigns of the owner] The Definitions of Terms under the CONDITIONS contained within the Owner’s Policy of Title Insurance also covers as an Insured, among other possible instances, a grantee of an Insured under a deed delivered without payment of actual consideration conveying Title if the memberships or other equity interests are wholly-owned by the named Insured. So under your standard, a transfer by American XXXXX to a wholly-owned affiliate would be included. Perhaps you could state “American XXXX and any other party that is an “Insured” pursuant to the Owner’s Policy of Title Insurance issued in connection with the Committee for Title Insurance referenced in GENERAL NOTES No. 1,”.

Section 7 – Standardize how dates are reported on surveys [from MN attorney via Mitch] [ALTA/NSPS – Nothing can be done on this.]

Section 7 – Add a note that ATIMA and ISAOA will not be certified to [FL]. [Definition of insured in the loan policy removes the need for this, but many lenders still want it (if someone buys the loan, they become insured under the policy). If the lender makes the title insurance company put it in the policy, then the title company will want the surveyor to certify to the same. [ALTA/NSPS – We cannot dictate to whom we will certify. GRK note – FAQ?]

Section 7 - Maybe the certification can be revised to: [ALTA/NSPS – No.]

To (name of insured, if known), and any other party that is an “Insured” pursuant to the Owner’s Policy of Title Insurance issued (name of lender, if known), (name of insurer, if known), with respect to any party that is an “Insured” pursuant to the Owner’s Policy of Title Insurance issued
Based on the current commitment for title insurance (names of others as negotiated with the client):

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items ___________ of Table A thereof. The fieldwork was completed on ___________ [date].

Date of Plat or Map: ___________ (Surveyor’s signature, printed name and seal with Registration-License Number)

The first change would have the survey apply to a wholly owned affiliate or other insured party, which would seem appropriate from the Insurer’s perspective. The second change might limit owner’s affidavits in lieu of a survey, would seem appropriate from the Surveyor’s perspective.[AZ]

Section 7 – Require that the certificate indicate the date that the licensed surveyor did a site visit. [KY]
[ALTA/NSPS – No.]

Section 8 – Move “When required by law or requested by the client, the plat or map shall be produced in recordable form and recorded or filed in the appropriate office or with the appropriate agency.” to 6.D.iii. and replace the current wording of that item. [ALTA/NSPS – No. In some states, the surveyor is not responsible for recordation even if recordation is required.]

Section 8 - Recording ALTA surveys may or may not be in the best interest of the insured or the insurer. I suggest that the 6.D.iii be revised “When local statutes or ordinances require recordation or filing of a plat or map, the surveyor prepare and record as required by law.” This will help dispel the notion that the ALTA survey is required to be recorded and that a survey required to be recorded contain those items required under law only. [AZ] [ALTA/NSPS – “When recordation or filing of a plat or map is required by state statutes or local ordinances, such plat or map shall be produced in the required form.”]

Table A in general – Require a positive or negative note on the place of the plat/map regarding every Table A item selected or negotiated (e.g., “shown hereon,” “none observed,” “not applicable,” etc.). [ALTA/NSPS – Good practice, but should not be required.]

Table A in general – Format in order to allow surveyor to indicate the additional fee associated with each and to better facilitate checking off items. [ALTA/NSPS – Gary will send a copy of the Table A form for consideration.]

[END OF ITEMS REVIEWED AT 10/21/19 JOINT ALTA/NSPS Committee Meeting]

Table A reviewed on 11/21/19 Joint ALTA/NSPS Committee Meeting

Table A – On the appropriate items, require a note “None Observed” if the item was checked by the client, but nothing was observed regarding that item. [ALTA/NSPS – good practice, but should not be required.]

Table A lead-in paragraph: Clarify that “negotiated” means that the wording of a specific Table A item may be negotiated [ALTA/NSPS - Whether or not any of the twenty (20) items of Table A may be selected, and the related fee and exact wording, may be negotiated between the surveyor and client.]

Table A item 1 – Make mandatory, not optional [ALTA/NSPS - Cannot be done because state laws differ]

Table A item 1 – Add – “Note: Some states have mandatory recording regulations when property corners are set or replaced. These regulations may require additional fees and timing for completion.” [ALTA/NSPS – Contract item]

Table A item 1 – clarify wording vis-à-vis what is a “major corner”? [ALTA/NSPS – Contract issue]

Table A item 6(a) and 6(b) – “…provided to the surveyor by the client or another party…” [MN] [ALTA/NSPS. or the client’s designated party. Agreed]
Table A item 6(a) and 6(b) – zoning report/letter must be “that includes zoning classification, setbacks, height, floor space and parking requirements specific to the surveyed property.” [OR] [ALTA/NSPS – Agreed]

Table A item 6(c?) – Airport-related zoning items [FL] [ALTA/NSPS – Contract issue]

Table A item 6(c? or d?) – Wind turbine-related zoning items [FL] [ALTA/NSPS – Contract issue]

Table A item 6 - Define what qualifies as a “zoning report” (oftentimes attorneys merely send a copy of a letter from the jurisdiction that says, e.g., “Parcel BR-549 is zoned I-2 which is medium industrial, there are no outstanding violations on file”. That obviously misses the point, but they argue that it’s all they are required to provide, and then demand that we show the setbacks. [GA] [ALTA/NSPS - See above]

Table A item 7a and 7b – Define exterior dimension and exterior foot print. Further suggestion – include only if there is a definition section added. [ALTA/NSPS – Surveyors should report the appropriate information on the face of the plat/map

Table A item 7c – Require measured elevation of building with respect to a ground elevation rather than height? Some jurisdictions define maximum height by defining the elevation. Further suggestion – the surveyor should simply know the local ordinance requirement and use that. [ALTA/NSPS – Good as is. Surveyors should know how the zoning ordinance deals with height]

Table A item 8 - “Mountains” of debris on adjoining property that could result in contaminated runoff onto the surveyed property. [ALTA/NSPS – No.]

Table A item 8 – Nearby wind turbines [ALTA/NSPS – No.]

Table A item 8 – Coal mines or stone quarries as additional examples? [ALTA/NSPS – No.]

Table A item 9 – Make striping an optional item (9a) [ALTA/NSPS – as is.]

Table A item 9 – Bifurcate into 2 parts. Part “a” would just be show the types like Regular/Handicap/Motorcycle. Part “b” would go further to include the specialized marking stalls such as visitor, compact, HOV permit, hybrid, etc. [ALTA/NSPS – as is.]

Table A item 10b – Remove. [ALTA/NSPS – Agreed]

Table A item 11 – Move first bullet into the intro to clarify that observed evidence is required, viz., “Location of utilities, in addition to the observed evidence required pursuant to Section 5.E.iv., existing on or serving the surveyed property as determined by:

• observed evidence collected pursuant to Section 5.E.iv. [Remove this bullet]
• evidence from plans requested by the surveyor and obtained from utility companies, or provided by client (with reference as to the sources of information), and
• markings requested by the surveyor pursuant to an 811 utility locate or similar request

Table A item 11 – Return to the previous 11a and 11b. Remove reference to “above ground” utilities from the wording. (Todd D.) [ALTA/NSPS. See above]

Table A item 11 – Reword introductory language viz, “Evidence Location of utilities existing on or serving the surveyed property as determined by... [grk and Alabama]

Table A item 11 - Location of utilities existing on or serving the surveyed property as determined by:

_____ (a) Observed evidence of surface features pursuant to Section 5.E.iv.
_____ (b) observed evidence collected pursuant to Section 5.E.iv. together with:
• evidence from plans requested by the surveyor and obtained from utility companies, or provided by client (with reference as to the sources of information), and
• markings requested by the surveyor pursuant to an 811 utility locate or similar request

(Mitch D.) [ALTA/NSPS - See above]

Table A item 11 - re: the suggestion immediately above – add “underground” to (b)? [FL] [ALTA/NSPS – Moot]

Table A item 11 – Does this item need to mention “below the surface”? Maybe make the wording on this item and Section 5.E.iv. more consistent (i.e., “which evidence may indicate utilities located on, over or beneath the surveyed property.” [ALTA/NSPS - Moot]

Table A item 11 – Add to the second bullet point that plans can be obtained from the local government. [ALTA/NSPS – No.]

Table A item 11 – Make the three items lettered a-c as options/selections rather than bullets (this will facilitate negotiating something different from the three bullets) [ALTA/NSPS - Moot]

Table A item 11 - Eliminate use of the word “encroaching” [also in Sections 5.B.v. and 5.C.iii.] [ALTA/NSPS – Fine as is with qualification.]

Table A item 11 – reference the ASCE 38-02 the Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data (see 10/25/18 email from Curt) [ALTA/NSPS - No.]

Table A item 11- Require ASCE SUE Standard C [KY] [ALTA/NSPS - No.]

Table A item 12 – Add “Client to provide a copy of the relevant survey requirements.” [ALTA/NSPS – OK.]

Table A item 18 – “…hired by the client or another party…” [WI] [ALTA/NSPS - or the client’s designated party”]

Table A item 19 – “(and applicable selected Table A items, except Item #1)” [ALTA/NSPS – Agreed]

Table A item 19 – “for those easements requested by the client” (TX) [ALTA/NSPS – No.]

Table A item 19 - Treatment off-site easements vis-à-vis of Schedule A and/or Schedule B2.

Table A item 20 – include general liability with (a) as professional liability and (b) as general liability choices. [ALTA/NSPS – Contract item; outside the title realm]

Table A new item – Add engineering design survey as a new Table A item. [ALTA/NSPS – Contract issue]

Table A new item – Mineral rights/interests; mine works [WV] (See emailed primer from Justin Earley on 4/22/16 in ALTA Questions Outlook folder) [ALTA/NSPS – ALTA Forms committee will discuss 12/10-12/19]

Develop an checklist/application to help persons review Land Title Surveys? [ALTA/NSPS – Not a standards issue]

NSPS certification showing particular qualifications in performing ALTA/NSPS Land Title Surveys. Would not be required, but would demonstrate a certain level of knowledge. [GA] [ALTA/NSPS – NSPS had an Ad Hoc committee, but the effort has died on the vine. Curt – Creating such a qualification might undermine licensing laws, but if we couched it as an option, it might fly. Todd D. – ask state orgs to have training at their conferences every year. Certification for surveyors qualified to train? Explore. Mentioned NSPS Podcast. Kelly will market to ALTA members.]
Develop a process by which ALTA and/or NSPS provide for some sort of policing on the standards? At a minimum some sort of notification of surveyors whose licenses have been suspended or revoked. I know of such a surveyor who has continued to perform Land Title Surveys. What is the title company’s exposure when they have relied on a survey from someone who is not licensed?

**Question for ALTA...** I just watched the Podcast with you and Curt. Since the publishing of the 2016 ALTA/NSPS Standards, I have been interested in the position of the Title industry regarding the retracement of boundaries “in accordance with appropriate boundary law principles governed by the set of facts and evidence found in the course of performing the research and fieldwork.” I heartily agree with this principal, but it can sometimes be at odds with “title”.

As an example: the deed reads “The North Half of the East Half of the Southeast Quarter of Section 16, Township 45 North, Range 2 East of the Third Principal Meridian, Winnebago County, Illinois. This is pretty straightforward except it does not give a direction of the division line and it does not disclose the intent of the Grantor to connect opposite midpoints or to grant “Half” by area. The Courts have consistently ruled that the intent of the original divider is paramount and that evidence of that intent should be upheld. How does the Title industry feel about this?

It can get more complicated. Say for instance that the deed reads: “The North 40 Acres of the East Half of the Southeast Quarter of Section 16, Township 45 North, Range 2 East of the Third Principal Meridian, Winnebago County, Illinois. It is known by most attorneys and in fact by most lay people that a Quarter Section is 160 Acres and that Half of a Half of a Quarter Section is 40 Acres. Assume that the surveyor does the research and finds an old fence and perhaps monuments set at the time of the original division in accordance with a “Government” split, and the area is more or less than 40 Acres. The correct answer is to honor the monuments and the intent of the original Grantor. But, how does that square with the title insurer if there is less than 40 Acres?

It may get even more complicated when the surveyor finds a “nest” of pins at a particular corner where only one is contemplated in the law. I know that this gives the surveyor some angst, but how does it square with the title insurer, especially if they have to insure contiguity?

I know that the reality is that the surveyor must bear the ultimate responsibility for the boundary location, but it would seem that the Title Company should recommend a rewrite of the legal description in accordance with 6.B. ii. or 6. B. viii. of the Standard. There are numerous cases that I have come across where the legal description in the Title Commitment does not or may not describe the property as located on the ground. Should not a boundary that was determined by: agreement, practical location, or acquiescence be memorialized by a rewrite of the title document? And if so, what does the Title industry feel about insuring it?

I don’t think that I have any specific recommendations for changes in the ALTA/NSPS Standards. They are pretty good as written, but I have always wondered how the Title industry feels about insuring a survey done where there is ambiguity. Thanks for all that you do.