A Graying Profession
RPLS Age Profile Data for 2015
See page 16
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THE TEXAS SURVEYOR

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Editor-in-Chief:
Trisha Lund
Managing Editor:
Doug Loveday

In This Issue
On the cover – More than 25 percent of Texas active surveyors are 65 years or older, and the median age of the RPLS in Texas is 58. Read an informative article (page 16) from Dr. Gary Jeffress and learn more about recent RPLS age profile data and what it means to the profession and public. (Cover photo by © Can Stock Photo Inc. / photography33)
Meet the dream team

What's a dream team? We think a real human answering the phone is a good start. Follow that up with a service department with a 3 day or less turnaround and sales reps that are there when you need them (even on weekends) with tech support, assistance and quick call backs. We even drop FedEx packages off on our way home, so you get them the next day.

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Happy New Year! I hope everyone had a wonderful holiday and were able to enjoy time with family and friends. I know I did! It takes a little time to get back into the routine but here we are in a new year.

2016 promises to be an exciting year for TSPS. TSPS will be working on some new projects including the development of a responsive website as the final step for the Recruitment Campaign and investigating online education opportunities for TSPS members. Both projects require the approval of the Annual Budget by the Board of Directors on January 30th so more details to follow.

Why? Why Not? Chapter 6 will host this year’s Symposium in Beaumont, TX at the beautiful MCM Elegante Hotel & Conference Center. Two full days of education that include eleven different classes are being offered for a possible 16 CEUs. A Thursday night steak dinner and Friday evening’s Chapter 6 sponsored event will make this a must attend event. The Symposium Brochure and registration information is included on pages 26-29. Be sure to register early! We hope to see participation from all of the surrounding chapters and Louisiana too!

National Surveyors Week will begin March 20th and end on March 26th. We are encouraging Chapters to use this week to talk to students about surveying as a profession. The Recruitment Brochures and Posters are available to all members for distribution to the students and high school counselors. TSPS can facilitate the printing and shipping of these items; just place your order by March 1st. Call the TSPS office at 512-327-7871 for pricing options.

TSFI has made the decision to move the Ray Wisdom BBQ and Auction to early August during the Strategic Planning meeting to be held at the Canyon of the Eagles in Burnet, TX. The Strategic Planning meeting generally attracts about 60-70 members and the hope is the combination of these events will encourage more participation in the BBQ; really both events. The 3rd quarterly Board meeting will be held the next day.

Good news! The 65th Annual Convention & Tech Expo will return to its much desired rotation of Thursday-Saturday. The convention will be held at the Embassy Suites San Marcos Hotel, Spa & Conference Center on October 12-15. The Convention Committee co-chaired by Coleen Johnson (Austin) and Trisha Lund (San Antonio) has already held their first meeting. National speaker Kristopher Kline is booked to teach two classes. Various other nationally known speakers have been contacted and are in the negotiation process. Entertainment for the Awards Gala is in the works and other exciting changes will be announced as they are confirmed. We hope to see all of you in San Marcos!

We are in the final few weeks of 2016 dues renewal. For those of you who have renewed – thank you! For those who have not renewed, your membership will end on January 31st. TSPS allows for a 30-day grace period ... after that all member benefits cease. That means you will not receive this magazine in March. Please be sure to renew today!
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COMING EVENTS

JANUARY
January 30
First TSPS Quarterly Board Meeting
Committee meetings and Chapter Presidents’ Forum in the AM – Board of Directors meeting from 1:00 PM - 5:00 PM.

Austin Marriott North
2600 La Frontera Blvd
Round Rock, Texas 78681
Room Rate – $109
Call 512-733-6767 to make your reservation.

FEBRUARY
February 26-27
TSPS 2016 Symposium
Hosted by TSPS Deep East Texas Chapter 6

The MCM Elegante Hotel & Convention
2355 IH-10 South
Beaumont, Texas 77705
Room Rate – $92 (Room discount ends February 11)
16 CEUs available for attendees. Well-developed course materials. Hands-on learning. Two new courses. Five courses specifically designed for the Paraprofessional!
... and if that's not enough, a Friday night event
THE SHINE GAMES CHALLENGE
"Run Faster, Jump Higher, Spit Further"

Check out pages 26-29 and view the 2016 Symposium Brochure online for more details and a registration form, or register today online at www.tsps.org!

MARCH
March 20-26
Texas & National Surveyors Week
Learn more about this annual event on the National Society of Professional Surveyors (NSPS) website at www.nspsus.com. Also, check out details in Benchmark on page 7.

March 24-26
2016 Heart of Texas Boundary Retracement Seminar
Instructors include:
• D.G. (Greg) Smyth, RPLS, LSLS
• C.B. (Ben) Thomson, RPLS, LSLS
• Bill O’Hara, RPLS, LSLS
• Davey Edwards, RPLS, LSLS, CFedS
16 CEUs (includes 1 hour Ethics & 2 hours Standards, as approved by TBPLS)

Wulff Cedar Creek Ranch
Farm Road 765
25 miles North of Brady, Texas
Brady, Texas  76825

The Heart of Texas Boundary Retracement at Wulff Cedar Creek Ranch in McCulloch County will be a modern day search for original survey corners. By utilizing county record information, GLO field notes, working sketches and aerial photos, the original surveys can be positioned within a small search area. This area has not been bulldozed, chained or root plowed like many of the ranches in Texas, therefore providing a rare opportunity to find several of the original corners.

The registration fee includes 16 hours of instruction and the materials, “bunkhouse” lodging and meals. Should you wish not to stay in the bunkhouse, but rather find lodging in Brady, you have that option which includes meals. If you need to arrive on Wednesday night or leave on Sunday, you may select those additional nights. Visit the Calendar online at www.tsps.org for more details on this seminar, and register online today to reserve your place. Space is limited!

APRIL
April 30
Second TSPS Quarterly Board Meeting
Committee meetings and Chapter Presidents’ Forum in the AM – Board of Directors meeting from 1:00 PM - 5:00 PM.

Omni Austin Hotel at Southpark
4140 Governors Row
Austin, Texas 78744
Room Rate – $129
Call 512-448-2222 to make your reservation.

AUGUST
August 5-6
Annual Strategic Planning, Ray Wisdom BBQ & Third TSPS Quarterly Board Meeting
TSPS will hold jam-packed gathering in August at Canyon of the Eagles retreat in the Hill Country, combining its Annual Strategic Planning session and Third Quarterly Board Meeting, with the annual Ray Wisdom BBQ & Auction for land surveying scholarships!

Watch the TPS website for upcoming details!

OCTOBER
October 12-15
65th Annual Convention & Tech Expo
Embassy Suites Hotel, Spa & Conference Center
1001 E. McCarty Lane
San Marcos, Texas 78666
Room Rate – $159/night
Phone: 512-392-6450

Earn up to 12 CEUs and take part in all of the great special convention events and the Tech Expo. Details arrive Summer 2016 ... we’ll see you in San Marcos!
In 1981 the Texas Legislature passed what Gov. Anne Richards described as an “Emergency Revenue Bill” called the “Limited Sale, Excise and Use Tax Act” which included the following Section:

Sec. 151.0048. REAL PROPERTY SERVICE. (a) Except as provided by Subsection (b), “real property service” means:

(1) landscaping;

(2) the care and maintenance of lawns, yards, or ornamental trees or other plants;

(3) the removal or collection of garbage, rubbish, or other solid waste other than:
   (A) hazardous waste;
   (B) industrial solid waste;
   (C) waste material that results from an activity associated with the exploration, development, or production of oil, gas, geothermal resources, or any other substance or material regulated by the Railroad Commission of Texas under Section 91.101, Natural Resources Code;

   (D) domestic sewage or an irrigation return flow, to the extent the sewage or return flow does not constitute garbage or rubbish; and

   (E) industrial discharges subject to regulation by permit issued pursuant to Chapter 26, Water Code;

(4) building or grounds cleaning, janitorial, or custodial services;

(5) a structural pest control service covered by Section 1951.003, Occupations Code; or

(6) the surveying of real property.

(b) “Real property service” does not include a service listed under Subsection (a) if the service is purchased by a contractor as part of the improvement of real property with a new structure to be used as a residence or other improvement immediately adjacent to the new structure and used in the residential occupancy of the structure.

(b-1) “Real property service” does not include a service listed under Subsection (a) if the service is performed by a landman and is necessary to negotiate or secure land or mineral rights for acquisition or trade, including:

(1) determining ownership;

(2) negotiating a trade or agreement regarding land or mineral rights;

(3) drafting and administering contractual agreements;

(4) ensuring that all governmental regulations are complied with; and

(5) any other action necessary to complete the transaction related to a service described by this subsection, other than an information service described by Section 151.0038.


I believed then as I do now that these legislators knew as little about land surveying and surveyors as did the grounds keepers and landscapers also included in this act. This is illustrated by the depth to which they explained waste disposal and left “the surveying of real property” standing without any further elaboration except to exempt those serving the home-building and oil industry. The fact is that for the past thirty-plus years, the Comptroller has struggled to determine what surveying services were included in “the surveying of real property” and are taxable and what surveying service are not. The Governmental Affairs Committee of the Texas Society of Professional Surveyors has invested hundreds or perhaps thousands of hours in an effort to achieve clarification. Just at the end of 2014 the Comptroller determined that an elevation certificate should be taxed. Until this time (for three decades) all topographic and elevation work was exempt. Even as of our last period of iterations with the Comptroller there are still services that you and I are providing that might or might not be subject to taxation. There are current proposed revisions cited in the last publication of the Texas Surveyor under considerations, now, in year thirty-five. Land surveying has not changed that much since 1981, or since 1891 for that matter, yet we continue to struggle with the Comptrollers’ Office to help decipher this misguided legislation.

Legislators have no idea of the complexity of parsing taxable services from non-taxable services accrued in the process of providing surveying service on one project for one client. For instance; while working for a developer the surveyor will conduct a boundary survey (taxable) establish a benchmark (non-taxable), measure topography (non-taxable), stake utilities and improvements for construction (non-taxable) prepare survey plats (taxable), write a metes and bounds description on the boundary (taxable), write a metes and bounds description for a utility easement (?) ... The problem is that the personnel conducting these processes are often combining their efforts. If the field personnel are collecting static GPS satellite data for elevation and location while making the perimeter survey and will use that data for topography and benchmarks later, is it
taxable or is it only partly taxable? What part? The office personnel that
examines the field data and processes the file is handling both compo-
nents at the same time. The subdivision plat will have boundary information
shown (taxable) and topography (non-taxable)... It is practically
impossible to actually account for the split in the time that is spent on the
multiple components of one project.

In 2015 the Comptrollers website includes the following definition:

Surveying is a real property service. It includes activities per-
fomed to determine or confirm the boundaries of real property,
or to determine or confirm the location of structures or other
improvements in relation to the boundaries of the property by the
use of relevant elements of law, research, measurement, analysis,
computation, mapping, and land description. Examples include
boundary recovery, residential surveying, lot surveying, title
surveying, as-built title surveying, and right-of-way surveying. The
term does not include activities performed after taxable surveying
has been completed to search the surveyed area for items of
archaeological or historic significance. (Effective October 1, 1999,
the owner of the residential property does not owe tax on surveying
services that are purchased in connection with the construction of
a new residential structure. However, this provision for owners
expires October 1, 2001.)


The ongoing bureaucratic calisthenics only reinforces my argument.
It causes me to examine the very fact that land surveyors are the only profes-
sional group in Texas required to collect sales tax on their services, taxes levied
on their interpretation of government documents (research, like landmen and
abstractors), on their opinions formed by their reliance on history and litiga-
tion (analysis, like lawyers) and on their illustrations and explanations of their
findings (drawings and descriptions, like engineers and architects).

– Paul Carey

Additionally, and perhaps even more egregious, the government is taxing
the Professional Land Surveyors’ time. Surveyors generally do not item-
ize materials like pins, stakes, flagging, paper or ink. Surveyors collect
their fee based on the usefulness of their product, the function of a docu-
ment for its intended purpose (like attorneys) or the public establishment
or a boundary monument based on research, observation and experience.
Our first obligation has always been to the public. Today, every Texas
surveyor must sign an oath to protect the public with every year license
renewal. So in essence, the government is taxing time. Historically this
would be referred to as indentured servitude, or better defined in this
case as “villein socage,” servitude of a specific nature not suitable to one of
honorable rank.

Sales tax on land surveying is, in fact, double taxation on the prop-
erty owner as well as the surveyor. As I said, the land owner will pay
property tax as long as there is government and should not be taxed
for responsibly maintaining his or her boundaries and in many cases
complying with local regulations governing construction or development
(for which they will also be paying a fee (yet another tax). The surveyor
will pay sales tax on every wood stake, every steel stake, every piece
of flagging, pens, pencils, every sheet of paper, every computer, every
printer, every ink cartridge, every hand tool, all office furnishing and a
wide assortment of expensive instruments and vehicles before producing
one single survey. Then the surveyor will pay property tax, taxed again,
on all of these items that are used to conduct the surveying business, an-

(See From The President, page 12)
FROM THE PRESIDENT

PAUL T. CAREY

(Continued from page 11)

nually. The surveyor will pay state and federal taxes for every employee that works on a survey and pay taxes on the fuel, phone service, internet service, gas and electric power, vehicle registration (tax) and license renewal fee (tax) to maintain the license to make a single survey.

No part of the relationship between the surveyor and the property owner has not been taxed prior to there being an actual survey made on this property. So how is it that the legislators of the State of Texas believe that Professional Land Surveyors should be pressed into the service of, and forced to donate their time to this state, maintain an ever increasingly complex set of records (which the Comptroller has yet to comprehend) and inflate the cost of their service in order to collect additional and redundant revenue for the State? This is simply impressment of the surveyors themselves. There is no product being trucked across Texas highways. There are no storefronts stocked with items from extra-domestic sources.

The State places no such levy on the services of any of the other participants in the processes associated with or which lead to the “surveying of real property.” The mineral producer, the builder, the realtor, the mortgage broker, the lawyer, the architect, the engineer and the bank all provide valuable services to the purchaser or owner of real property but are all exempt from collecting sales tax.

… and, by the way, is that “emergency” over yet. I’ve noticed that legislation providing tax cuts and governing boards, all have expiration dates, “Sunsets;” why is it that “emergency revenue bills” have no expiration dates, lumbering on through misinterpretation and reinterpretation for decades?

Surveyors have been an essential part of every significant advance of society since the Egyptian Empire ruled the banks of Mediterranean. No battle, town, subdivision, business complex, apartment complex, road, map, highway, bridge, or even the transfer of property from the sovereign to the public has occurred without a land survey. Surveyors built this nation and this state. Surveyors became lawmen, legislators and leaders. Many counties in Texas are named after surveyors. Many Texas Rangers were surveyors. No place was any place until it was surveyed. Surveying was fundamental to the creation, vital to the development and is crucial to the economy of this State. Why would the government of Texas willingly choose to demean this group of dedicated and vital professionals by subjecting them to indentured servitude?

I call upon the legislators of this state to reexamine this Administrative Code and emancipate Texas land surveyors from this burden and relieve property owner of the State of Texas from multiple taxation on their property. Become the emancipators of the twenty-first century. REPEAL SALES TAX ON THE SURVEYING OF REAL PROPERTY.
At the Surveying Education Foundation of Texas, Inc. seminar presented in Tyler on December 5, 2015, several issues came up in the discussions. One of the discussions centered on three of the Texas Board of Professional Land Surveying (TBPLS) rules:

§663.17. Monumentation.
(d) Where practical, all monuments set by a Professional Land Surveyor to delineate or witness a boundary corner shall be marked in a way that is traceable to the responsible registrant or associated employer (emphasis mine).

(b) Every description prepared for the purpose of defining boundaries shall provide a definite and unambiguous identification of the location of such boundaries and shall describe all monuments found or placed (emphasis mine).

(e) Boundary monuments found or placed by the land surveyor shall be described upon the survey drawing. The land surveyor shall note upon the survey drawing, which monuments were found, which monuments were placed (emphasis mine) as a result of his/her survey, and other monuments of record dignity relied upon to establish the corners of the property surveyed.

One attendee of the seminar stated that the TBPLS had been fining registrants for failing to comply with these rules. The discussion at the seminar centered around the necessity of stating that a set iron rod (or other monument) had a cap, or some other identifying feature. Many of the attendees suggested that stating that they set a 5/8-inch iron rod was sufficient. It was pointed out that simply stating that you set a 5/8-inch iron rod did not identify it sufficiently to trace it back to the surveyor or associated employer.

The rules are confusing because §663.19(b) references a description and §663.19(e) references a survey drawing. One of the TBPLS Board members noted that the rules are intended to allow for professional discretion. However, to avoid running afoul of the TBPLS, it is suggested that you apply all three rules to both the survey map and description until the rules are clarified.

To be in compliance with Rule §663.17(d) the registrant must mark his monument in a way that is traceable back to him (or his company). The most common way is to use a plastic cap with a stamping, although how the monuments are identified is up to the surveyor. One surveyor I know goes to the trouble to drill a hole through the 5/8-inch iron rod and attach a small chain with a “dog tag” type metal tag that had the company name stamped on it.

Rule §663.19(b) and (e) can be addressed by describing on both the description and survey map what was found or set with enough detail to trace the monument back to the surveyor or company. The Board members and investigator agreed that something akin to the following was acceptable; “… to a 5/8-inch iron rod with cap stamped “####” set (or found) …” where “####” is the information that will identify the surveyor (or company). They also agreed that the color or the composition of the cap (in most cases) was not necessary.

I was informed that the Board is in the process of clarifying some of the rules and these were among them. For the most part, any ambiguity in a TBPLS rule is there on purpose to allow for the surveyor’s professional discretion. However, to avoid running afoul of the TBPLS, it is suggested that you apply all three rules to both the survey map and description until the rules are clarified.

NEW TEXAS RPLSS AND SITS

Congratulations to these 16 individuals who made a passing score on the RPLS or Reciprocal Exams and are newly licensed as Registered Professional Land Surveyors in Texas:

<table>
<thead>
<tr>
<th>Barnett, James K.</th>
<th>MacMenamin, Shawn</th>
</tr>
</thead>
<tbody>
<tr>
<td>Garner, Brian C.</td>
<td>Noah, Chris</td>
</tr>
<tr>
<td>Harper, Robert A.</td>
<td>Quillen, Claude M.</td>
</tr>
<tr>
<td>Hidell, Robert T.</td>
<td>Rinne, Brett M.</td>
</tr>
<tr>
<td>Holmes, David C.</td>
<td>Tazelaar, Myron A.</td>
</tr>
<tr>
<td>Hrobar, Harrison S.</td>
<td>Unger, Robert S.</td>
</tr>
<tr>
<td>Keen, Brian E.</td>
<td>Vanderstappen, Michael J.</td>
</tr>
<tr>
<td>Lawrence, Justin K.</td>
<td>Wachtstetter, Christopher C.</td>
</tr>
</tbody>
</table>

The following 5 individuals made a passing score on the Fundamentals of Surveying Exam and have been certified as Surveyors in Training since August 29, 2015:

<table>
<thead>
<tr>
<th>Hay, Travis</th>
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<tbody>
<tr>
<td>Donelan, Gregory</td>
</tr>
<tr>
<td>Wood, Jeremy</td>
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<tr>
<td>McGuire, Jeffrey</td>
</tr>
<tr>
<td>Schroer, Nicholas</td>
</tr>
</tbody>
</table>

Information from the Texas Board of Professional Land Surveying website – http://txls.texas.gov/examination-results/
AN ATTORNEY’S ANGLE
MARK HANNA – TSPS LEGAL COUNSEL

Mark J. Hanna practices law in Austin and has served as TSPS Legal Counsel since 1992. In addition to providing legal and legislative representation for the Society, Mr. Hanna specializes in representing the interests of individual business and professional clients located throughout the State.

TEXAS REAL ESTATE LAW RECENT CASES

The following is a summary of the recent Texas real estate law cases as prepared by the Real Estate Section of the State Bar of Texas. For more information regarding these cases or other legal issues of significance to the surveying profession, contact TSPS Legal Counsel, Mark J. Hanna, 900 Congress Avenue, Suite 250, Austin, Texas 78701; telephone: (512) 477-6200; facsimile: (512) 477-1188.

Real Estate Cases - State Courts


1.1 In order to establish a fraudulent-lien in this case, the plaintiff’s summary judgment evidence had to conclusively prove as a matter of law that the defendant (1) made, presented, or used a document with knowledge that it was a fraudulent lien; (2) intended the document be given legal effect; and (3) intended to cause the plaintiff’s financial injury.

*Gray v. Entis Mechanical Services,*
343 S.W.3d 527 (Tex.App.-Houston [14th Dist.] 2011, no pet.).

2. Restrictive Covenants.

2.1 The right to lease minerals – the executive right – is one “stick” in the bundle of five real property rights that comprise a mineral estate. The Supreme Court held long ago that the executive owes other owners of the mineral interest a duty of “utmost fair dealing.”

2.2 An executive’s refusal to lease must be examined carefully. If the refusal is arbitrary or motivated by self-interest to the non-executive’s detriment, the executive may have breached his duty. The Developer here did not simply refuse to lease the minerals; it exercised its executive right to limit future leasing by imposing restrictive covenants on the subdivision. This was an exercise of the executive right and the Developer had breached its duty.

2.3 The remedy was cancellation of the restrictive covenants. The Developer, as a land developer, acquired the executive right for the specific purpose of protecting the subdivision from intrusive and potentially disruptive activities related to developing the minerals. But the common law provides appropriate protection to the surface owner through the accommodation doctrine.

*Lesley v. Veterans Land Board,* 54 Tex.Sup.Ct.J. 1705 (Tex. 2011). In this case, a land developer, who also owned part of the mineral estate and all of the executive right, imposed restrictive covenants on a subdivision, limiting oil and gas development in order to protect lot owners from intrusive exploratory, drilling, and production activities. The non-participating mineral interest owners complain that the developer, as the executive, breached its duty to them. The court of appeals held that the developer, never having undertaken to lease the minerals, had not exercised the executive right and therefore owed no duty to the other mineral interest owners. The court disagreed.

The Developer owned 4,100 acres southwest of Fort Worth. *Lesley* and others had conveyed the land to the Developer, retaining part of the minerals. The developer acquired the “full, complete and sole right to execute oil, gas and mineral leases covering all the oil, gas and other minerals in the following described land.”

The Developer recorded restrictive covenants which, among other things, prohibited commercial oil drilling, development, refining, quarrying, or mining. The lots were sold to over 1,700 different owners, and in each case, the Developer conveyed the minerals, subject to the restrictive covenants and the previously reserved mineral interests. The deeds to the owners did not mention executive rights.

As the land was being developed, so was the Barnett Shale, which underlay a part of the subdivision. It was estimated that the subdivision sits on top of $610 million worth of minerals that cannot be reached outside the subdivision.

*Lesley* sued the Developer and the lot owners, one of which is the *Veterans Land Board.* The trial court held that the Developer had not conveyed the executive right and remained the exclusive owner of the executive right. The trial court also held that the Developer had breached its duty to Lesley by imposing restrictive covenants limiting oil and gas development and by failing to lease the minerals. The trial court also held that the Developer also breached a requirement in the *Lesley* deeds by failing to give notice of its filing of the restrictive covenants. For these reasons, the trial court held that the restrictive covenants are unenforceable. The court of appeals reversed the trial courts holdings. It held that, because the Developer did not expressly reserve the executive right, it passed to the individual lot owners.
owners. It also held that the owner of an executive right owes a mineral interest owner no duty until the right is exercised by leasing the minerals, and then its duty is only to acquire for the mineral interest owner every benefit it acquires for itself. An executive has no duty to lease minerals. Because the Developer never exercised the executive right, it had no duty to Lesley. The Developer was not bound by the notice requirement in the Lesley deeds because the Developer was not in privity with Lesley and the requirement did not run with the land. The Supreme Court disagreed.

Everyone agreed that the Developer owned the executive right to all of the 4,100 acre mineral estate when it implemented the restrictive covenants. The dispute is whether the deeds to the individual owners included the executive right. As noted, the deeds themselves did not mention the executive right. The Supreme Court has earlier held that, when a mineral interest is conveyed, the executive right incident to that interest passes to the grantee unless specifically reserved. That would mean that the individual deeds to lot owners conveyed the executive right. However, Lesley argued that the exception in each deed for the restrictive covenant limiting development of the minerals effectively reserved the executive right to the Developer because the covenant prohibited the lot owners from developing the minerals, and thus from leasing them. The court noted that this overlooks the provisions of the restrictions that allow the owners to modify the restrictions. The exception did not withdraw the executive right from the conveyances in the lot owners’ deeds but merely subjected the exercise of the right to the covenant’s limitations. Thus restricted, the right was conveyed by each lot owner’s deed.

The court then turned to the principal issue in the case, i.e., the nature of the duty that the owner of the executive right owes the non-executive interest owner and whether that duty has been breached.

“The executive right is the right to make decisions affecting the exploration and development of the mineral estate”, but it is “most commonly exercised ... by executing oil and gas leases.” Executive rights are frequently severed from other incidents of mineral ownership, as they were from the mineral interests reserved to Hedrick and Leslie. The non-executive mineral interest owner owns the minerals in place but does not have the right to lease them. The non-executive royalty interest owner owns an interest in the royalty when the executive leases the minerals. Non-executive interests may be perpetual or only for a term. They are created for many different reasons, among them the simple convenience of reserving the power to make leasing decisions in one person. And because executive and non-executive interests are real rather than personal, they survive the parties who created them and persist long after circumstances have changed. The executive right was conveyed decades before anyone contemplated developing a residential subdivision on the property or producing natural gas from the Barnett Shale beneath it.

For most mineral interest owners, revenue comes through leasing. If the exclusive right to lease the minerals could be exercised arbitrarily or to the non-executive’s detriment, the executive power could destroy all value in the non-executive interest, appropriating its benefits for himself or others. The law has never left non-executive interest owners wholly at the mercy of the executive. But the variety of non-executive interests and the reasons for their creation, and the effects of changing circumstances, make it difficult to determine precisely what duty the executive owes the non-executive interest. The Supreme Court has held that the owner of the executive right has a duty of “utmost fair dealing.”

The executive’s duty of utmost fair dealing is fiduciary in nature, so that the discovery rule is invoked in determining when a claim against the executive accrues. The Developer and owners in this case were arguing that the Supreme Court ‘s earlier decisions meant that the executive owner could not breach his duty until the executive power is actually exercised; the Lesley claimants argued that those cases held that the executive could be liable for failure to lease, even if not requested to do so. The court took a middle ground.

It may be that an executive cannot be liable to the non-executive for failing to lease minerals when never requested to do so, but an executive ‘s refusal to lease must be examined more carefully. If the refusal is arbitrary or motivated by self-interest to the non-executive’s detriment, the executive may have breached his duty. But the court said it need not decide here whether as a general rule an executive is liable to a nonexecutive for refusing to lease minerals, if indeed a general rule can be stated, given the widely differing circumstances in which the issue arises. The Developer here did not simply refuse to lease the minerals in the 4,100 acres; it exercised its executive right to limit future leasing by imposing restrictive covenants on the subdivision. This was, said the court, an exercise of the executive right, and the court held that the Developer had breached its duty.

The remedy, said the court, was cancellation of the restrictive covenants. It recognized that the Developer, as a land developer, acquired the executive right for the specific purpose of protecting the subdivision from intrusive and potentially disruptive activities related to developing the minerals. But the common law provides appropriate protection to the surface owner through the accommodation doctrine.
Age Profile Changes and What has Caused these Changes?

Texas is a typical state, where the total number of active licensed surveyors has shrunk to 2,500, of which 26 percent (over 1 in 4) are 65 and older with a median age of 58 (August 2015 data from Texas Board of Professional Land Surveyors). Twenty-five years ago, the total number of active surveyors in Texas was 3,500. In the past 25 years, the population of Texas has grown by over 50 percent, which means fewer surveyors are keeping up with a much larger demand for surveying services.

Technology has taken up the slack to service this increase in demand. Since the 1970s, the introduction of digital technology into surveying measurement and computing has given us a constantly changing array of advances in the accuracy and efficiency in the procedures used to undertake every type of survey. Total Stations, Digital Levels, Satellite Positioning (GPS/GNSS), Data Loggers, OPUS Online Positioning software, CAD software, GIS software, Unmanned Aerial Systems (Drones), LiDAR (both terrestrial and aerial) and their associated photogrammetric and mapping software have revolutionized surveying practice. A conservative estimate from an economic consulting firm in Australia (BIS Shrapnel, 2013) estimates that the surveying profession realizes a 1 to 2 percent increase in efficiencies every year using these new and improved digital technologies.

These changes in efficiencies mean that the Surveying Profession can undertake to perform many more surveys in a given period of time than ever before. Also, because of the ability to use smaller and more automated equipment, we find we need fewer people to perform measurement, computing, and drafting tasks. This has led surveying firms to take on more clients and undertake more surveys with the same staff numbers or reducing the number of staff to maintain the existing client workload. Either way, we have seen survey firms produce more surveys with fewer staff.

Downturns in economic activity, when the demand for surveying services is reduced, usually means lowering the number of staff in the firm. When the economy picks up and the demand for surveying services rises, we find that firms can manage the increase in surveys needed to be performed without hiring more staff. So over time, the cycle of the economy helps firms shed staff while technological advances in efficiencies reduce the need to add staff.

As time marches on, the remaining staff at the firm grow older with fewer younger staff needed to maintain the demand from clients.

What are RPLS Licensed to do and Why are RPLS so Valuable?

According the Texas Professional Land Surveying Practices Act, RPLS’s are licensed to undertake “Professional Surveying” practice. The Act states ““Professional surveying” means the practice of land, boundary, or property surveying or other similar professional practices.” What does this really mean?

In my opinion, I believe the Act means we are licensed to determine the location of land or property boundaries by undertaking the required research of the documented evidence, locate physical evidence on the ground, measure the relative location of evidence found on the ground, analyze the documented research and compare with the measured evidence on the ground to determine, beyond reasonable doubt, the original location of the boundaries in question. We also have the license to establish new original land and property boundaries when performing the subdivision of existing land or property parcels and to write legal descriptions of the land and properties we survey.

Sovereignty over land issues in the United States falls under the jurisdiction of the state (in our case Texas). If the evidence we find in performing “Professional Surveying” is perceived to be in conflict, where title (a matter of law) is in question, who gets to resolve this conflicting evidence to determine ownership or title between conflicting parties? In Texas it is a matter for one of the State’s 456 District Courts. The District Court Judge, or Jury, hears the evidence and arguments presented by the Plaintiff and the Defense in a law suit that is usually called “trespass to title.”

In effect the RPLS, when practicing Professional Surveying, is weighing the evidence discovered in boundary retracement just as the District Court would go about weighing the evidence presented by the plaintiff and defense in a law suit. Jeff Lucas, Lawyer and Professional Surveyor, states:

Many learned minds with a better understanding of the law or land surveying, or both, have expressed the idea that the land surveyor is both judge and jury when it comes to rendering a well-reasoned opinion on the location of property boundaries. (Lucas, 2013)

I believe, in step with Mr. Lucas, Esq., that the license issued to each RPLS by the State of Texas is to practice “Professional Surveying,” based on the evidence uncovered only, in lieu of having the District Court rendering a legal decision on where each land and property boundary is to be located, as originally established, so as to define the limits of title to adjoining land or property parcels.

In order for RPLS to perform Professional Surveying services to maintain equitable remedies, similar to that sought by the District Courts, the Texas Board of Professional Land Surveying has instituted a Rule by which each RPLS must sign and affix their seal to the following oath:

I, ____________, Registered Professional Land Surveyor, Certificate Number________, hereby affirm that I will place the interest of the public above all others [my emphasis] in my practice of Professional Land Surveying and I will adhere to the Texas Professional Land Surveying Practices Act and General Rules of Procedures and Practices adopted by the Board. (TBPLS, 2015)

It would then follow that the value RPLS bring to our clients in performing Professional Surveying services is on a level with the value derived from the Legal Profession when dealing with land and property disputes at the District Court.
Texas
Registered Professional Land Surveyors (RPLS)
Age as of August 2015

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Compiled by Brianne Bernsen, RPLS and Dr. Gary Jeffress, RPLS
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Common Research Mistakes Surveyors Make

(Part 5 – Probate Records)

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

In previous articles I have explained four of the five common mistakes made by surveyors in researching the records. In the first article I discussed mistakes made in determining senior title often required when assessing the boundaries resulting from an overlap. In the second article I explained the deficiency existing when a forward search is omitted. In the third of five common mistakes I explained the necessity for researching the road records. In the fourth article I discussed the deficiency in researching and identifying easements. In the final article, I will discuss probate records.

Some surveyors have gone their entire career without ever researching property records that may be found in the office of the probate court (also known as “family,” “surrogate” or “orphans” court).

Probate records will often contain maps of the decedent’s property and descriptions of the property that are not found in the deeds. In some states, partition maps dividing up a decedent’s property among the heirs or devisees are filed in the probate records and are found nowhere else.

Also, it is not uncommon for boundary surveys of the decedent’s property to be among the decedent’s estate documents and can now be found in the probate records. As a consequence, many surveyors have overlooked valuable boundary information that is only available in the probate office.

In defense of those surveyors that have avoided performing research in the probate office, pertinent records are often extremely difficult to identify from the indices in the probate office.

For example, if the deed recites: “Being the same property Christina Small inherited from her father,” the researcher faces a difficult time finding the appropriate probate records for Christina’s father (assuming the father’s property passed through probate).

Probate records are typically indexed by the decedent’s name. Consequently, if Christina Small is her married name, the researcher would not know the decedent’s last name needed to enter the probate index.

Another problem that often arises with probate records is the difficulty in looking at the decedent’s documents. While most registry of deeds attempt to make all records available for viewing, the probate office lacks that same goal. The chances are that the probate records will never be examined once they are filed and the estate closed. Accordingly, why attempt to store the records as if these records were to be examined frequently.

Describing typical weaknesses in the surveyor’s record search will not necessarily convince surveyors to undertake the tedious and time consuming research necessary to overcome the limitations that were explained. At the very least, the surveyor should inform the client of the deficiency in the research so the client can pay to have the deficiency eliminated or understand the potential deficiency in the research.

Knud is a professor in the surveying engineering technology program at the University of Maine. He offers consulting services in the area of boundary litigation, title, easements, land development, and alternate dispute resolution.

“Also, it is not uncommon for boundary surveys of the decedent’s property to be among the decedent’s estate documents and can now be found in the probate records.”

– Knud Hermansen

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Indeed, the value of land and property, as tracked and recorded by the Tax Appraisal Districts in Texas and displayed by the real estate market, is built on the foundation that legal tenure of title relies on the fact that boundaries delineating title, as located by the RPLS on the ground, and unambiguously described by the RPLS in the written legal description shown on their deeds.

In short, the current value of all real estate would scarcely exist if land and property owners could not rely on the Professional Surveying practice performed by each RPLS. One can see this by traveling the world and noticing that 70 percent of the world’s population (McLaren, 2015) inhabited by humans (mainly in the developing countries) is not covered by formal recorded legal title based on accurate land and property surveys.

I believe licensed Professional Surveyors are much more valuable to the society we serve than we lead ourselves to believe. We should endeavor to change this perception.

(Continued from page 16)

(Continued from this series from Dr. Gary Jeffress in an upcoming issue of The Texas Surveyor.)

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DEALING WITH AN ARMED INTRUDER/ACTIVE SHOOTER SITUATION

SAFETY COMMITTEE

By Joe Breaux, RPLS, TSPS Safety Committee Chair

We all know that a lot of survey work is field work. But a tremendous amount of surveying is office time. And support staff rarely, if ever, gets out in the field. With so many employees spending so much time in the office, a serious question arises – What should we do if we had an armed intruder, especially a shooter situation? Although, as we’ve seen in recent weeks (at the time of this writing), shootings have also occurred in other “public” places – a movie theater in Lafayette, LA, a cafe/coffee shop in Paris, France and most recently in San Bernardino, CA, in a rented meeting room in an office complex where an office holiday party was being held. Regardless of the location and particular details, the question remains. What should we do?

Many offices and office buildings have some form of security to prevent walk-ins, from locked doors to key-card entry systems or even security guards, etc. This is especially true in larger cities and major metropolitan areas. Other offices don’t have any special daytime security. The extent of security is almost certainly dependent on the location and the city, large or small, in which the office is located.

But even security can often be worked around, especially when someone plans to get in to an establishment to inflict harm. That type of person may be a disgruntled employee or former employee, an ex-partner, an angry spouse, or just a bad person who planned ahead and intends to do harm. These types will find a way to get in.

Even the occasional unwanted walk-in who may beg or try to steal is not welcome and can become difficult or possibly be dangerous. There are specific recommendations for dealing with these types, but for now let’s focus on what to do if a shooter, someone who has a gun or guns and who fully intends to inflict harm, is found on the premises or inside of an office? Many things go through my mind when I think about what my own actions might be. Would I run? Could I hide? Would I be bold and fight? I’ve heard experts in personal defense state that even if someone who is trained in self defense and in the use of a gun for protection (and had access to a gun during such an event) can’t be sure of how they will react until they are actually faced with a real, live situation.

Work place violence appears to be on the rise. An active shooter or an armed intruder event is not likely, but things do happen. If such a terrible thing were to occur in your office (or even in a “public” place) knowing how to react and having a plan is highly advisable. It could save your life or the lives of others. According to recommendations I read from several authoritative sources on personal defense, their advice is similar. We should run or evacuate, we should hide or we should fight, as a last option. Depending on the source consulted, the recommendations vary slightly, and the steps may include a few additional suggestions. But regardless, any one of these sources of recommendations on how to deal with an armed intruder is good to know and keep in mind.

1. U.S. Department of Homeland Security Administration (DHS)
   http://www.dhs.gov/active-shooter-preparedness

2. ALICE Training Institute©, Alert, Lockdown, Inform, Counter, Evacuate.
   http://www.alicetraining.com/what-we-do/respond-active-shooter-event/
DEALING WITH AN ARMED INTRUDER/ACTIVE SHOOTER SITUATION

(Continued from page 24)

- Be aware of your environment and any possible dangers.
- Take note of the two nearest exits in any facility you visit.
- If you are in an office, stay there and secure the door.
- If you are in a hallway, get into a room and secure the door.
- As a last resort, attempt to take the active shooter down. When the shooter is at close range and you cannot flee, your chance of survival is much greater if you try to incapacitate him/her.

CALL 911 WHEN IT IS SAFE TO DO SO!

Another good source of information I found is the ALiCE Training Institute© website. ALiCE is an acronym for Alert, Lockdown, Inform, Counter, Evacuate. The plan was created by a police officer after the Columbine, Colorado school shooting to help protect his wife who was an elementary school principal. Information on the ALiCE response plan and other services offered by the institute can be found at: http://www.alicetraining.com/what-we-do/respond-active-shooter-event/

The basics of the ALICE response plan are:

Alert-to use plain and specific language to alert as many as possible who may be in the danger zone that a potential life threatening situation may exist.

Lockdown-to secure in place, barricade the room, silence mobile devices and prepare to evacuate or counter.

Inform- is a continuation of alert and is to communicate, in real time, the shooter/intruder’s location.

Counter- a strategy of last resort to distract the shooter by creating noise or movement, with the intent of reducing the shooter’s aiming ability.

Evacuate- to remove yourself and any others from the danger zone when it appears safe, using proven techniques not always known by civilians.

The above lists of recommendations are taken from only the two sources noted. As stated, there are similarities. Please note that the respective web page of each contains far more information and additional details about their recommendations. I strongly recommend that you access the web pages of the DHS, ALiCE, and/or find other sources for more information on active shooter preparedness. Also, I didn’t research consultants other than what is found on the ALiCE Training Institute© website; I’m not recommending that company over others. I am confident that there is a wealth of good information from a number of other sources that can easily be found by simply conducting a search on the internet.

If you don’t have a plan for dealing with an armed intruder or active shooter in your office, create one. Even a weak plan is better than no plan. Remember that these active shooter preparedness recommendations may also apply and be helpful in open or “public” places, too. If you find yourself in the horrible situation of an active shooter, knowing what to do could save your life and the lives of others. Be prepared.
By Doug Loveday
TSPS Communications Director

Potting TSPS Symposium on a calendar today is as familiar to Texas surveyors as seeing the TSPS Annual Convention or Texas Surveyors Week scheduled each year.

It’s easy to forget, though, that TSPS made a sea-change decision more than a decade ago when it created the annual Symposium. Innovative and groundbreaking, TSPS Symposium changed the landscape of education for both Texas surveying professionals and paraprofessionals.

But how did it get its start, and just what is Symposium?

Part of the original intent of Symposium was to take a two-day education event to different locations around the state, according to TSPS Education Coordinator Brenda Null. Symposium allows surveyors, and those advancing in the surveying profession, to visit a location not associated with one of the traditional TSPS Convention host cities (e.g. Dallas-Fort Worth, Houston, San Antonio, Austin). It would also, ideally, be located in a different part of the state than that year’s convention location.

And this formula has been successful, based on attendance and comments received over the years. College Station hosted the first TSPS Symposium in 2004, and the event has moved around the state since:

• 2004 – College Station – 268 attendees
• 2005 – Tyler – 227 attendees
• 2006 – Odessa – 144 attendees
• 2007 – South Padre Island – 151 attendees
• 2008 – San Antonio – 310 attendees
• 2009 – Waco – 232 attendees
• 2010 – Abilene – 127 attendees
• 2011 – San Marcos – 243 attendees
• 2012 – League City – 232 attendees
• 2013 – Corpus Christi – 262 attendees
• 2014 – Lubbock – 191 attendees
• 2015 – San Antonio – 358 attendees
• 2016 – Beaumont – 214 attendees
• 2017 – San Antonio – 310 attendees
• 2018 – San Antonio – 321 attendees
• 2019 – San Antonio – 372 attendees
• 2020 – San Antonio – 352 attendees

Prior to 2003, and in addition to the Annual Convention and Tech Expo, TSPS held an average of 15 educational seminars per year in various parts of the state, stretching thin TSPS resources, chapters and staff. But with the advent of Symposium, that format changed significantly. Symposium now offers RPLS attendees an opportunity to earn 16 CEUs over its two days, and paraprofessionals also have multiple classes designed especially for them as well for their professional advancement.

Today, TSPS still provides two seminars in December (8 CEUs each) and two boundary retracements seminars (Heart of Texas and Locating Original Corners seminars, both 16 CEUs), but emphasis is now focused toward the October convention and the winter Symposium.

In addition to providing different locations for Symposium, the TSPS Education Committee also made it a priority to provide more original education offerings and content during this event. Its Course Development workshops, with TSPS members pouring in their time and talent, churned out many new classes for Texas surveyors, keeping their education and professional development fresh and timely.

So where do we go from here?

That was a question posed by Craig Alderman, CST Committee chair, in an article for the November 2015 Texas Surveyor magazine regarding the future of Certified Survey Technician examinations. And answering that question, he stated, “I think the choice is clear … let’s make 2016 the year TSPS leads the nation in active CST holders.” TSPS Symposium is positioned perfectly to advance that goal, with this year’s event offering the following paraprofessional courses:

• CST Exam Prep Course
• Survey Math 101
• Survey Math 201
• Survey Math 301

Another important course for those on the path of licensure is the Study Group for RPLS Candidates, also offered in 2016 in Beaumont.

All of these classes are designed to educate technicians and future surveyors to help them pass CST exams and the RPLS exam. Other classes or CEU courses offered by non-TSPS providers may be available online or in locations around Texas, but TSPS makes it a priority to provide the courses land surveyors and technicians need to be successful and advance in their careers.

So why Beaumont?

Why Not! Beaumont is a city of more than 100,000 but with a small-town feel. It’s also far from the site of the 2016 Convention & Tech Expo, which returns to San Marcos, Texas in October. TSPS Deep East Texas Chapter 6 calls Beaumont home, and the chapter is working over-time to host an event to remember this February. Arrive early and enjoy Steak Night at the Symposium host hotel, the MCM Elegante. And book your room today – our TSPS discounted rate is $92. Visit www.tsps.org to click on the TSPS discount link and reserve your room online today. You can also call the hotel directly at 866-764-8536 to make your reservation.

The MCM Elegante Hotel will also host “The Shine Games Challenge” from 6:30 p.m. – 9:00 p.m. on Friday, February 26. Many games and challenges will be offered to those in attendance, and winners will earn tickets that are redeemable for original items and gifts. Light snacks and a cash bar will also be available.

Beaumont is a terrific city to gather together the surveying community of Texas. Won’t you join us next month for the education event of the year … 2016 Symposium! Beaumont? Of course!!

(See pages 27-29 for Symposium course descriptions and a registration form, and go to www.tsps.org to register TODAY online!)
**SATURDAY, FEBRUARY 27**

7:00 a.m. – 2:00 p.m.  
Registration

8:00 a.m. – 5:00 p.m.  
Exploring Texas Boundaries  
*Speakers: Michael Hoover, RPLS, LSLS, CFM; and David Klotz, RPLS, LSLS*

Get ready to explore the origins and unique characteristics of Texas Boundaries. We’ll discuss the critical role of the Texas General Land Office, present methods of “classical” boundary construction for Texas Surveyors and discuss the importance of the “dignity of calls.”

Objectives: By the end of this course students will be able to:

1. Identify and discuss the historical boundaries of Texas.
2. Recognize and discuss what events lead to the present day Texas boundary.
3. Recognize and discuss the disposition of lands from the sovereign.
4. Discuss the importance of the Texas General Land Office records and recognize methods of researching those records.
5. Apply the “dignity of calls” to complete “classical” boundary scenarios.

(8 CEUs, including 3 hrs Ethics; 8 PDHs)  
(Attendees MUST attend both AM and PM sessions for CEUs/PDHs)

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**FRIDAY, FEBRUARY 26**

7:00 a.m. – 5:00 p.m.  
Registration

8:00 a.m. – 5:00 p.m.  
(8-hour Course)  
State Plane Coordinates (8 CEUs)  
*Speaker: James (Jim) B. Gillis, NSLS, CLS, RPLS*

Working in a State Plane Coordinate System every day is one thing, but fully understanding its origin, organization, and mathematics is key to maximizing your time, resources and ROI. By the end of this seminar attendees will be able to discuss the origin and purpose of Coordinate Systems in land surveying, list the four relevant surfaces and explain their relationship, identify and associate the mathematical parameters for the five zones, calculate a distance applying the combined scale factor, and demonstrate the benefits of the use of State Plane Coordinates in everyday surveying. Participants will engage in peer interaction, hands-on activities, informative illustrations, and facilitated discussions throughout the seminar to create a comprehensive and useful learning experience of the use and benefits of Texas State Plane Coordinates. Attendees should bring a scientific calculator and be familiar with its operation.

(Surveyors – 8 CEUs; Engineers – 8 PDHs)  
(Attendees MUST attend both AM and PM sessions for CEUs/PDHs)

8:00 a.m. – 12 Noon  
Courtesy of a Professional  
*Speaker: Kenneth Gold, RPLS*

Beyond the pragmatics of technology and business, this paper explores the ethical inter-relation of a surveying practitioner with clients, the public, co-professionals, employees, and family. For any measure of success, there are few absolutes and many approaches that reasonably assure success, but also many trip wires and pitfalls lay along the way. These measures will be explored with the intent for the attendee to be better armed with recognition of these successful-business helps . . . and inhibitors.

(4 CEUs, including 4 hrs Ethics / Rules; 4 PDHs)

12:00 Noon – 1:00 p.m.  
Lunch On Your Own

1:00 p.m. – 5:00 p.m.  
John McMullen Grant  
*Speaker: Paul Carey, RPLS, LSLS*

This presentation will introduce the John McMullen Grant, John McMullen and a few other notorious characters and the cascade of consequences and evidence thereof created throughout the centuries resulting from interpretations, misinterpretations and legal battles surrounding a 1766 deed from the King of Spain to the “Native Indians of the Mission San Jose.”

(4 CEUs; 4 PDHs)
Continued from page 27

8:00 a.m. – 12:00 p.m.
The Business of a Surveying Business
Speaker: Trisha Lund, RPLS; and Ivy Young
Through lecture and the demonstration of aspects of running a business, students learn and discuss the key elements for impacting a successful surveying firm. The course covers techniques for developing business relationships and identifying and accommodating clients’ needs. Products and services essential in the surveying business will be identified. Methods for determining fees and expenses and managing the administration of a survey business will be presented. 
(4 CEUs, includes 3 hrs of Ethics; 4 PDHs)

8:00 a.m. – 12:00 p.m.
Study Group for RPLS Candidates
Speaker: Jason Jernigan, RPLS
Are you a candidate for RPLS or SIT? Then plan to sit in and participate in this study session for RPLS candidates with Jason Jernigan, RPLS. It is suggested attendees bring a scientific calculator and be familiar with its operation. (Paraprofessional)

8:00 a.m. – 12:00 p.m.
Survey Math 101
Speaker: Joe Webber, Jr., RPLS
This course covers the basics of surveying mathematics. The Survey Math 101 seminar is designed to expose individuals to basic surveying math computations. The Survey Math 101 seminar will prepare students for topics covered in the Survey Math 102 seminar and will help prepare them for Level 1 of the NSPS Certified Survey Technician Exam. Basic math computations relating to conventional surveying techniques will be demonstrated and real field survey scenarios will be provided for attendees to solve. By the end of this seminar attendees will be able to: manipulate equations to solve for a missing variable, solve right triangles for the missing elements when given two known elements, derive angles, distances, and new coordinates from given coordinates. It is suggested attendees should bring a scientific calculator and be familiar with its operation. (Paraprofessional)

8:00 a.m. – 12:00 p.m.
Survey Math 201
Speaker: Joe Webber, Jr., RPLS
The Survey Math 201 seminar is an intermediate math course designed to assist individuals preparing for advancement within their company; preparing for one of the first three levels of the NSPS Certified Survey Technician Exams; or reviewing their math skills for the SIT Exam. Math computations relating to conventional surveying techniques will be demonstrated and real field survey scenarios provided for attendees to solve. Concepts to be practiced are the ABC’s of Trigonometry, using Law of Sines and Law of Cosines to solve for missing elements of oblique triangles, and using Vertical Angles to determine height. Attendees must have a basic knowledge of calculators, right triangles and algebraic manipulation. Attendees should bring a scientific calculator and be familiar with its operation. (Paraprofessional)

12:00 Noon – 1:00 p.m.  Lunch On Your Own

1:00 p.m. – 5:00 p.m.
Business Metrics
Speaker: Patrick Veto, PE, RPLS
Topics covered include the Classic Business Model- Administration/Operations/Marketing, Salary Cost & Overhead and Rate Determination. We will also cover how to measure performance such as production, effort and efficiency. The target audience is Business Owners, Prospective Owners and those who want to move up or move into management. Our intention is to provide a process of how to compute performance measures, identify critical performance measures and know how to adjust to keep performance measures in balance. We will discuss the Bottom Line: Maintaining a Healthy & Profitable Company, and how to identify methods to measure performance. Attendees should bring a calculator to the class.
(4 CEUs, includes 4 hrs of Rules; 4 PDHs)

Sign up at www.tsps.org

MCM Eleganté Hotel in Beaumont

MCM Eleganté Hotel & Convention Center!
Voted Beaumont’s Best Hotel for the past 10 years, the MCM Eleganté Hotel and Conference Center is the premiere hotel serving Southeast Texas. The MCM Eleganté is a full service luxury hotel featuring an award-winning restaurant, Hemingway’s Café, the Tradewinds Tavern bar, the Getaway Day Spa and the most comfortable beds on the planet.

The TSPS Group Rate is $92.
Deadline to receive the rate is Thursday, February 11, 2016.

Call the hotel today at 866-764-8536 to reserve your room!

MCM Eleganté Hotel
2355 IH-10 South
Beaumont, Tx 77705

We’ll see you in Beaumont!
Attendee Information
One form per person. Please print.

Name (first) ______________________ (Badge Name) ____________________ (last) __________________________________

Company __________________________________________________________________________________________________

Address __________________________________________ City ___________________ State ___ Zip __________________

Phone _______________ Email required for confirmation________________________________ RPLS# ______ PE # ______

Registration Fees do not include hotel or meals

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Education Sessions (All class sizes are limited – REGISTER EARLY!)

Friday, February 26, 2016

☐ 8:00 a.m. – 5:00 p.m. State Plane Coordinates *(8 hours/all day)* 8 CEUs/8 PDHs

☐ 8:00 a.m. – 12:00 p.m. *Courtesy of a Professional 4 CEUs/4 PDHs

Lunch On Your Own

☐ 1:00 p.m. – 5:00 p.m. John McMullen Grant 4 CEUs/4 PDHs

Saturday, February 27, 2016

☐ 8:00 a.m. – 5:00 p.m. *Exploring Texas Boundaries *(8 hours/all day)* 8 CEUs/8 PDHs

☐ 8:00 a.m. – 12:00 p.m. *The Business of a Surveying Business 4 CEUs/4 PDHs

☐ 8:00 a.m. – 12:00 p.m. **Study Group for RPLS Candidates 0 CEUs

☐ 8:00 a.m. – 12:00 p.m. **Survey Math 101 0 CEUs

☐ 8:00 a.m. – 12:00 p.m. **Survey Math 201 0 CEUs

Lunch On Your Own

☐ 1:00 p.m. – 5:00 p.m. Business Metrics 4 CEUs/4 PDHs

☐ 1:00 p.m. – 5:00 p.m. **CST Exam Prep Course 0 CEUs

☐ 1:00 p.m. – 5:00 p.m. **Survey Math 301 0 CEUs

*Meets TBPLS requirements for Ethics and/or Rules – **Paraprofessional Course

Payment:

☐ Check # __________ made payable to TSPS  

☐ VISA ☐ MC ☐ AMX ☐ DISCOVER

Credit Card Acct # ____________________________ Security Code ________ Exp Date _______________

Name of Cardholder ____________________________ TOTAL ________________

Card Billing Address ____________________________________
PARTY CHIEF / INSTRUMENT MAN / DRAFTSMAN

Richardson, Texas

Party Chief – minimum of 5 years’ experience as a crew chief with knowledge of boundary/topographic/construction surveying.

Instrument Man – minimum of 6 months experience using Trimble and/or Leica is preferred.

Draftsman – minimum 2 years’ experience in topographic and boundary drafting required. Carlson Survey experience is preferred.

Competitive Salary and retirement, Health/Dental/vision Insurance.

Please send resumes and work history with references to SROjas@txasc.com.

RPLS – San Angelo

Professional Land Surveyor with experience in boundary, title, topographic, route, and construction surveying. Must be proficient with and understand GPS surveying and CAD software. Will be responsible for both field and office work as well as interacting with clients. Bleyl & Associates is a growing civil engineering firm that was founded in 1997. We have brand new Trimble R10s and survey truck, and we use the latest version of AutoCAD Civil 3D. This position is in a small office with terrific staff.

Send resumes to twolff@bleylengineering.com.

SURVEY MANAGER

Salary Exempt

Surveyor Manager will plan, organize, direct and control the survey department.

ESSENTIAL DUTIES:

1. Supervise and/or coordinate work efforts of the survey department and make hiring recommendations. Project management responsibilities include client contact, data management, boundary determinations, preparing legal descriptions, construction layout calculations and file preparation. Work includes all facets of land and engineering surveys, ALTA, site and roadway design surveys, route surveys, construction surveys, supervision and production of surveying projects, drawing and other related work products and services.

2. Oversees the surveying function of the business to meet client needs by performing skilled, technical work in the surveying, mapping and drafting of projects. Much of the work involves the coordination and gathering of data from outside agencies, as well as providing pertinent information to contractors and developers.

3. Review, organize and plan the Survey schedule to assure surveys are completed on-time. Coordinate newly scheduled surveys into schedule. Assign field projects based on best skills available and who is available.

4. Verify and document departmental employees are appropriately trained to operate survey equipment.

5. Verify that survey staff maintains proper documentation necessary for change orders, field notebooks, time sheets, project records, vehicle operation and maintenance records.

6. Oversee and monitor survey equipment to ensure that it is properly maintained, calibrated and fully accounted for on a regular schedule.

7. Resolve problems with local government officials, inspectors, customer’s representative and work crew on job sites or delegate as needed. Review completed work to assure that survey group complies with all applicable Professional, Federal, State, and Local laws and regulations.

REQUIRED EXPERIENCE and TRAINING:

1. Education - BS in Surveying or related field.

2. Must be a current, licensed Professional Surveyor in New Mexico or within six months of employment.

3. Experience - This position requires a minimum of four years of experience after licensure in boundary, topographic and construction surveys, design surveys, subdivision plats, ALTA/ACSM surveys, water rights surveys, horizontal and vertical control networks for aerial and GPS surveys.

4. Must be proficient in the use of computers and CAD, Trimble Software, GPS Total Station, Robotics, AutoCAD and Land Development Desktop.

5. Is of good moral character and reputation.

6. Must have strong organizational skills to manage multiple projects, be self-directed with good verbal and written communication skills.

All other requirements for employment with Pettigrew will apply.

Email resumes to emartinez@pettigrew.us.

SURVEYING TECHNICIAN

Hourly

ESSENTIAL DUTIES:

1. Assist in performing boundary surveys, construction surveys, topographic and improvements surveys.

2. Assemble field data, reduce field notes, process data collection files and complete survey calculations and boundary determinations for design surveys, horizontal and vertical networks for GPS, topographic surveys, boundary and land surveys, subdivisions, ALTA/ACSM surveys and quality control surveys.

3. Use instruments including levels, total stations, and GPS equipment; establish horizontal and vertical control networks for aerial surveys, ground control and quality control.

4. Performs advanced field calculations when requested, including closing and adjusting traverses and level loops.

5. Aid with measurements that determine property boundaries. Provide data relevant to the shape, contour, gravitation, location, elevation, or dimension of land or land features on or near the

(See CLASSIFIED ADS, page 31)
earth’s surface for engineering, mapmaking, mining, land evaluation, construction, and other purposes that meet the achievement of goals, objectives and profitability at Pettigrew & Associates.

REQUIRED EXPERIENCE and TRAINING:

1. Must possess a current, valid drivers’ license and an acceptable driving record and obtain a DOT Medical Examiners Certificate.
2. Education High School or equivalent, no experience required.
3. An equivalent combination of experience, education and training which provides the desired knowledge, skills, and abilities.

All other requirements for employment with Pettigrew will apply.

Email resumes to emartinez@pettigrew.us.

SURVEY SALES SPECIALIST

Job Description

GeoShack is growing and we are looking to hire a talented Survey Sales Specialist in our Houston Market, who enjoys a challenging, fast-paced environment that’s both competitive and rewarding. GeoShack is a leading distributor of leveling, alignment, measurement, guidance and grade control solutions to the Construction, Survey, Machine Control and Agricultural markets in North America. We provide our customers a “total solution” of quality products and services to meet their needs.

The Survey Sales Specialist position requires a working knowledge of the local survey market with 2-5 years of a proven sales track record and the ability to develop relationships with customers and provide them with real, effective solutions. You will be responsible for prospecting and identifying potential opportunities and closing high value deals with surveying and engineering firms, and governmental entities in a dedicated sales territory. You will be selling Topcon GPS, surveying instruments and robotic total stations.

The successful candidate will possess:

• Minimum 2-5 years sales experience.
• Exceptional organizational and communication skills
• Strong achievement drive
• Must be computer literate
• Knowledge of survey, engineering and/or governmental markets preferred
• Willingness to learn about the products we sell.
• Positive, sales-oriented personality.
• Business-like, professional appearance.
• Prefer Bachelor’s Degree or equivalent.

Benefits:

• Competitive Salary with commissions
• Vehicle Allowance
• Travel expenses covered
• Medical, Dental and Vision Insurance
• 401(k) Retirement plan with company match
• Employer paid Life Insurance, and Short and Long-term Disability

If interested, please apply online at geoshack.com/careers.

CAD TECH - Fort Worth, Texas

Sempco Surveying, Inc. has full-time openings for a CAD tech position. Valid driver’s license and drug screening required. Benefits include paid insurance, vacation, holidays, 401K plan and 4 day work week.

Apply to www.sempcosurveying.com under Contact tab.

Field and Office Positions - The Woodlands , Texas

Town and Country Surveyors a Landpoint Company, Houston Office located in the Woodlands Texas is expanding its operations and has the following Full Time Employment positions available, Typical Projects involve Pipeline and Well Location Surveys, Boundary, Route & ROW Acquisition, Topographic, Utility Line Locations, Private Development Surveys, Construction Survey Control Mapping, etc.

- RPLS (2-5 years’ experience)
- SURVEY PARTY CHIEF (5+ Years’ Experience)
- INSTRUMENT MAN (2+ years’ experience)
- SURVEY TECH OR S.I.T. (2+ years’ experience)
- SR CAD TECH- Project Managers (5+ years’ experience)(Micro Station is a plus)

We offer a competitive benefit package including holidays, vacation, sick leave, 401K w/match and health, dental, life, and disability insurance.

Send resumes to david@tcsurveying.com (281-465-8730 for inquires).

FIELD PERSONNEL NEEDED

Well established Surveying Firm in the Northeast Fort Worth area seeking experienced Party Chief and Instrument Person for all types of surveying including primarily boundary, topographic surveying and construction staking.

Experience with Carlson Surv CE data collection and Topcon GPS equipment preferred.

Competitive salaries, retirement benefits and health insurance available.

Please respond by sending resumes to dwm@moaksurveyors.com or faxing to (817) 282-0401.

(See CLASSIFIED ADS, page 32)
MULTIPLE POSITIONS AVAILABLE - Houston, Texas

LUPHER, LLC Texas Professional Land Surveyors in Houston Texas has the following open Full Time Employment positions available for Surveying on Public Works & Transportation Design Projects. Typical Projects involve Control Surveys, Boundary, Route & ROW Acquisition, Topographic, Utility Line Locations, Private Development Surveys, Construction Survey Control Mapping, etc.

- RPLS (2-5 years’ experience)
- SURVEY PARTY CHIEF (5+ Years’ Experience)
- INSTRUMENT MAN (2+ years’ experience)
- SURVEY TECH OR S.I.T. (2+ years’ experience)
- SR CAD TECH- (Autocad/Microstation/Geopak PREFERRED)
- MICROSTATION CAD TECH

Lupher, LLC offers Competitive Salary & Year End Bonus. Full Benefits include Medical, Dental, Vision, Life, IRA, & PTO. Please email resume to rlupher@lupherllc.com

PROJECT MANAGER/RPLS – Denton, TX

TPN has an opening for an experienced Survey Project Manager or RPLS to join an established survey department. This position is responsible for the production of design, ALTA & boundary surveys, plating, construction staking, and document preparation on a variety of private and public sector projects, including residential subdivisions, public infrastructure improvements, parks, schools, churches, hospitals, retail and commercial developments.

Position Requirements:

- B.S. in Surveying or related field preferred, but not required.
- Texas Registered Professional Land Surveyor or a Certified Surveyor in Training.
- Responsive and results oriented.
- 3+ years of responsible experience as a Survey Project Manager.
- Knowledge of Trimble GPS and Robotic Total Station.
- Knowledge of Civil 3D 2011 (or newer), Carlson, and/or Trimble Business Center, & Microsoft Suite.
- Ability to develop solid working relationships.
- Ability to schedule work to meet deadlines.
- Ability to meet client expectations.
- Strong communication and organizational skills.
- Good listener.
- Strong sense of Urgency with “Get it done”/“Can do” attitude.

Residencies:

- Survey project production and management.
- Client management and development.
- Effective project control planning, analysis and adjustments.
- Conducting analysis and preparing boundary surveys, right-of-way surveys, easement plats and related documents.
- Managing & delivering project assignments within established budgets and timelines.
- Coordinating & collaborating with engineering design teams.

Visit our website at www.tnpinc.com for more information, or e-mail resume and salary history to humanresources@tnpinc.com.

PARTY CHIEF - Fort Worth, Texas

Frontier Surveying Company is expanding and actively seeking a qualified Party Chief for our Fort Worth, Texas office. A minimum of two years’ experience required. Candidate will perform services under the direction of RPLS. Ensure compliance with safety regulations according to industry standards and all Frontier Surveying policies and procedures. Candidate must demonstrate experience and knowledge of field land surveying practices, scanning data, and processing data techniques. Must be willing to travel and work overtime as needed. As an established company we offer competitive benefits for full-time employees including: Medical, Dental, Vision, Life, LTD/STD, paid time off, and a 401K.

Qualified applicants, please submit your resume to hr@frontiersurveying.com

SURVEY TECHNICIAN (SIT) / AutoCAD DRAFTSMAN

Colvin Surveying Company, located in Garland, TX - Currently has 1 immediate full-time opening for *Survey Technician (SIT)/ AutoCAD Draftsman:

This position requires a responsible, dependable and detail oriented individual who is willing to learn. Candidate must have knowledge of AutoCAD 2014/Carlson 2014, experience in land surveying and drafting, ability to read architectural plans, reduce field notes and prepare lots for various stages of construction (i.e. Platted Lot Surveys, Plot Plans, Stakeouts, Form Board Surveys, Final & Drainage Surveys, etc…). Proficiency and accuracy is a must! Please submit resumes with salary requirements to colvin@colvinsurveying.com.

MULTIPLE POSITIONS - Dunaway Associates, L.P.

Dunaway Associates, L.P. is a professional services company with a solid, results-oriented history. The firm provides civil engineering, structural engineering, planning, landscape architecture, environmental services, traffic and parking engineering, hydraulics/hydrology, and land surveying services to a wide variety of public and private clients. Dunaway has a 50-year history of offering a high level of client service and responsiveness and currently has 4 offices in Texas: Austin, Fort Worth, Midland and Prosper. Visit our website at http://dunawayassociates.com/ for more in-depth information.

Survey Project Manager – Midland, Texas Office

Reports to: Director of Survey Services

(See CLASSIFIED ADS, page 33)
RESPONSIBILITIES
Direct and manage all aspects of assigned projects with regard to the practice of any/all types of Professional Land Surveying; act as the primary administrator and communications link between the firm and client as well as between the survey department and other internal Dunaway department to ensure successful completion of the project in compliance with all contractual provisions and timeframe/budget limitations.

EDUCATION
- Bachelor’s Degree in project discipline or eight years of direct experience as equivalent
- With degree, at least five years related experience in the discipline of Professional Land Surveying
- At least three years prior project management experience
- Prior experience managing other employees

TECHNICAL KNOWLEDGE, SKILLS, AND ABILITIES
- In-depth knowledge of the discipline of Professional Land Surveying
- Solid knowledge of and proficiency with MS Office
- Knowledge of and abilities with AutoCAD Civil 3D
- Knowledge of and ability to estimate costs associated with technical tasks
- Solid understanding of project requirements
- Firm understanding of project financial performance metrics

SOFTWARE/OTHER SKILLS
- Ability to effectively and productively manage, lead, and motivate a team of different levels of employees
- Ability to manage multiple projects and project teams successfully
- Excellent verbal and written communication and interpersonal skills
- Ability to make timely decisions independently through sound judgment for the betterment of all team members and the firm
- Effective problem solving skills
- Ability to make effective formal verbal and written presentations to clients and all levels of employees, including management
- Strong negotiation skills

PREFERRED QUALIFICATIONS
- Bachelor’s Degree in Geomatics or other Geosciences
- Licensed as a Registered Professional Land Surveyor (RPLS) in the state of Texas
- Prior business development experience
- Working knowledge of AutoCAD and/or Microstation software

To apply for this job, please go to the “Careers” tab on our website http://dunawayassociates.com/ and complete an application. You will be instructed to email both the application and your resume with salary requirements back to jobs@dunaway-assoc.com.

Thank you!

We are currently looking for a Survey Technician(s) to work in our Midland & Fort Worth Survey Department. Details of the job are listed below:

SURVEY TECHNICIAN(S) – MIDLAND, TEXAS & FORT WORTH, TEXAS OFFICE

REPORTS TO: Director of Survey Services

RESPONSIBILITIES
Assists Survey Project Manager in application of principles, methods and techniques of land surveying duties and drafts detailed drawings, to include boundary, right-of-way, and topographical surveys, profiles, cross sections, subdivision plats, property exhibits and other similar types of drawings and maps to be used for transfer of real property, planning, development, and design of civil engineering projects; also cross-functionally performs field survey work as needed.

EDUCATION
- High school diploma or GED
- At least Level II Survey Technician Certification (CST)
- Two years computer-aided drafting experience, specifically with Civil 3D software

TECHNICAL KNOWLEDGE, SKILLS, AND ABILITIES
- Solid knowledge of surveying principals and methods
- Understanding of use of required field survey equipment
- Understanding of and proficiency with mid-level math skills
- Solid knowledge of proper retracement of land boundaries
- Familiarity with state plane coordinates systems and geodetic calculations
- Solid documentation skills (boundary analysis and decisions)
- Proficiency with AutoCAD Civil 3D, Trimble Business Center software, and MS Office (Word, Excel)

SOFTWARE/OTHER SKILLS
- Complete multiple assignments successfully through effective multi-tasking and prioritizing
- High attention to detail
- Excellent communication and interpersonal skills
- Effective problem solving/analytical skills
- Ability to work with a team or independently as needed
- Ability to meet “Physical Demands” section of this document, specifically with regard to cross-functional assignments.

PREFERRED QUALIFICATIONS
- Two plus years’ experience as Party Chief
- Level III Certified Survey Technician (CST) certification
- TBPLS Surveyor-In-Training Certificate (SIT)
- Driver’s license and acceptable driving record (for cross-functional assignments with field survey employees)
- Prior experience with Microstation software
- Previous oil and gas pipeline experience
- Previous TxDOT experience
To apply for this job, please go to the “Careers” tab on our website (http://dunawayassociates.com/) and complete an application. You will be instructed to email both the application and your resume with salary requirements back to jobs@dunaway-assoc.com.

We are currently looking for a Survey Party Chief to work in our Midland Survey Department. Details of the job are listed below:

Survey Party Chief – Midland, Texas Office

Reports to: Director of Survey Services

Responsibilities
Plan, organize, and direct work of one survey party engaged in land surveying to determine precise location and measurements of points, elevations, lines, and areas to be used in the production of the final survey product.

Education

• High school diploma or equivalent

Experience/Skills

• Driver’s license and acceptable driving record
• Must hold a Level III Certified Survey Technician Certification (CST)
• Minimum of 3 years’ experience working in and with a survey field crew
• Excellent leadership skills
• Good interpersonal and communication skills
• High attention to detail
• Good analytical skills
• Ability to meet “Physical Demands” section of this document, including ability to life at least 50 lbs.

Preferred Qualifications

• Two plus years prior experience as a Party Chief
• Surveyor in Training (SIT) certification

To apply for this job, please go to the “Careers” tab on our website (http://dunawayassociates.com/) and complete an application. You will be instructed to email both the application and your resume with salary requirements back to jobs@dunaway-assoc.com. Thank you!

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Listing Price: $399K
Total Sales: $515K
Cash Flow: $282K

For details, contact Donald Wendel at 214-751-3911 or by email at d.wendel@murphybusiness.com.

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Classified ads are billed at $1.25 per word/$25.00 minimum charge. Ads are posted to the Web site immediately and inserted in next available publication. (Copy deadline - 15th of the month preceding publication.) All classified ads must be prepaid.

Submit text of ad and payment information via email to DougL@tsps.org.

1. If the ad is "Web Only", the ad cost is still calculated according to the publication insertion rate of $1.25 per word.
2. Publisher’s limits of liability in event of error: Correct ad will be published once. Account will be billed and credit issued.
3. The Texas Surveyor magazine and Metes and Bounds newsletter (electronic) are published bimonthly as follows:

   The Texas Surveyor - Jan/March/May/July/Sept/Nov
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