



# Professional Land Surveying

AGENCY GUIDANCE

Idaho Board of Professional Engineers and Land Surveyors | AGC 2 | 9-11-2020

# Guidance Documents

Agency Guidance Documents are interpretations of existing laws and rules of the Board. They are not new laws or rules. “Agency guidance” means all written documents, other than statutes, rules, orders, and pre-decisional material, that are intended to guide agency actions affecting the rights or interests of persons outside the agency. "Agency guidance" includes memoranda, manuals, policy statements, interpretations of law or rules, and other material that are of general applicability, whether prepared by the agency alone or jointly with other persons.

## Point of contact

For more information contact:

Keith Simila, Executive Director at [keith.simila@ipels.idaho.gov](mailto:keith.simila@ipels.idaho.gov)

Tom Judge, Deputy Director at [tom.judge@ipels.idaho.gov](mailto:tom.judge@ipels.idaho.gov)

## Purpose

The purpose of this document is to describe prior Board opinions and decisions regarding land surveying practice in Idaho that requires a P.L.S. license. This document includes the practice requirements for professional land surveyors as opinions and decisions of the Board as they have interpreted the existing laws and rules.

**AGENCY GUIDANCE LISTING BY SUBJECT**

CORNER RECORDS .....3  
EASEMENTS .....9  
MONUMENTS .....29  
PLATS .....78  
PRACTICE OF PROFESSIONAL LAND SURVEYING .....93  
RECORDS OF SURVEY..... 110

# CORNER RECORDS

[Compliance with Corner Record Laws and Certificates of Survey](#)

[Corner Records Required for PLSS Corners](#)

[Corner perpetuation and filing record filing – notice](#)

[Corner perpetuation and recording of surveys](#)

[Corner perpetuation and filing act](#)

[Corner Records May Show Filing Information](#)

[Corner Stone Marker is a Corner Record](#)

[Correct Corner Record Form Must Be Filed](#)

## **COMPLIANCE WITH CORNER RECORD LAW AND “CERTIFICATE OF SURVEY”**

In response to a request for clarification, the Board issued an opinion that inclusion of the Instrument Numbers or filing date of corner records (in counties that do not provide instrument numbers) is adequate evidence of compliance with Idaho Code Chapter 16, Title 55, as required by Idaho Code §55-1906(2). The Board also issued an opinion that the requirement of a “Certificate of survey” contained in Idaho Code §55-1906(4) is met by placing statement of certification and the professional land surveyor seal, signature and date on the survey, as Idaho Code §54-1215(3)(c) states, in part, “The application of the licensee’s seal and signature and the date shall constitute certification that the work thereon was done by him or under his responsible charge.”

Key words: Seal, signature, corner record, record of survey

Approved 5-2000, NB30. Updated 7-30-2020.

## **CORNER PERPETUATION AND FILING FORMS - WHEN REQUIRED?**

In response to a question that arose during a recent Investigatory Hearing, the Board expressed an opinion that Idaho Code Title 55 Chapter 16 relating to Corner Perpetuation and Filing (CP&F) only requires the filing of a CP & F form on public land survey corners, monuments marking the true intersection of lines at Public Land Survey System closing corners and center quarter corners, but allows filing of the forms on any "property corner, property controlling corner, reference monument or accessory to a corner." The Board encourages the filing of CP & F forms on any corner, the perpetuation of which would be in the public interest, regardless of whether the corner is a public land survey corner or some other origin.

Keywords: CP&F, corner record, filing, forms, public land survey corners

Approved: 7-1992, NB18 Updated 6-10-2020, NB 65

## **CORNER PERPETUATION AND FILING RECORD FILING - NOTICE**

It has been brought to the attention of the Board that some professional land surveyors have not been complying with Title 55, Section 16 of the Idaho Code relating to Corner Perpetuation and Filing. The Board is initiating procedures to assist counties in the maintenance of these records and investigation.

*55-1612. Penalty. Professional land surveyors failing to comply with the provisions hereof shall be deemed to be within the purview of Section 54-1220, Idaho Code, and shall be subject to disciplinary action as in said section provided.*

Keywords: corner record, CP&F, discipline, revocation, suspension

January 1978, NB 3 Updated June 10, 2020

## **CORNER PERPETUATION AND RECORDING OF SURVEYS**

Inspection of county records by the Board indicates that a number of licensees have been laggard in filing the corner perpetuation forms and record of miscellaneous surveys as required by the Idaho Code. The Board expects to increase enforcement in this area during 1980. For the information of the Idaho licensees, the sections of the Idaho Code, Chapter 16, Corner Perpetuation and Filing, and Chapter 19, Recording of Surveys, of Title 55, are included in the Roster, and it is requested that all licensees refer to these Chapters affecting land surveying in the State of Idaho.

Key words: laggard, CP&F, Record of Surveys, enforcement, recording, filing.

Approved 1-1980 NB5

**CORNER PERPETUATION AND FILING ACT:** The attention of all Land Surveyors performing land surveys in the State of Idaho is directed to Section 55-1604. Filing Requirements of the Idaho Code, which states:

55-1604. Filing requirements. -- A professional land surveyor shall complete, sign, and file with the county clerk and recorder of the county where the corner is situated a written record of the establishment, reestablishment, or rehabilitation of a corner monument and its accessories. This record shall be known as a "corner record" and such a filing shall be made for every public land survey corner, center one-quarter (1/4) corner and accessory to such corner which is established, reestablished, monumented, remonumented, rehabilitated, perpetuated or used as control in any survey. The survey information shall be filed within ninety days (90) days after the survey is completed, unless the corner and its accessories are substantially as described in an existing corner record filed in accordance with the provisions of this chapter.

It has been brought to the board's attention on several occasions that there has been a laxness on the part of land surveyors in the State of Idaho in filing corner perpetuation records as required by the Idaho Code. To encourage the filing of the required records, it is the board's intention to perform compliance checks and take disciplinary action where indicated to accomplish the intent of the law.

Key words: laxness, filing, CP&F, corner record, perpetuation, disciplinary action

Approved 8-1983, NB7 Updated 6-10-2020, effective July 1, 2020

## **CORNER RECORDS MAY SHOW FILING INFORMATION**

The Board has amended 2000 opinion to read:

In response to a request for clarification, the Board issued an opinion that inclusion of the Instrument Numbers, or filing information, if no instrument number is recorded, of corner records is adequate evidence of compliance with Idaho Code Chapter 16, Title 55, as required by Idaho Code §55-1906(2).

Key words: Seal, signature, corner record, record of survey

Approved 4-11-2019, NB63



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

November 11, 2010

John L. Dunn, P.L.S., Latah County Surveyor  
Latah County Courthouse  
P.O. Box 8068  
Moscow, ID 83843

Dear Mr. Dunn:

At its meeting on November 8-10, 2010 the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors reviewed your communication to the Board dated September 14, 2010 relating to recording fees for a corner record. The Board reviewed the matter and concluded that context makes it clear that the reference to a "cornerstone marker" in Idaho Code Section 31-3205(4) means a "corner record" as required in Idaho Code Title 55 Chapter 16. The Board shares your concern that there is an ambiguity as to the filing or recording fee, and we suggest that the Idaho Society of Professional Land Surveyors contact the Idaho Association of Counties and ask them to submit legislation to clarify the fee.

Please call if you have any questions.

For the Board,

Gary L. Young, P.E./L.S.  
Board Chair

DLC/GLY/dc:Dunn, John.2010-11 Meeting  
Cc: ISPLS, P.O. Box 7886, Boise, Idaho 83707  
IAC, P.O. Box 1623, 700 W. Washington, Boise, ID 83701

Updated 7-30-2020



## **CORRECT CP & F FORMS MUST BE FILED**

Professional land surveyors are reminded of the need to file Corner Perpetuation and Filing forms on any public land survey corners, monuments marking the true intersection of lines at Public Land Survey System closing corners, center one-quarter (1/4) corner and accessories to such corner which is established, reestablished, monumented, remonumented, rehabilitated, perpetuated or used as control in any survey. The only exception to the requirement for filing corner records is when the corner monument or accessory is substantially as described in an existing filed corner record. Surveyors are also reminded that the Records of Survey must contain evidence of compliance with the Corner Perpetuation and Filing Law. The Board has adopted Administrative Rules and a specific form for the filing of CP & F records. If you do not have a current copy of either, please download them from the Board's website.

Key words: Corner record, CP&F, file, record, compliance, form, record of survey

Approved 7-1994, NB 21 Updated 6-10-2020

## EASEMENTS

[Board Clarifies Opinion on Easement Monumentation](#)

[Drainfield Easements Record of Survey Required](#)

[Easement Monumentation Highway District Q & A](#)

[Easement Monumentation – plats, ROS, CP&F](#)

[Easement Monuments Temporary](#)

[Easements Preliminary in Nature](#)

[Existing Lot Corner Monuments from Easement Acquisition](#)

[Highway District ROW Question Replacing Monuments](#)

[Highway Easements – When Records of Survey Required](#)

[Highway ROW Plats Authorized](#)

[Monuments Required for Easements](#)

[Offsite Drainfield Easements](#)

[Preliminary Seal Required for R-O-W Plans](#)

[R-O-W Plans Require PLS](#)

[Temporary Easements Don't Require Monuments](#)

[Wastewater Easements Must Be Surveyed by PLS](#)

[When Monuments are Required for Easements](#)

## **BOARD CLARIFIES OPINION ON EASEMENT MONUMENTATION QUESTIONS FROM HIGHWAY DISTRICT #5**

**Our set of questions is with respect to the Board decision outlined in the November 2015 newsletter:**

**With respect to Idaho Code 55-1613, if an existing monument is identified through the survey process, the engineer is required to identify said monument on the proposed improvement plans. Regarding monuments that are not a PLSS corner, centerline geometry monuments (PC, PT, PI), benchmarks or governmental control monuments (for example, a pin marking the property corner of a property at the intersection of the old/former right-of-way boundary, identified prior to right-of-way acquisition) can the surveyor identify the location on the record of survey by reference, or is he or she required to physically reestablish that monument in its original location? For our purposes, we would prefer to identify those monuments that are not on the section line/control line of the road, in the record of survey by a station and offset from the section/control line. We do not see the benefit of physically resetting those monuments, as they would commonly fall within our travel lanes, curb and gutter, or sidewalk areas. If the location is properly identified on our record of survey, it can be perpetuated if ever needed in the future.**

### **Answer**

Using your example of an existing pin marking the corner of a property at the intersection of the old right-of-way and property line that will be destroyed during the construction of a roadway or other project and acquisition of new right-of-way has occurred, it is not necessary to reset that particular monument at the same position. Documenting its position by a method on the record of survey that allows that position to be reproduced in the future would suffice. However, the licensee should also keep in mind IDAPA 24.32.01.100 and their duty to protect the safety, health and welfare of the public. For example, those property owners, or their predecessor, at some point in time has paid a considerable sum for a survey to monument their corners. Why shouldn't they expect to have monuments marking the location of those positions on the new right-of-way following the project since they had monuments prior to that event? The new positions have been determined as part of the process of deed preparation and right-of-way acquisition and it would be a very simple matter to set monuments at those new positions. That is not to say that every intersecting line needs to be monumented – only those that had existing monuments prior to the acquisition and construction.

Keywords: easement, monument, corner, right-of-way, preliminary

Approved 6-2-2016, NB 57 Updated 6-10-2020

## **DRAIN FIELD EASEMENTS RECORD OF SURVEY REQUIRED**

Some Public Health Districts now require that drain field easements be located and monumented by a professional land surveyor. The question has arisen as to whether or

not a Record of Survey would be required. The Board is of the opinion that when such services are performed, the conditions specified in Idaho Code Sections 55-1904(2) and (3) exist and a Record of Survey must be filed.

Key words: drainfield, public health districts, easements, monuments, record of survey

Approved 11-2008 NB 42

## **EASEMENT MONUMENTATION HIGHWAY DISTRICT Q & A.**

**Our set of questions is with respect to the Board decision outlined in the November 2015 newsletter from Highway District #6:**

**With respect to Idaho Code 54-1202 (12.a.ii.4), technically every time we develop a legal description to establish a project need we are “subdividing” a tract of land per said code. Do we need to establish the new boundary by monumentation for each tract/lot/parcel, or are we able to apply Idaho Code 40-209 – Highway Right of Way Plats? Idaho Code 40-209 clearly indicates we only need to establish the angle points along the right of way with respect to our acquisition. There is a discrepancy between Idaho Code 55-1202 and Idaho Code 40-209 and we are requesting clarification for the specific needs of ACHD and other public agencies. We believe that 40-209 should apply, but the new 54-1202 section creates a potential conflict and requires clarification.**

### **Answer**

The reason for Idaho Code 40-209 is for this circumstance. It is not necessary to monument every intersecting property line along the right-of-way, only the points that define your acquisition of right-of-way, i.e. angle points, PC's, PT's, etc. Think of the right-of-way as the parcel being surveyed. If a surveyor is hired to survey an individual's property, they are not obliged to also survey the adjoining properties because they abut. That would quickly create a snowball effect. However, again, we also recommend considering the Licensee's obligation to the public under IDAPA 24.32.01.100 and monument new corner positions to replace monuments existing prior to acquisition and destruction caused by the project.

Keywords: easement, monument, corner, right-of-way, preliminary

Approved 6-2-2016, NB 57 Updated 9-16-2020

## **EASEMENT MONUMENTATION PLATS, ROS, CP&F FROM HIGHWAY DISTRICT #2**

**Our set of questions is with respect to the Board decision outlined in the November 2015 newsletter:**

With respect to Idaho Code 54-1202, for determining ACHD's project and maintenance needs, if a surveyor establishes a right of way boundary, is he or she required to monument any corners in which a monument(s) could not be located per previous record or plat information? Does it then become the responsibility of the surveyor to record the reestablished information based on existing data? Could a Corner Perpetuation and Filing (CP&F) be used, or would a Record of Survey be required? As an example, we oftentimes are asked by our Maintenance staff to determine if a tree encroaches in the right of way or not. Does the establishment of right-of-way for this and other similar purposes constitute "professional land surveying?" We would hope this type of boundary location does not require a formal record of survey or setting of pins.

#### **Answer**

In order to answer this question adequately, more than 54-1202 would need to be considered. Additional portions of relevant Idaho Code are shown below.

#### ***Title 54, Chapter 12 – Engineers and Surveyors***

##### ***54-1202 - Definitions***

*(12) (a) "Professional land surveying" and "practice of professional land surveying" mean responsible charge of authoritative land surveying services using sciences such as mathematics, geodesy and photogrammetry and involving:*

- (i) The making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvement on the earth, and the space above, on or below the earth; and*
- (ii) Providing, utilizing or developing the same into survey products such as graphics, data, maps, plans, reports, descriptions or projects. Professional services include acts of consultation, investigation, testimony, planning, mapping, assembling and interpreting and gathering measurements and information related to any one (1) or more of the following:*
  - 3. Locating, relocating, establishing, reestablishing or retracing property lines or boundaries of any tract of land, road, right-of-way, easement or real property lease;*
  - 6. Determining by the use of principles of surveying, the position for any boundary or nonboundary survey monument or reference point or for establishing or replacing any such monument or reference point;*

***54-1227. Surveys – Authority and Duties of Professional Land Surveyors and Professional Engineers.*** *(1) Every licensed professional land surveyor is hereby authorized to make land surveys and it shall be the duty of each licensed professional land surveyor, whenever making any professional boundary land survey as defined in section 54-1202, Idaho Code, that is not preliminary in nature, to set permanent and reliable magnetically detectable monuments at all unmonumented corners field-located, the minimum size of which shall be one-half (1/2) inch in least dimension and two (2) feet long iron or steel rod, or a metallic post or pipe one (1) inch in least dimension and two (2) feet long with a minimum wall thickness of nominal one-eighth (1/8) inch, or other more substantial monuments designed specifically for use as a survey monument. Such monuments must be substantially in the ground, stable, and permanently marked with the license number of the professional land surveyor responsible for placing the monument.*

(2) *Where special circumstances preclude use of such monuments, the professional land surveyor must place an alternate, stable, permanent monument that is magnetically detectable marked with the license number of the professional land surveyor placing the monument.*

(3) *Where the corner position cannot be monumented due to special circumstances, the professional land surveyor must establish reference monuments or a witness corner and mark them as such.*

(4) *Any found nonmagnetically detectable monument must be remonumented with a magnetically detectable monument compliant with subsections (1) through (3) of this section.*

(5) *Professional engineers qualified and duly licensed pursuant to this chapter may also perform those other surveys necessary and incidental to their work.*

### **Title 55, Chapter 19 – Recording of Surveys**

**55-1901. Purpose.** *The purpose of this chapter is to provide a method for preserving evidence of land surveys by providing for a public record of surveys. The provisions shall be deemed supplementary to existing laws relating to surveys, subdivisions, platting and boundaries.*

**55-1904. Records of Survey – When Filing Required.** *After making a land survey in conformity with established principles of land surveying, a surveyor shall file a record of survey with the county recorder in the county or counties wherein the lands surveyed are situated. A record of survey shall be filed within ninety (90) days after completing any survey which:*

- (1) Discloses a material discrepancy with previous surveys of record;*
- (2) Establishes boundary lines and/or corners not previously existing or of record;*
- (3) Results in the setting of monuments at corners of record which were not previously monumented;*
- (4) Produces evidence or information which varies from, or is not contained in, surveys of record relating to the public land survey, lost public land corners or obliterated land survey corners; or*
- (5) Results in the setting of monuments that conform to the requirements of section 54-1227, Idaho Code, at the corners of an easement or lease area.*

### **IDAPA 24.32.01.100. RESPONSIBILITY TO THE PUBLIC.**

**01. Primary Obligation.** *All Licensees and Certificate Holders shall at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties.*

Based on the definition of professional land surveying and practice of professional land surveying in 54-1202, if a surveyor makes geometric measurements and gathers related information pertaining to the physical or legal features of the earth and provides, utilizes or develops those measurements into survey products such as maps or reports for use in an investigation, consultation or mapping; and assembles and interprets information related to locating, relocating, establishing, reestablishing or retracing property lines or boundaries of any tract of land, road or right-of-way or determining by the use of the principles of surveying the position for any boundary survey monument or reference point or for

establishing or replacing any such monument, then they are practicing professional land surveying and have performed a professional land survey.

54-1227 states that it shall be the duty of each licensed professional land surveyor, whenever making a professional boundary land survey as defined in 54-1202, that is not preliminary in nature, to set monuments at all unmonumented corners field located. If the right-of-way/boundary is not preliminary or temporary (exists through deed, prescription or the platting process) and a land survey has been performed in order to establish on the ground where that boundary is (field located) then the surveyor must set monuments at unmonumented corners that establish the boundary along that portion in which the encroachment is in question. This would not mean every property corner along that line, only the ones that define the right-of-way, i.e. angle point, PC, PT, block corner, etc.

55-1904 states that after making a land survey, the surveyor shall file a record of the survey with the county Recorder which results in the setting of monuments at corners which were not previously monumented. So, if a land survey is done and corners of record that were not previously monumented are field located, then monuments must be set and a record of survey filed. If a land survey is done and corners of record are found to be missing, they must be reset but a record of survey may not be necessary. However, we ask the license holder to keep in mind the purpose of recording of surveys as stated in 55-1901 which is to provide a method for preserving evidence of land surveys. In other words, if someone goes through the effort and expense of performing land surveys to determine boundaries or rights-of-way they should take the steps necessary to preserve the evidence of that survey, i.e. setting monuments and recording of surveys as necessary. This also aligns with IDAPA 24.32.01.100 and the Licensee and Certificate Holders primary obligation to protect the safety, health and welfare of the public.

As to whether or not a CP&F record would suffice in lieu of a Record of Survey would be dependent on the following portions of Idaho Code.

**55-1603. Definitions.** *Except where the context indicates a different meaning, terms used in this chapter shall be defined as follows:*

(5) *"Corner," unless otherwise defined, means a property corner, or a property controlling corner, or a public land survey corner, or any combination of these.*

(9) *"Property controlling corner" for a property means a public land survey corner, property corner, reference point or witness corner that controls the location of one (1) or more of the property corners of the property in question.*

(11) *"Public land survey corner" means any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat and in the field notes thereof, accepted and approved under authority delegated by congress to the U.S. general land office and the U.S. department of interior, bureau of land management.*

**55-1604. Filing requirements.** *A professional land surveyor shall complete, sign, and file with the county clerk and recorder of the county where the corner is situated, a written*

*record of the establishment, reestablishment, or rehabilitation of a corner monument and its accessories. This record shall be known as a "corner record" and such a filing shall be made for every public land survey corner, center one-quarter (1/4) corner, and accessory to such corner which is established, reestablished, monumented, remonumented, rehabilitated, perpetuated or used as control in any survey. The survey information shall be filed within ninety (90) days after the survey is completed, unless the corner and its accessories are substantially as described in an existing corner record filed in accordance with the provisions of this chapter...*

Based on this, in some cases a CP&F record could suffice in lieu of a Record of Survey. For example, if one or more public land survey corners are established, reestablished, monumented, remonumented, restored, rehabilitated, perpetuated or used as control in any survey, and no other corner monuments are established, reestablished, monumented, remonumented, restored, rehabilitated or perpetuated, then a CP&F record would suffice. Or, if a property corner or property controlling corner monument existed prior to a project and needed to be replaced, a CP&F record might suffice as well. These would most likely be one-sixteenth corner and/or roadway intersection corner monuments impacted by a roadway rehabilitation project in which monuments are destroyed or damaged by rotomilling or a full pavement restoration process where right-of-way was not an issue.

Keywords: easement, monument, corner, right-of-way, preliminary

Approved 6-2-2016, NB 57. Updated 6-17-2020

#### **EASEMENT MONUMENTS TEMPORARY FROM HIGHWAY DISTRICT #4**

**Our set of questions is with respect to the Board decision outlined in the November 2015 newsletter:**

**Similarly, does the development and acquisition of temporary easements require establishment of survey monuments on the boundary? We don't think this is the intent of the board clarification posted in the November 2015 newsletter, and don't see value in developing these needs, as they are temporary uses and the rights extinguish upon completion of the identified temporary need.**

No. Refer to the answer to Question No. 1.

Keywords: easement, monument, corner, right-of-way, preliminary

Approved 6-2-2016, NB 57

#### **EASEMENTS PRELIMINARY IN NATURE FROM HIGHWAY DISTRICT #1**



**Our set of questions is with respect to the Board decision outlined in the November 2015 newsletter:**

**With respect to Idaho Code 54-1227, how does the board interpret “preliminary in nature? In looking at other sections referenced specific to this section, we can't find any clear definition of the term "preliminary in nature." It would be helpful to list those items that are considered "preliminary in nature”: In our opinion, these should include temporary construction easements, location of privately owned objects potentially encroaching in the right-of-way, and location of new public assets (e.g. stormwater pipe and inlets) to assure no encroachment on private property, to name a few.**

**Answer**

It would be virtually impossible to list every item or instance of what might be considered “preliminary in nature” so we try to define the term preliminary when forming an opinion on this question. Black’s Law Dictionary defines preliminary as *“Introductory; initiatory; preceding; temporary and provisional”*. Webster’s New World Dictionary defines it as *“coming before or leading up to the main action, discussion, business, etc.; introductory, prefatory, preparatory. A preliminary step, procedure.”* Based on those definitions temporary easements or items such as demonstration staking for property appraisal and negotiation preparatory to acquisition of permanent easements and/or right-of-way would certainly be considered “preliminary in nature” as would other procedures that could be described by those terms and would not require the setting of corner monumentation.

Keywords: easement, monument, corner, right-of-way, preliminary

Approved 6-2-2016, NB 57

**EXISTING LOT CORNER MONUMENTS FROM EXISTING EASEMENT FROM HIGHWAY DISTRICT #3**

**Our set of questions is with respect to the Board decision outlined in the November 2015 newsletter:**

**Does the development and acquisition of permanent easements require establishment of survey monuments on the boundary? If yes, this could be misinterpreted information for individuals looking to establish lot lines for private development: for example, a person may use a permanent easement monument to establish and place a fence line. Would this benefit the public's interest? One of our most common easements is a slope easement along the edge of our right of way. It would be our hope that these types of easements would be exempt.**

I believe the answer to this question is contained in the March 10, 2016 clarification opinion available on the Board website.

Keywords: easement, monument, corner, right-of-way, preliminary

Approved 6-2-2016, NB 57

## **HIGHWAY EASEMENTS - WHEN RECORDS OF SURVEY ARE REQUIRED**

### **Question from a North Idaho Surveyor**

A previous Board issued an opinion regarding I.C. 55-1904 and the 90-day time period relating to the filing of Record of Surveys. This Board opined that the clock begins to run at the time monuments are set and the surveyor then has 90 days in which to file. Subsequent Boards have upheld this opinion.

I believe in most scenarios the 90-day opinion is appropriate and more than adequate. However, when the survey is for a large transportation project for an agency like the Idaho Transportation Department (ITD) or a local highway district this opinion is impossible to comply with in an efficient and cost-effective manner. Generally, in these large transportation projects where a roadway is being re-aligned or revised, there are many landowners and parcels involved in the project. With these types of projects, many parcel acquisitions may be required over several miles of roadway and the acquisition process can take a year or more to complete.

As the project progresses, the acquisition process begins. The surveyor prepares many, many legal descriptions as well as a comprehensive right-of-way plan set. Often, the agency requires an exhibit map to accompany the legal description. A properly written legal description should include calls to monuments, both found and set. For a variety of reasons, some parcels may take a year or more to acquire while others may be acquired within a few months. This means that from the time a deed for the first parcel is acquired and gets recorded describing monuments being set to the last deed being acquired and recorded describing monuments being set is well over 90 days.

In the past, it has been the practice to not set monuments until after construction is completed, even though this may be several years from the time of the first parcel acquisition. It would be neglectful to a licensee's primary responsibility of protecting the safety, health and welfare of the public to have not established monuments on the ground allowing a private landowner the ability to determine where their boundaries are until after construction is complete. In essence, it denies them and any subsequent landowners the right to know where their property boundary along the new right-of-way is located prior to construction.

Recently, ITD has agreed with setting monuments prior to construction and relying on Idaho Code Title 55, Chapter 16, Paragraph 13 to replace any monuments disturbed or destroyed during construction. It would be impractical, both financially and logistically, to prepare and record a Record of Survey each time a parcel is acquired when the recorded deed contains an exhibit showing much of the same information contained in a Record of Survey and a right-of-way plan set has been prepared and is available to the public for review at the local agency. It also makes more sense to have one Record of Survey filed showing all of the project and acquisitions in one document of multiple sheets.

My question is, is this an area where there should be an exception to the 90-day opinion to file a record of survey from the time the first monument is set given that there are legal descriptions with exhibit maps recorded and a detailed and comprehensive official right-of-way plan set showing most of the contents of a Record of Survey on file at the agency office?

### **Board Response**

You are correct that the board opinion has long been that a Record of Survey is required to be filed within 90 days from the time the corner monuments are set as required by Idaho Code Title 55, Chapter 19. The Board understands the dilemma as presented and agrees the Primary Obligation under IDAPA 24, TITLE 32, CHAPTER 01, Paragraph 100, Subparagraph 01 of a licensee is to protect the safety, health and welfare of the public in the performance of their professional duties. On one hand, if a deed is recorded that describes monuments being set, the monuments should be set. On the other hand, the entire survey project may take more than 90 days to complete where all the acquired right of way can be monumented. In order to protect the public and considering the length of time involved in many of these projects, it would not be reasonable to wait until construction is complete to set the monuments on the acquired right-of-way.

Provided there are recorded deeds and legal description map exhibits with sufficient detail showing found and set monuments that describe the land being acquired and monumented, and where there are official right-of-way plans available to the public that show the land being acquired with sufficient information that would allow another professional land surveyor to identify the boundaries on the ground, and in general contain information that a Record of Survey would show, the Board's opinion is that the survey isn't complete until the last parcel acquisition deed is recorded. The 90 days to file the Record of Survey would begin from the date the final parcel acquisition deed is recorded.

The Board wants to emphasize this opinion pertains only to parcels specific to transportation type projects involving multiple parcels being acquired over time and does not apply to normal Record of Survey or platting projects involving more than one parcel. The Board also recommends that a note be placed on the legal description exhibit map and right-of-way plans stating that neither one is a Record of Survey or equivalent and that a

Record of Survey of the entire project will be filed within 90 days following recording of the final parcel acquisition.

The Board is also of the opinion that monuments on these parcels should not be set until such time as the parcel is acquired. It does not serve the public to set monuments on the ground on a mile or more of roadway without those monumented positions being documented somewhere other than on a set of right-of-way plans a layperson would probably be unaware existed or how or where to view them. In other words, it is not the intent of this Board opinion to allow a licensee to set the monuments for all or most of the project at the beginning of parcel acquisition and then file a Record of Survey at some point in the distant future following the final acquisition. If the licensee is confident enough to set all the monuments at one time, then they can prepare and file a Record of Survey at that time as well.

It should be further noted that in accordance with I.C. 55-1613, final plans submitted for bidding and construction must show the existence and location of any monuments found or set and that prior to construction the construction surveyor is required to perform a field search and location survey locating and tying any existing monuments, whether or not a Record of Survey has been filed, and that said surveyor is required to reestablish and remonument any corners that are disturbed or destroyed by construction activities.

Keywords: Easement, highway, r-o-w, monument, record of survey, 90 days

Approved 7-30-2020

## **EASEMENT MONUMENTATION QUESTIONS FROM HIGHWAY DISTRICT #5**

**Our set of questions is with respect to the Board decision outlined in the November 2015 newsletter:**

**With respect to Idaho Code 55-1613, if an existing monument is identified through the survey process, the engineer is required to identify said monument on the proposed improvement plans. Regarding monuments that are not a PLSS corner, centerline geometry monuments (PC, PT, PI), benchmarks or governmental control monuments (for example, a pin marking the property corner of a property at the intersection of the old/former right-of-way boundary, identified prior to right-of-way acquisition) can the surveyor identify the location on the record of survey by reference, or is he or she required to physically reestablish that monument in its original location? For our purposes, we would prefer to identify those monuments that are not on the section line/control line of the road, in the record of survey by a station and offset from the section/control line. We do not see the benefit of physically resetting those monuments, as they would commonly fall within our travel lanes, curb and gutter, or sidewalk**

**areas. If the location is properly identified on our record of survey, it can be perpetuated if ever needed in the future.**

**Answer**

Using your example of an existing pin marking the corner of a property at the intersection of the old right-of-way and property line that will be destroyed during the construction of a roadway or other project and acquisition of new right-of-way has occurred, it is not necessary to reset that particular monument at the same position. Documenting its position by a method on the record of survey that allows that position to be reproduced in the future would suffice. However, the licensee should also keep in mind IDAPA 24.32.01.100 and their duty to protect the safety, health and welfare of the public. For example, those property owners, or their predecessor, at some point in time has paid a considerable sum for a survey to monument their corners. Why shouldn't they expect to have monuments marking the location of those positions on the new right-of-way following the project since they had monuments prior to that event? The new positions have been determined as part of the process of deed preparation and right-of-way acquisition. If a professional land surveyor has performed a survey for the acquisition, he or she has field located corners of a new boundary and is required to set monuments and file a record of survey or prepare a right-of-way plat as prescribed in 40-209, Idaho Code.

Keywords: easement, monument, corner, right-of-way, preliminary

Approved 6-2-2016, NB 57 Updated 7-30-2020

**HIGHWAY RIGHT-OF-WAY PLATS AUTHORIZED**

During the 1993 session, the legislature passed House Bill No. 781 which authorized the preparation of Highway Right-of-Way (R-O-W) plats for the acquisition of highway rights-of-way. The law became effective July 1, 1994, and created an alternative property acquisition process for highway agencies. If the agency chooses to use the R-O-W plat it will eliminate the need for metes and bounds descriptions of property to be acquired. The agencies can acquire property by reference to the parcel as shown on the R-O-W plat. All highway R-O-W plats must conform with 40-209 Idaho Code and the requirements for surveys in Title 55, Chapter 19.

Key words: Right-of-way, plat, metes and bounds, parcel, highway, property acquisition

Approved July 1994, NB 21, Updated June 10, 2020

**MONUMENTS REQUIRED FOR EASEMENTS**

**Question**

**If a surveyor is contracted to stake an easement or feature defining the location of an easement prepared by others, will they be required to set monuments and file a survey?**

## **Answer**

55-1901, Idaho Code states that the provisions of this chapter are supplementary to existing laws relating to surveys, subdivisions, platting and boundaries. 55-1904(5) includes easements and lease areas. This links the Record of Survey law and Platting law together and provides the justification to require the monumenting of irregular shaped easements in a subdivision. As the first surveyor “field locating” the easement they are required to set monuments and file a survey.

Key words: PLS, Monuments, Easements, Record of Survey

Approved 11-9-2018, NB62

## **OFFSITE DRAINFIELD EASEMENTS**

**Question:** My first question is, as a licensed professional land surveyor, if I write an offsite drain easement description, am I obligated to monument it and file a record of survey? I have read the board's November 2008 bulletin in which this question is apparently answered. I understand that if I monument the drain field easement because the client (or PHD) wants it monumented, I am obligated to file an ROS. (And if that's true, then why am I not obligated to file an ROS any time I set a monument for any reason whatsoever?)

**Answer:** You are only required to file a ROS if one of the five conditions in 55-1904 exists. DEQ agency guidance documents clearly require offsite easements to be surveyed and monumented. The law requires a record of survey when monuments are set. Below is the DEQ guidance:

*The placement of an individual subsurface sewage disposal system on other property requires that an easement is in place before subsurface sewage disposal permit issuance. Easements are required anytime a subsurface sewage disposal system is proposed on another property regardless of property ownership. With one exception, easements must be obtained for any real property upon which any portion of the subsurface sewage disposal system is proposed to be installed. Easements are not necessary for any portion of the system located on the dominant estate for which the application is submitted. It is the applicant's responsibility to include an easement that prepared by an attorney and:*

- a. Contains a sufficient description of the easement area and of the dominant estate (the real property of the applicant where wastewater is generated).*
- b. Contains language ensuring that the servient estate can be used for the system, and that the applicant or a subsequent purchaser of the dominant estate has access to make repairs or perform routine maintenance until the system is abandoned. The language must ensure such use and access even when the dominant or servient estate is sold or otherwise transferred.*

- c. *Contains language that restricts the use of the easement area in a manner that may have an adverse effect on the system functioning properly.*
- d. *Is surveyed, including monumenting the corners of the entire easement area, to supply an accurate legal description of the easement area for both the primary and replacement drainfield areas and enable the health district to properly evaluate the site. The survey and monumenting of the easement area must be performed by an Idaho-licensed professional land surveyor.*

**Question:** But, in any case, my question goes beyond that to whether or not there is a statutory obligation for me to monument and/or file the ROS in the first place. If the answer is yes, I am obligated to do these things, then would not this apply to any easement description I wrote?

**Answer:** You are only required to file a Record of Survey if you conduct a field survey and none of the conditions of 55-1904 exist.

Keywords: easement, drainfield, offsite, monument, ROS

Approved 2-19-2010 Letter. Updated 9-11-2020.



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

April 21, 2008

David Short, P.L.S.  
Connecting Idaho Partners, R/W Manager  
720 Park Boulevard  
P.O. Box 73  
Boise, Idaho 83729

Dear Mr. Short:

The Board members appreciate the time you took to meet with them at their meeting on April 10-12, 2008 to discuss Right-of-Way Plans. You prefaced some questions with the following explanation:

“Many R/W plan sets are prepared predicated upon an engineering design sufficient to set R/W but not final enough for construction. The resultant plan set is a “final” product sufficient for R/W acquisition while at the same time containing preliminary engineering items and profile sheets. The R/W plans have the final acquisition boundary information and are accompanied by signed and sealed legal descriptions and exhibits. The title sheet is stamped “RECOMMENDED FOR APPROVAL AS ‘OFFICIAL R/W PLANS’” and is signed by the CIP R/W Manager. The title sheet will also carry an ITD approval statement. The plan set is used as an aid in owner discussions and negotiations as well as an indirect reference in the conveyance documents.”

Your questions, and our answers to them, are as follows:

Question: Does the plan set require a signature and seal of both the engineer and land surveyor?

Answer: No

Question: Does the plan set require a signature and seal of the land surveyor only?

Answer: Yes. The professional land surveyor in responsible charge of the work must seal, sign and date the document because Idaho Code Section 54-1215(3)(b) requires that the seal, signature and date be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations, whenever presented to a client or any public or governmental agency. That same section goes on to state that “In the event the final work product is preliminary in nature . . . the final work product shall be sealed, signed and dated as a final document if the document is intended to be relied

EQUAL OPPORTUNITY EMPLOYER



upon to make policy decisions important to the life, health, property, or fiscal interest of the public.”

Question: If the plan set requires a signature and seal of the land surveyor only, is a note stating the preliminary nature of the engineering information required?

Answer: Yes. Idaho Code Section 54-1215(3)(b) also states “Any such document presented to a client or public or governmental agency that is not final and does not contain a seal, signature and date shall be clearly marked as “draft,” “not for construction” or with similar words to distinguish the document from a final document.” In keeping with that requirement, the Board suggests that the note in the lower right hand corner be expanded to include the statement “Not Final for Engineering Purposes” in order to alleviate the need for the plans to bear the seal, signature and date of a professional engineer.

Question: Is the signature and seal of neither the engineer nor land surveyor required?

Answer: No. See above.

Question: The signature/seal box states “For R/W Acquisition Only.” Is this sufficient?

Answer: No. See above.

We appreciate the opportunity to discuss this matter with you. Please call if you have any questions.

For the Board,

James H. Milligan, P.E.,

Ph.D.

JHM/DLC/dc:Short, David.2008-04 Meeting

## **RIGHT-OF-WAY PLANS REQUIRE PLS**

In correspondence to the Idaho Transportation Department, the Board expressed an opinion that if Right- of-Way Plans are the result of a field survey, the information derived from which is used to prepare legal descriptions for conveyances, then the work falls within the definition of the practice of professional land surveying contained in Idaho Code. Such work must be performed under the responsible charge of a person licensed as a professional land surveyor and the work product must be sealed, signed and dated by the professional in responsible charge.

Key words: R-O-W, plans, plat, responsible charge, ITD, sealed

Approved 6-2001, NB 31

## **TEMPORARY EASEMENTS DON'T REQUIRE MONUMENTS**

### **Question 2 - Temporary Easements**

The Board clarified the requirement to monument easements, however, no mention was given on the difference between temporary and permanent easements. In transportation projects, it has been required to monument and describe permanent easements to be recorded, while temporary easements were to be described as station offset only since they will not be recorded. Is this still the direction?

### **Answer**

Temporary easements do not require monumentation.

Key words: easements, monuments, temporary

Approved 1-2-2018, NB60

---

**MICHAEL KANE & ASSOCIATES, PLLC**

---

ATTORNEYS

MICHAEL J. KANE  
KRISTEN A. ATWOOD  
BARBARA BEEHNER-KANE

BLUE HERON BUILDING  
1087 WEST RIVER STREET, SUITE 100  
P. O. BOX 2865  
BOISE, IDAHO 83701-2865

TELEPHONE  
(208) 342-4545  
FACSIMILE  
(208) 342-2323

April 29, 2015

Mr. Mike Reas  
Regional Environmental Health Supervisor  
Southeastern Idaho Public Health  
1901 Alvin Ricken Drive  
Pocatello, ID 83201

Re: Technical Guidance Manual §4.4  
MKA File No. 825.00

Dear Mr. Reas:

I am the attorney for the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors (Board). The Board has asked me to respond to your email of March 30, 2015, wherein you ask if the Technical Guidance Manual (TGM) section pertaining to easements (§ 4.4) requires surveys to be performed by Idaho licensed surveyors.

Section 2 of paragraph 4.4 of the TGM clearly states that the easement allowing for wastewater storage, treatment and disposal on neighboring property must be "surveyed, including monumenting the corners of the entire easement area, to supply an accurate legal description of the easement area for both the primary and replacement drain field areas and enable the health district to properly evaluate the site."

In answer to your specific question, because monumenting is required and only licensed professional land surveyors may monument, and because no survey of land is legal unless made by or under the responsible charge of a professional land surveyor, the TGM contemplates a survey completed by an Idaho licensed professional land surveyor (*see* Idaho Code §§ 54-1227 and 54-1229).

Having said that, I acknowledge that section 3 could be read as an alternative to section 2. This seems to relieve the landowner of the responsibility to obtain a survey. It is unclear if that

Letter to Mr. Mike Reas, Southeastern Idaho Public Health  
April 29, 2015  
Page2

was the intent of DEQ. If so, then the answer is that section 3 does not require a survey at all. It occurs to me that this would expect the Health District to determine the location of the easement without enough information to make an informed opinion upon which to exercise its discretion.

On the other hand, if section 3 can be read only as a further explanation of the requirements in section 2, then a survey is required.

The TGM was created as a guidance manual, as opposed to a document that has the force of statute or agency rule. I recommend that you confer with Southeastern Idaho Public Health's counsel to determine if the TGM may be used as a legal bar to the permit requested by the landowner, absent an actual survey. If indeed it is determined that the TGM has set forth alternate methods for granting a permit, then only the alternate found in section 2 requires the use of a professional landsurveyor.

Very truly yours

MICHAEL J. KANE

MJK:tlp

cc: Mr. Keith Simila, P.E., Executive Director, IPELS

Mr. James L. Szatkowski, P.E., Deputy Director, IPELS

## WHEN MONUMENTS REQUIRED FOR EASEMENTS

In the fall/winter edition of the Board's News Bulletin No. 56, a licensee asked the question, "do easements and lease areas require monuments?" On page 6 of the bulletin, the answer was given as "yes, the boundaries of easements and lease areas for cell towers need to be monumented and a Record of Survey filed with the County. **Easements require monumentation as well.**" (Emphasis added). The Board received many calls and e-mails questioning the reasoning behind this last sentence, especially regarding easements in platted subdivisions where monuments at all easement corners would be confusing to the lot owners and the general public.

It was not the intention of the Board to imply that easements in subdivisions which are parallel to and adjoining lot lines or street right of ways need to be monumented. The Board considers the lot corner and street right-of-way monuments to be sufficient witness monumentation to define the lines of such easements. In addition, the Board is of the opinion that other simple easements shown on a subdivision plat which have sufficient ties to lot and street monumentation to allow a surveyor to calculate the location of those easements do not need additional monumentation. If a multi-course easement which cuts through a lot or common area is to be placed on a subdivision plat, such as for a private access road or a power line, the surveyor should provide monumentation for the easement so that owners of the lot affected by the easement and owners of the easement can see the location on the ground.

Easements and lease areas for cell towers, conservation easements, drain field easements, road easements, power line/pipe line easements, etc., that are to be field located, which are not within platted subdivisions and are not described as being monumented by the road or utility need to be monumented and a Record of Survey filed with the County.

It is impossible for the Board to imagine every possible scenario but the key is if the easement is field located and not already monumented, either artificially with a magnetically detectable iron or steel rod compliant with Idaho Code 54-1227, or naturally with a constructed feature such as an existing road or some other physical feature, it must be monumented.

Keywords: easement, monument, plat, record of survey, utility, road, power line

Approved 6-2-2016, NB 57

## MONUMENTS

[Accessories to Corners](#)

[Conforming Monuments](#)

[Construction Documents Must Show Monuments](#)

[Controlling Corners Require Monuments](#)

[Destroying Monuments Criminal](#)

[Disturbed by Construction](#)

[Field Located Corners Must have Monuments Found or Set](#)

[Lease Areas on Cell Towers](#)

[Monuments Disturbed Q and A](#)

[Monuments for Easements](#)

[Monuments Paved Over](#)

[Monuments Points on a Line](#)

[Monuments Required at Property Corners](#)

[Monuments Required Only for Field Located Legal Description](#)

[Monuments Upgraded to BLM Standards](#)

[Nails as Monuments](#)

[Questions for the Board Regarding Monuments](#)

[Replace Existing Monuments Not a Violation](#)

[Replace Monuments Disturbed by Construction](#)

[Replace Pin in Same Location Not Material Discrepancy](#)

[Replace with Conforming Monuments Required in Subdivision](#)

[R-O-W Monuments Only by PLS in Responsible Charge](#)

[Survey Lease Sites](#)

[Survey Monument Markings](#)

[Ties to Monuments](#)

## ACCESSORIES TO PLSS CORNERS FAQ

**Question:** Does the reconstruction of a monument require the establishment of accessories where none were established in the original survey?

**Answer:**

**Yes. A minimum of three accessories must be recovered or established. If accessories are impracticable, the reason must be stated on the corner record *and supported by evidence on the ground.***

***Idaho Code 55-1604. Filing requirements.*** A professional land surveyor shall complete, sign, and file with the county clerk and recorder of the county where the corner is situated, a written record of the establishment, reestablishment, or rehabilitation of a corner monument **and its accessories**. This record shall be known as a "corner record" and such a filing shall be made for every public land survey corner, center one-quarter (1/4) corner, **and accessory to such corner which is established, reestablished, monumented, remonumented, rehabilitated, perpetuated or used as control in any survey.** The survey information shall be filed within ninety (90) days after the survey is completed, **unless the corner and its accessories are substantially as described in an existing corner record** filed in accordance with the provisions of this chapter.

***Idaho Code 55-1608. Professional Land Surveyor to Establish or Rehabilitate Monuments.*** (1) In every case where a corner record of a survey corner is required to be filed or recorded under the provisions of this chapter, the professional land surveyor must rehabilitate or remonument any corner in accordance with subsection (2) of this section. Where the corner position is monumented with a stable, permanent, substantial, accessible, magnetically detectable, and uniquely identifiable monument, a new monument will not be required. **The professional land surveyor must also recover, establish, or rehabilitate a minimum of three (3) accessories to such corner where practicable. Where the professional land surveyor determines accessories are impracticable, an explanation shall be included on the corner record.**

***Idaho code 31-2709. Surveys must conform to United States manual.*** No surveys or resurveys hereafter made shall be considered legal evidence in any court within the state, **except such surveys as are made in accordance with the United States manual of surveying instructions, the circular on restoration of lost or obliterated corners and subdivisions of sections, issued by the general land office, or by the authority of the United States, the state of Idaho, or by mutual consent of the parties.**

Based on 55-1604, Idaho Code, if a land surveyor finds accessories to a corner are missing or different, then a new corner record is required to be filed.

Based on 55-1608, Idaho Code, if the conditions exist requiring a new corner record, then the land surveyor is required to rehabilitate the monument **and accessories**.

Based on 31-2709, Idaho Code, Surveys must be conducted in accordance with the Manual and the circular on lost and obliterated corners to be accepted as evidence in Idaho Courts. In practice, this has generally been applied to all boundary surveys in Idaho.

The 2009 Manual of Instructions contains the following statements regarding accessories:

**4-80.** *The surveyor cannot perform any more important service than that of establishing permanent evidence of the location of corners of a survey. Where the accessories cannot be employed, other means should be employed that will best serve the purpose.*

**4-83 through 4-113** are under the heading, “**Arrangement and Marking of Corner Accessories**”. Each of the 31 sub-sections referenced gives the number of bearing trees required. The Manual uses the terms “bearing trees” and “accessories” almost interchangeably. It is apparent in 6-10 below that “bearing trees” are one type of “accessory.”

**6-10.** “Monuments” of the public land surveys have included the deposit of some durable memorial, a marked wooden stake or post, a marked stone, an iron post having an inscribed cap, a marked tablet set in solid rock or in a concrete block, a marked tree, a rock in place marked with a cross (X) at the exact corner point, and other special types of markers, some of which are more substantial; any of these is termed a “monument”. The several classes of accessories, such as bearing trees, bearing objects, reference monuments, mounds of stone, buried memorials and pits dug in the sod or soil are aids in identifying the corner position. ***In their broader significance the accessories are part of the corner monument’.***

**6-11.** *An existent corner is one whose original position can be identified by substantial evidence of the monument or its accessories....*

**6-17.** *An obliterated corner is an existent corner where, at the corner’s original position, there are no remaining traces of the monument or its accessories but whose position has been perpetuated....*

The statement of importance in 4-80 removes all doubt as to the requirement for accessories. The use of “cannot” in the second sentence has one clear meaning. Surveys done in accordance with the Manual *will* employ accessories at the specified corners where possible. In cases where no permanent objects are available (or none can be established) within 3 chains, memorials such as encased magnets should be used. The number and arrangement of accessories is well described in 4-83 through 4-113 (inclusive). Again, the language throughout is affirmative and unequivocal.

6-10 makes it clear that accessories are part of the monument.



The definitions in 6-11 and 6-17 are repeated in the Circular on Restoration of Lost and Obliterated Corners. Both the Manual and Circular are referenced in IC 31-2709. This places accessories on par with the highest item in the order of calls. They are only impeached by the undisturbed original monument itself. This makes them critical to identifying the type of corner (lost, obliterated, etc.) and how professional land surveyors treat it.

Our duty to “protect the public” cannot be served without providing stability for corner locations. The clearest method to provide this stability for PLSS Corners is the employment of monuments *and accessories* in accordance with the Manual and the law.

FAQ approved 11-13-2018. Updated 6-10-2020

### **IS A CONCRETE AND BRASS CAP MONUMENT A NON-CONFORMING MONUMENT?**

#### **Answer**

As stated above, the size requirements are a minimum. A magnetically detectable concrete monument with brass disk would be acceptable.

Keywords: Monuments, brass disk

Approved 11-9-2018, NB62

### **CONSTRUCTION DOCUMENTS MUST SHOW MONUMENTS**

The following is a letter sent a P.L.S. on February 14, 2011 in response to an inquiry he submitted to the Board:

Dear Mr. Surveyor:

At its meeting on February 7-9, 2011 the Board discussed the questions you posed in an email to Board Members and others. The issues revolved around Idaho Code (IC) Section 55-1613 which states

“55-1613.MONUMENTS DISTURBED BY CONSTRUCTION ACTIVITIES -- PROCEDURE -- REQUIREMENTS. The physical existence and location of the monuments of property controlling corners and accessories to corners, as well as benchmarks established and points set in control surveys by agencies of the United States government or the state of Idaho, shall be determined by a field search and location survey conducted by or under the direction of a professional land surveyor prior to the time when project construction or related activities may disturb them. Construction documents or plans prepared by professional engineers shall show the existence and location of all such monuments, accessories to corners, benchmarks

and points set in control surveys. All monuments, accessories to corners, benchmarks and points set in control surveys that are lost or disturbed by construction shall be reestablished and remonumented, at the expense of the agency or person causing their loss or disturbance, at their original location or by the setting of a witness corner or reference point or a replacement benchmark or control point, by or under the direction of a professional land surveyor. Professional engineers who prepare construction documents or plans that do not indicate the existence and location of all such monuments, accessories to corners and benchmarks and points set in control surveys by agencies of the United States government or the state of Idaho shall be deemed to be within the purview of and subject to disciplinary action as provided in section 54-1220, Idaho Code.”

Your commentary and questions are restated below (in some cases edited slightly) and the Board’s answers follow.

**Commentary and Question:** In District 4, the public at large frequently requests plan sets for past projects, sometimes decades old. Generally, the plans prepared and stamped (certified) by the District Design Engineer for bidding purposes are provided. This engineer also prepares a proposal document in anticipation of bidding. Members of the public upon their requests for copies of “the plans” are rarely provided with copies of past proposal documents. Both documents are provided to a second ITD engineer, the ITD Resident Engineer, who manages any construction effort. Can the District Land Surveyor provide the existence of monuments directly to the Resident Engineer after bidding (and prior to construction) such that neither the proposal nor “the plans” prepared by the District Design Engineer need indicate the existence of monuments? In other words, does this law only govern the Resident Engineer when the existence of monuments are not indicated by the bidding documents? Do files held by the Resident Engineer but not the District Design Engineer meet the requirements of this law in that all of it together could be viewed by some as the “construction documents”?

**Answer:** The District Surveyor cannot comply with IC 55-1613 by submitting monument locations to the Resident Engineer only. The law is not about the Resident Engineer unless he prepared the plans.

**Commentary and Question:** Sometimes, there are no plans – only a proposal document. In those cases, there would never even be a set of as-constructed plans for the public to request years later. If the existence of monuments must be indicated in the bidding documents, can the District Land Surveyor simply create a table for the proposal document containing approximate locations from ITD maps of record (which may be as antiquated as 50 to 90 years old) – thus avoiding the need to incur the expense of surveying the project twice?

Expressed yet another way, does the benefit to the public of avoiding the need to incur the expense of surveying the project twice (indeed, we *are* all taxpayers, right) counteract a benefit to the public of requiring the bidding documents to indicate accurate survey quality positions as alluded to below?

**Answer:** IC 55-1613 refers to “construction documents” not plans. If there are no “plans”, then a tabular form would be acceptable if it shows, as a minimum, a) what it represents, b) what was found, c) location by station and offset, d) survey quality location by coordinates, and e) description of replacement monument, if replaced. Approximate locations are not adequate to reset monuments in their original location. A search of all appropriate records must be performed. A search should also be made to find unrecorded surveys and other pertinent unrecorded documents. Highway districts and cities often have ties to older street centerline locations which deserve recognition. Railroad right-of-way monumentation is also of record in older plans.

IC 55-1613 says “field search”, therefore a field search must also be done. The field search must be done to the level that the PLS in responsible charge is confident that all monuments of record have been located or that they have been determined to be lost. A search must be performed to that same level for monuments which are shown on unrecorded documents such as unrecorded surveys.

**Commentary and Question:** I.C. § 55-1603(6) defines “*establish*” to mean the determination of a position “either physically or mathematically”. Then, I.C. § 50-1303 for plats implies that monuments shall be located and marked so that measurements may be taken within one-tenth (1/10) of a foot; 50-1303 also suggests that surveying [of plats] shall be conducted in such a manner as to produce an unadjusted mathematical error of closure of not less than one (1) part in five thousand (5,000). In neighboring states, similar error of closure laws exist (W.A.C. § 332-130-090) as well as additional minimum standard requirements for relative accuracy (95% confidence levels) meant to apply more directly to contemporary methods of surveying such as that of differential GPS (W.A.C. § 332-130-080). Whether we’re talking about just plats, or surveying in general, these laws regarding accuracy convey the spirit of the phrase “survey quality positions”. Unlike the word “*establish*” (which is applied when “*reestablish*” is used) that *is* defined by I.C. § 55-1603(6), the word “*located*” is not defined by I.C. § 55-1603(6). Does the use of the term “*located*” in the phrase “located and referenced” in this law specifically call for survey quality positions, or can an approximation technique as described in question 5 above alleviate the need to publish survey quality positions in any “construction documents”, and thus alleviate the need to incur the expense of surveying the project twice?

**Answer:** Property corners and property controlling corners are valuable public property which need to be protected in the event construction activities might disturb or destroy them.

The monuments that may be destroyed by construction must be located by an accurate field survey so they can be replaced in the same position after construction, and so those positions are available to another surveyor if they need them after the monument is destroyed and prior to its replacement, i.e. during construction.

Public land survey corner monuments must also be referenced to objects outside the construction area and a Corner Perpetuation Record filed. Monuments that are not at public land survey corners could also be referenced in the same fashion.

To ensure that the Professional Engineers who are charged with the responsibility for implementing 55-1613, we are sending a copy of this letter to ACEC, ISPLS, and ISPE. Please share this with the appropriate engineers within ITD. We stand ready to participate in future stakeholders discussions and resolution of this matter.

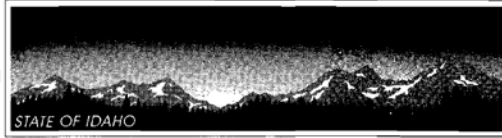
Please call if you have any questions.

For the Board,  
Gary L. Young, P.E./L.S.,

Board Chair

Keywords: monuments, construction, disturbed, restored, rehabilitated, PLLS, corner record

Approved: 6-2011, NB47. Updated 6-17-2020



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

5535 West Overland Road  
Boise, Idaho 83705  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

June 18, 2009

Andrew Kempe, P.L.S.  
W&H Pacific, Inc.  
3501 W. Elder Street, Suite 200  
Boise, Idaho 83705

Dear Mr. Kempe:

At its meeting on June 11-13, 2009 the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors discussed the following question: When performing a right-of-way acquisition survey for the Idaho Transportation Department which requires the subdivision of a section, is it necessary to monument a lost Public Land Survey Comer, the position of which is calculated and used in the survey?

The Board concluded that monumentation of the comer in question would be required. The Board cited the following sections of Idaho Code in coming that that conclusion. Emphasis is added, where appropriate, to the citation.

55-1604. Filing requirements. A professional land surveyor shall complete, sign, and file with the county clerk and recorder of the county where the comer is situated, a written record of the establishment or restoration of a comer. This record shall be known as a "comer record" and **such a filing shall be made for every public land survey corner and accessory to such corner which is established, reestablished, monumented, remonumented, restored, rehabilitated, perpetuated or used as control in any survey.** The survey information shall be filed within ninety (90) days after the survey is completed, unless the comer and its accessories are substantially as described in an existing comer record filed in accordance with the provisions of this chapter. In lieu of filing as heretofore provided, comer records may be recorded by photographic process in those counties which have such facilities.

55-1608. Professional land surveyor to reconstruct monuments. In **every case where a corner record of a survey corner is required to be filed or recorded under the provisions of this chapter, the professional land surveyor must reconstruct or rehabilitate the monument of such corner,** and accessories to such comer. Any monument set shall conform to the provisions of section 54-1227, Idaho Code. If the monument is set by a public officer, it shall be marked by an appropriate official designation.

EQUAL OPPORTUNITY EMPLOYER

Please call if you have any questions.

For the Board,

William J. Ancell, P.E.  
Board Chair

WJA/DLC/dc:Kempe, Andrew.2009-06Meeting

## **DESTROYING LAND SURVEY MONUMENTS A CRIME**

It has been brought to the attention of the Board that there may be an increase in the occurrence of land survey monuments being destroyed as a consequence of construction activities. Idaho Code Section 55-1613 states that "When adequate evidence exists as to the location of a public land survey corner, subdivision, tract, or other land corners, such monuments shall be referenced by or under the direction of a surveyor prior to the time when construction or other activities may disturb them. Such corners shall be reestablished and remonumented under the supervision of a surveyor." In addition, Section 54-1234 of the Idaho Code states that "If any person shall willfully deface, injure or remove any signal, monument, building or other object set as a permanent boundary survey marker by a registered, professional land surveyor, he shall forfeit a sum not exceeding one thousand five hundred dollars (\$1,500) for each offense, and shall be liable for damages sustained by the affected parties in consequence of such defacing, injury or removal, to be recovered in a civil action in any court of competent jurisdiction." The Board is of the opinion that land survey monuments are valuable public property and is willing to pursue prosecution of alleged violations of the Idaho Code sections cited. The Board is also of the opinion that "adequate evidence" of the location of a land survey monument would include the existence of an original GLO or BLM survey, a properly recorded Corner Perpetuation and Filing Form, a recorded subdivision plat or a recorded Record of Survey indicating the presence of the monument as well as the visual presence of a monument.

Keywords: destroying monuments, defacing, crime, evidence, construction activities, subdivision, fine

Approved 12-1990, NB16. Updated 6-17-2020

**Note: 18-7016, Idaho Code cites malicious removal or defacement or altering marks on a monument or cutting down or removing any tree with marks as a misdemeanor.**



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

March 9, 2007

Mike Phillips  
City of Rathdrum Public Works Department  
8047 W. Main Street, #2  
Rathdrum, Idaho 83835

Dear Mr. Phillips:

At its meeting on February 22, 23 & 24, 2007 the Idaho Board of Registration of Professional Engineers and Professional Land Surveyors discussed your email to David Curtis regarding replacement of survey monuments disturbed during construction. Idaho Code Section 55-1613 is stated below for reference.

“ Monuments disturbed by construction activities -- Procedure -- Requirements. When adequate evidence exists as to the location of a public land survey corner, subdivision, tract, property, or other land corners, such monuments shall be referenced by or under the direction of a professional land surveyor prior to the time when construction or other activities may disturb them. Such corners shall be reestablished and remonumented by a professional land surveyor at the expense of the agency or person causing the loss or disturbance of monuments. Professional engineers who prepare plans which do not indicate the presence of corners for which adequate evidence exists shall be deemed to be within the purview of section 54-1220, Idaho Code, and shall be subject to disciplinary action as provided in said section. Any person shall be subject to the penalties prescribed in section 54-1234, Idaho Code, if they prepare plans for the construction of any facility and construction of that facility results in the defacing, injury or removal of a monument, if the plans they prepare do not indicate the presence of a corner or corners for which adequate evidence exists.”

The Board voted to inform you that the statute requires the agency (such as a City) or person (such as the developer or contractor) causing the loss or disturbance of the monument is responsible to have the monuments referenced prior to construction and replaced after construction. The design engineer only has the responsibility to show the corners on the design plans. The contract documents should specify who is responsible for the cost of preserving or replacing monuments lost or disturbed by construction.



Please call if you have any questions.

For the Board,

Scott McClure, P.E.  
Board Chair

SM/DLC/dc:Phillips, Mike.2007-02 Meeting

## FIELD LOCATED CORNERS MUST HAVE MONUMENTS FOUND OR SET

The Board received a letter with questions about monument requirements in 2008. The response prompted additional questions from ISPLS in 2011. Tracking the various letters and responses was difficult. The laws and rules governing surveying have also changed since the original inquiry. This document compiles the original questions and updated answers into one document. The accompanying exhibits should help illustrate the answers.

### Background and Questions

The section of code that prompted this series of questions reads as follows:

2) 54-1227. SURVEYS -- AUTHORITY AND DUTIES OF PROFESSIONAL LAND SURVEYORS AND PROFESSIONAL ENGINEERS. (1) Every licensed professional land surveyor is hereby authorized to make land surveys and it shall be the duty of each licensed professional land surveyor, whenever making any professional land boundary survey as defined in section 54-1202, Idaho Code, that is not preliminary in nature, to set permanent and reliable magnetically detectable monuments **at all unmonumented corners field located**, the minimum size of which shall be one-half (1/2) inch in least dimension and two (2) feet long iron or steel rod . . .  
(emphasis added)

The portions of the section “shall be the duty” and “to set” are clearly understood; physical monuments meeting Idaho State Code are required to be set. There has not been a clear understanding of the phrase “at all unmonumented corners field located”. Many professional land surveyors from around the state hold differing interpretations of the phrase. Does the Board interpret the statement “at all unmonumented corners field located” to mean, the surveyor is to set monuments at all unmonumented corners and property controlling corners within the survey? The term “field located” seems ambiguous and leaves many of us wondering which Corners must be set.

The concern among professional surveyors is the requirement to set “all” corners of an undefined type, which leads us to the following questions

Does the Board interpret the statement “at all unmonumented corners field located” to mean, the surveyor is to set monuments at *all* unmonumented corners and property controlling corners within the survey?

Is the surveyor required to monument an entire quarter section that is not currently monumented when surveying a 1/256th of a section?

Which property and property controlling corners do we not have to set? Where is the surveyor to draw the line to be in conformance with the law?

Sub-Sectional and Subdivision Lot Exhibits are provided as examples to these questions.

## Answers

1) 50-1301(5) and 55-1902(5) DEFINITIONS

(7) "Land survey" means measuring the **field location** of corners that:

- (a) Determine the boundary or boundaries common to two (2) or more ownerships;
- (b) Retrace or establish land boundaries;
- (c) Retrace or establish boundary lines of public roads, streets, alleys or trails; or
- (d) Plat lands and subdivisions thereof.

**(emphasis added)**

3) 55-1603 Definitions.

(11) "**Public land survey corner**" means any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat . . .

**(emphasis added)**

4) 55-1604 Filing requirements. A professional land surveyor shall complete, sign and file with the county clerk and recorder of the county where the corner is situated, a written record of the establishment . . . such a filing shall be made for every **public land survey corner**, center one-quarter (1/4) corner, and accessory to such corner which is established, reestablished, monumented, remonumented, , rehabilitated, perpetuated **or used as control in any survey**. The survey information shall be filed . . .

**(emphasis added)**

5) 55-1608. PROFESSIONAL LAND SURVEYOR TO ESTABLISH OR REHABILITATE MONUMENTS. (1) In every case where a corner record of a survey corner is required to be filed or recorded under the provisions of this chapter, **the professional land surveyor must rehabilitate or remonument any corner in accordance with subsection (2) of this section. Where the corner position is monumented with a stable, permanent, substantial, accessible, magnetically detectable, and uniquely identifiable monument, a new monument will not be required. The professional land surveyor must also recover, establish, or rehabilitate a minimum of three (3) accessories to such corner where practicable.**

Where the professional land surveyor determines accessories are impracticable, an explanation shall be included on the corner record.

**(2) Any monument set shall conform to the provisions of section 54-1227, Idaho Code, and shall be surmounted with a cap of such material and size that can be permanently and legibly marked as prescribed by the manual of surveying instructions issued by the United States department of the interior, bureau of land management, including the license number of the professional land surveyor** responsible for placing the monument. Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot. If the monument is set by a public officer, it shall be marked by an appropriate official designation. Where it is impracticable to monument a corner due to situations beyond the professional land surveyor's control, reference points or witness corner shall be recovered or established. The professional land surveyor must also document the reason the monument cannot be set, the method of establishing the corner location, and the presence

of any found or set reference point or witness corner on his corner record and record of survey or plat.

(3) Where closing corners that are not on or controlling for the line closed upon were set in any government survey authorized by the congress of the United States and the true point of intersection of the pertinent lines is controlling in a survey, resurvey, or subdivision of a section, **the true point of intersection shall be monumented** with a monument conforming to subsection (2) of this section. Any professional land surveyor establishing such a monument shall prepare and file a corner record for the true point of intersection monument, including any evidence related to and the pedigree of the original closing corner. If found, the original closing corner monument position must be remonumented as an amended monument in accordance with subsection (2) of this section.

**(emphasis added)**

6) Definitions of “located”

*Define.com* definition:

To place; to set in a particular spot or position

*Your Dictionary.com* definition of “locate”

to mark off or designate the site of (a mining claim, etc.)

to establish in a certain place

to discover the position of after a search

*Black’s Law Dictionary* definition of “located”

Discovery by survey

Also means to ascertain place in which something belongs.....

To ascertain and fix the position of something

#### SUB-SECTIONAL EXHIBIT

The standard of care requires all property controlling corners related to the survey in question be searched for or recovered. The West 1/4 section corner marked “W 1/4”, may be a **public land survey corner as defined by IC 55-1603**. If set by the GLO or BLM it is a PLSS corner and must be remonumented to comply with 55-1608(1). Additional requirements for marking the cap on the monument are also contained in **IC 55-1608(2)**. The West ¼ corner is also being **used as control as defined by IC 55-1604** in the land survey example, thus requiring a Corner Perpetuation and Filing form to be recorded in accordance with **IC 55-1604**.

The off-line closing corner for the northwest corner of the section (labeled A1) was used as control in the survey and requires a corner record per IC 55-1604. The true point of intersection of the north and west lines of the section did not control in the survey. The requirement to monument the true point of intersection does not apply. If the north ¼ corner was missing, the intersection point would control and the language of 55-1608(3) above would require the professional land surveyor to monument the true point of intersection as the corner, and remonument the closing corner as an amended corner.

The center 1/4 corner marked “C 1/4”, must be monumented and corner record must be filed, as required in IC 55-1604 and IC 55-1608.

The 1/16th corners, 1/64th corners marked “D”, “E” and “F”, do not have to be monumented according to IC 54-1227, unless those positions were monumented in an official survey of the United State Government or are field located (its position is physically located on the ground). In the exhibit, these are calculated or computed points and are not field located.

The found county surveyor stone marking the NE 16<sup>th</sup> corner (marked D-1) is a longstanding monument and should control in all but the most unusual circumstances (i.e., blatant fraud or severe disturbance). Although not a PLSS corner, it must be remonumented in accordance with 54-1227(4) Idaho Code, which reads as follows: *Any found nonmagnetically detectable monument must be remonumented with a magnetically detectable monument compliant with subsections (1) through (3) of this section.*

There is a common misconception that the laws and rules related to corner perpetuation are limited to Section and Quarter Section Corners set by the General Land Office or BLM. This is incorrect. The requirements to rehabilitate monuments and file corner records apply to *all* monuments established in an official survey of the United States, together with the true intersection of off-line closing corners and the center of section. The lone exception is for interior townsite lot corners that are not also block corners.

#### PLATTED LOT EXHIBIT

If the found monuments at the “A” locations are accepted as original corners and lot 7 is being surveyed, then monuments designated with a “B” or “C” on the platted lot exhibit need to be set in order to complete this survey. Additionally, the front lot corners of your client’s property boundary may need to be set to comply with IDAPA 24.32.01.100.06. If your survey states it is of “The common boundary of Lots 2 and 7”, then only corners marked “B” on the exhibit plot must be set. If your survey states it is of “Lot 7”, then all corners of Lot 7 must be recovered or set because IDAPA 24.32.01.100.06 says “Land surveyors have a duty to set monuments at all the corners of their client’s property boundaries...”

If a new monument or cap is set that does not match the plat (or most recent survey), then the pedigree of the corner has changed, and a material discrepancy exists from prior surveys of record, requiring a new record of survey be filed.

#### CONCLUSION

The Board’s interpretation of “field located” means if you field measure to or from a corner position, you have field located it. This would not include looking in a general location based on possession or approximate search coordinates. It would include measuring to or from a specific location, as evidenced by marks on the ground or information on your map. If your map says you measured to or from the corner, you cannot later say otherwise. Also if you set anything (stake, lath, nail, RR spike, “whisker”, pipe, rebar) or if you “show” the location to the client (point to a spot on the

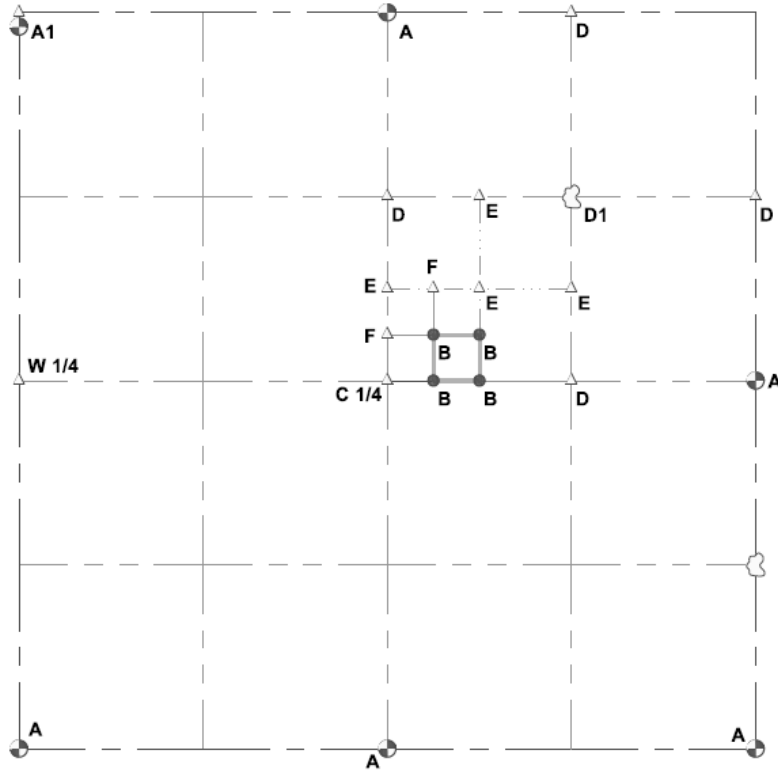
ground or mark the ground location in any way), you have “field located” the corner and you are required by IC 54-1227 to set a compliant monument. A non-compliant monument is one that is not substantial. Special circumstances that would preclude the use of a compliant monument do not include an asphalt road or driveway or concrete walks, although the Board has said in the past that a brass disc with a magnet is acceptable when securely set in concrete. Special circumstances also do not include the desire of a client to save money by hiring a surveyor to set substandard or “approximate” monuments.

Keywords: monument, control, corner, record of survey, plat, lot

Approved June 20, 2011 Letter to ISPLS. Updated 9-11-2020.

**SECTION SUBDIVISION EXHIBIT**  
Section 5 in a Regular Township

LEGEND



- Boundary Line
- Section Line
- Lot/Parcel Line
- Found Monument
- ⊕ Found Stone
- △ Calculated Point
- Set 54-1227 Monument

**A MONUMENT FOUND AND ACCEPTED**  
**A1 FOUND CLOSING CORNER MONUMENT**  
**B MONUMENTS SET AT CLIENTS CORNERS**  
**W 1/4 WEST QUARTER CORNER, NOT FOUND**  
**C 1/4 CENTER OF SECTION, NOT FOUND**  
**D SIXTEENTH CORNERS, NOT FOUND**  
**D1 FOUND COUNTY SURVEYOR SIXTEENTH CORNER STONE**  
**E 64TH CORNERS**  
**F 256TH CORNERS**

**REFER TO THE BOARD OPINION ON FIELD LOCATED CORNERS FOR QUESTIONS AND ANSWERS**



SCALE: 1" = 1000'

U:\Users\jjudge\OneDrive\Documents\191747\2020 8:30 AM\191747.dwg

<b>IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS</b>	<b>EXHIBIT DEMONSTRATING MONUMENT REQUIREMENTS</b>	<b>DATE:</b> <b>SEPT., 2020</b>
	<b>SUBDIVISION OF SECTIONS</b>	<b>SHEET:</b> <b>1 OF 2</b>

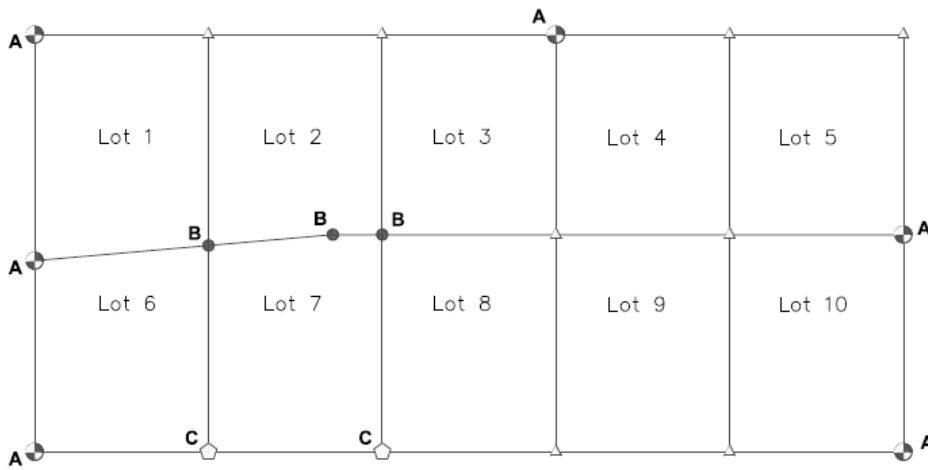
**PLATTED LOT EXHIBIT**  
Regular Subdivision

LEGEND

- A** MONUMENT FOUND AND ACCEPTED
- B** MONUMENTS SET AT CLIENTS CORNERS
- C** MONUMENTS SET IF SURVEYING THE ENTIRE LOT

**REFER TO THE BOARD OPINION ON FIELD LOCATED CORNERS FOR QUESTIONS AND ANSWERS**

- — — — — Boundary Line
- — — — — Section Line
- — — — — Lot/Parcel Line
- A** ● Found Monument
- B** ● Set 54-1227 Monument
- C** ◻ Set if surveying the entire lot
- △ Calculated Point



C:\Users\jjudge\Downloads\Board Exhibits.dwg 8/27/2020 8:46 PM T.J.D.R.E

<b>IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS</b>	<b>EXHIBIT DEMONSTRATING MONUMENT REQUIREMENTS</b>	<b>DATE: SEPT., 2020</b>
	<b>PLATTED LOTS</b>	<b>SHEET: 2 OF 2</b>



## LEASE AREAS ON CELL TOWER

### Question 1

Idaho Code 55-1904(5) says: Results in the setting of monuments that conform to the requirements of section 54-1227, of Idaho Code, **at the corners of an easement or lease area.**

Further Idaho Code 54-1202 (12)(a)(ii)3. Says: Locating, relocating, establishing, reestablishing or retracing property lines or **boundaries of any tract of land, road, right-of-way, easement or real property lease;**

Further Idaho Code 54-1227 says: Every licensed professional land surveyor is hereby authorized to make land surveys and it shall be the duty of each licensed professional land surveyor, whenever making any professional boundary land survey as defined in section [54-1202](#), Idaho Code, that is not preliminary in nature, **to set permanent and reliable magnetically detectable monuments at all unmonumented corners field located,**

The above cited laws make me think that the Board was thinking about leases, most likely for a cell tower installation, and they must be actually monumented and a record of survey prepared and filed with the county. If that is the intention, I wanted to be able to say that for sure to all that are going to be asking the question.

In light of easements inside subdivision plats, do they need, have, to be monumented also?

Thank you for your time and consideration.

Land surveyor from Southern Idaho.

### Answer

Yes, the boundaries of easements and lease areas for cell towers need to be monumented and a record of survey filed with the county. Easements require monumentation as well.

Keywords: cell towers, easements, lease areas, monuments

Approved 11-6-2015 NB 56

## MONUMENTS DISTURBED Q & A

The following is a letter sent to a P.L.S. on February 18, 2011 in response to an inquiry he submitted to the Board:

Dear Mr. Surveyor:

At its meeting on February 7-9, 2011 the Board discussed the questions you posed in an email to Board Members John Howe, P.L.S., Gary L. Young, P.E./L.S. and others. The issue revolved around Idaho Code (IC) Section 55-1613 which states

“55-1613. MONUMENTS DISTURBED BY CONSTRUCTION ACTIVITIES -- PROCEDURE -- REQUIREMENTS. The physical existence and location of the monuments of property controlling corners and accessories to corners, as well as benchmarks established and points set in control surveys by agencies of the United States government or the state of Idaho, shall be determined by a field search and location survey conducted by or under the direction of a professional land surveyor prior to the time when project construction or related activities may disturb them. Construction documents or plans prepared by professional engineers shall show the existence and location of all such monuments, accessories to corners, benchmarks and points set in control surveys. All monuments, accessories to corners, benchmarks and points set in control surveys that are lost or disturbed by construction shall be reestablished and remonumented, at the expense of the agency or person causing their loss or disturbance, at their original location or by the setting of a witness corner or reference point or a replacement benchmark or control point, by or under the direction of a professional land surveyor. Professional engineers who prepare construction documents or plans that do not indicate the existence and location of all such monuments, accessories to corners and benchmarks and points set in control surveys by agencies of the United States government or the state of Idaho shall be deemed to be within the purview of and subject to disciplinary action as provided in section 54-1220, Idaho Code.”

In particular, you said you had questions regarding the phrase “. . . a field search shall be conducted by, or under the direction of, a professional land surveyor to determine whether monuments, reference monuments or accessories to corners physically exist at the location of, or referencing the location of, public land survey corners, property controlling corners or property corners.” Your questions are restated below (in some cases edited slightly) and the Board’s answers follow.

**Question:** What amount of research is adequate?

- a. To only research documents “of record” such as corner perpetuation records, records of survey, subdivision plats, and right of way plats.
- b. To include documents “not of record”, created by agencies such as Bureau of Land Management, Forest Service, Bureau of Reclamation, highway districts, cities, and old survey firm notes.

**Answer:** A search of all appropriate records, some of which are described in “a” above, must be performed. A search should also be made to find unrecorded surveys and other pertinent unrecorded documents. Highway districts and cities often have ties to older street centerline locations which deserve recognition. Railroad right-of-way monumentation is also of record in older plans.

IC 55-1613 says “field search”; therefore, a field search must also be done. The field search must be done to the level that the PLS in responsible charge is confident that all monuments of record have been located or that they have been determined to be lost. A search must be performed to that same level for monuments which are shown on unrecorded documents such as unrecorded surveys.

**Question:** Are monuments not conforming to code to be re-monumented?

a. Monuments “not of record”, such as P-K nails, R/R spike, or uncapped rebar.

**Answer:** Many of the monument types listed in “a” above are shown on Records of Survey, which makes them monuments of record. Many of these “monuments” exist on the ground, and are not shown on Record of Surveys. Their perpetuation value depends on what they appear to represent, and that determination is part of the surveyor’s responsibility. A railroad spike which is proven to be at the perpetuated position of a GLO section corner or 1/4 section corner is as valid a position as if it were monumented in conformance with current *Manual of Surveying Instructions* standards.

If the monuments are at public land survey corners, the establishment or rehabilitation is covered in 55-1608. The law is copied below.

***55-1608. Professional Land Surveyor to Establish or Rehabilitate Monuments.*** (1) *In every case where a corner record of a survey corner is required to be filed or recorded under the provisions of this chapter, the professional land surveyor must rehabilitate or remonument any corner in accordance with subsection (2) of this section. Where the corner position is monumented with a stable, permanent, substantial, accessible, magnetically detectable, and uniquely identifiable monument, a new monument will not be required. The professional land surveyor must also recover, establish, or rehabilitate a minimum of three (3) accessories to such corner where practicable. Where the professional land surveyor determines accessories are impracticable, an explanation shall be included on the corner record.*

(2) *Any monument set shall conform to the provisions of section 54-1227, Idaho Code, and shall be surmounted with a cap of such material and size that can be permanently and legibly marked as prescribed by the manual of surveying instructions issued by the United States department of the interior, bureau of land management, including the license number of the professional land surveyor responsible for placing the monument. Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot. If the monument is set by a public officer, it shall be marked by an appropriate official designation. Where it is impracticable to monument a corner due to situations beyond the professional land surveyor’s control, reference points or witness corner shall be recovered or established. The professional land surveyor must also document the reason the monument cannot be set, the method of establishing the corner location, and the presence of any found or set reference point or witness corner on his corner record and record of survey or plat.*

*(3) Where closing corners that are not on or controlling for the line closed upon were set in any government survey authorized by the congress of the United States and the true point of intersection of the pertinent lines is controlling in a survey, resurvey, or subdivision of a section, the true point of intersection shall be monumented with a monument conforming to subsection (2) of this section. Any professional land surveyor establishing such a monument shall prepare and file a corner record for the true point of intersection monument, including any evidence related to and the pedigree of the original closing corner. If found, the original closing corner monument position must be remonumented as an amended monument in accordance with subsection (2) of this section.*

**Question:** Are disturbed corners to be re-monumented with the same “non-conforming” monument?

**Answer:** The Board previously answered a question about a Professional Land Surveyor’s duty regarding a pipe of unknown origin and without any known history, which was found during a survey and was going to be destroyed by construction. The Board’s opinion is as follows:

“After reviewing Idaho Code Title 55, Chapters 16 and 19, the Board expressed the opinion that you or any other PLS) have no **other** duty than to replace the pipe in its original location after the construction is completed.

Regardless of whether or not the pipe is a “monument” which by Idaho Code Section 55-1902 definition is at the exact position of a “corner” or a “Property corner”, as alleged by one property owner, no “. . . survey in conformity with established principles of land surveying . . .” (Idaho Code Section 55-1904) is being performed; therefore, no record of survey is required. Furthermore, unless this pipe is alleged to be a “public land survey corner” or an “accessory to such corner”, no corner record is required per Idaho Code Sections 55-1603 and 55-1604. It also appears clear from Idaho Code Section 55-1608 that only corners required to have a corner record filed on them have to be rehabilitated.”

The PLS in responsible charge must exercise their professional judgment regarding what the monuments that are not at public land survey corners represent and whether to replace them with a monument that complies with 54-1227 or replace the monument that was found.

The documentation on a Record of Survey of what type of monument was found and what type of monument was placed is essential to preserve these monuments.

**Questions:** What amount of time was intended for the field search to remain valid? The phrase in the law “. . . prior to the time when construction or other activities may disturb them” is vague. Most ITD projects are designed years in advance. Should a second and/or final field search be done just prior to construction?

**Answers:** The answers to these questions depend upon the level of survey activity or probable monument disturbance in the project area since the original field search was

conducted. In developing areas, records of survey, corner records and plats will have been filed. A records search will determine the necessity for the additional field search. The second records search should be mandatory. The probability that some monuments have been disturbed in the interim would not necessarily require a field survey. The presumption is that monuments disturbed in the interim should be replaced. The engineer in responsible charge of final plan preparation must correctly represent the monumentation to be preserved or replaced.

**Question:** Does the “field search” require “survey quality positions” on found monuments?

**Answer:** The monuments that may be destroyed by construction must be located by an accurate field survey so they can be replaced in the same position after construction, and so those positions are available to another surveyor if they need them after the monument is destroyed and prior to its replacement, i.e. during construction.

**Question:** Does the “name, monument type, and approximate location” of a monument shown graphically on construction plans or included as a bid item in a contract comply?

**Answer:** No. The monuments that may be destroyed by construction must be located by an accurate field survey so they can be replaced in the same position after construction, and so those positions are available to another surveyor if they need them after the monument is destroyed and prior to its replacement, i.e. during construction.

To ensure that the Professional Engineers who are charged with the responsibility for implementing 55-1613, we are sending a copy of this letter to ACEC, ISPLS, and ISPE. Please share this with the appropriate engineers within ITD. We stand ready to participate in future stakeholders discussions and resolution of this matter.

Please call if you have any questions.

For the Board,  
Gary L. Young, P.E./L.S.  
Board Chair

Keywords: monuments, construction, disturbed, restored, rehabilitated, PLLS, corner record

Approved: 6-2011, NB47. Updated 6-17-2020

## **MONUMENTS FOR EASEMENTS**

### **Question 4 – from a County Surveyor**

One of my review comments regarded setting corner monuments for an Idaho Power whitewater access easement. The e-mail exchange below is about monuments for another easement that we missed during our second review. Mr. Surveyor agreed to set the monuments but, as noted in the e-mail exchange below, he would like the Board's opinion on whether they are really necessary.

Although Mr. Surveyor agreed to set the monuments, I'm unsure as to how to proceed under 50-1305 if someone refuses to set them. I'm not sure I can refuse to approve and sign the plat using the current language in the law. Although I realize I might be accused of parsing the language to avoid the law, here is my interpretation of the law and the 03/10/2016 Board's Clarification:

**"54-1227.** Surveys – Authority and Duties of Professional Land Surveyors and Professional Engineers. (1) Every licensed professional land surveyor is hereby authorized to make land surveys and it shall be the duty of each licensed professional land surveyor, whenever making any professional boundary land survey as defined in section 54-1202, Idaho Code, that is not preliminary in nature, to set permanent and reliable magnetically detectable monuments at all unmonumented corners field-located, the minimum size of which shall be one-half (1/2) inch in least dimension and two (2) feet long iron or steel rod, or a metallic post or pipe one (1) inch in least dimension and two (2) feet long with a minimum wall thickness of nominal one-eighth (1/8) inch, or other more substantial monuments designed specifically for use as a survey monument. Such monuments must be substantially in the ground, stable, and permanently marked with the license number of the professional land surveyor responsible for placing the monument.

(2) Where special circumstances preclude use of such monuments, the professional land surveyor must place an alternate, stable, permanent monument that is magnetically detectable marked with the license number of the professional land surveyor placing the monument.

(3) Where the corner position cannot be monumented due to special circumstances, the professional land surveyor must establish reference monuments or a witness corner and mark them as such.

(4) Any found nonmagnetically detectable monument must be remonumented with a magnetically detectable monument compliant with subsections (1) through (3) of this section.

(5) Professional engineers qualified and duly licensed pursuant to this chapter may also perform those other surveys necessary and incidental to their work."

**Board Opinion on Easement Monumentation of March 10, 2016:** "It was not the intention of the Board to imply that easements in subdivisions which are parallel to and adjoining lot lines or street right of ways need to be monumented. The Board considers the lot corner and street right-of-way monuments to be sufficient witness monumentation to define the lines of such easements. In addition, the Board is of the opinion that other simple easements shown on a subdivision plat which have sufficient ties to lot and street monumentation to allow a surveyor to calculate the location of those easements do not

need additional monumentation. If a multi-course easement which cuts through a lot or common area is to be placed on a subdivision plat, such as for a private access road or a power line, the surveyor *should* provide monumentation for the easement so that owners of the lot affected by the easement and owners of the easement can see the location on the ground."

**Black's Law Dictionary:** "Should....ordinarily implying duty or obligation; although usually no more than an obligation of propriety or expediency, or a moral obligation...it does not ordinarily express certainty as "will" sometimes does."

**"50-1303. Survey -- Monuments -- Accuracy.** The centerline intersections and points where the centerline changes direction on all streets, avenues, and public highways, and all points, witness corners and reference points on the exterior boundary where the boundary line changes direction *shall be marked* with magnetically detectable monuments the minimum size of which shall be five-eighths (5/8) of an inch in least dimension and two (2) feet long iron or steel rod unless special circumstances preclude use of such monument and all lot and block corners, witness corners and reference points for lot and block corners *shall be marked* with monuments conforming to the provisions of section 54-1227, Idaho Code."

50-1303 lists specific corners that **must** be monumented by using the word shall. That list does not include easement corners. The 3/10/2016 Board opinion use the word "should" and both the opinion and 54-1227 state that these monuments are to be placed if the corner is "field located". The easements shown on the plat have not been field located, and I applaud the Board for trying to encourage the PLS to do so. However, the language does not appear to be strong enough to make this a mandate.

So, back to my dilemma. Shall I refuse to sign the plat as the 50-1305 verifying surveyor if the surveyor submitting the plat refuses to set monuments at the easement corners? I look forward to your reply.

Surveyor from Southern Idaho

#### **Answer**

In response to Mr. County Surveyor's questions we offer the following:

1. Easements of this type are precisely what the Board had in mind when offering their opinion on the monumenting of easements. It is an irregular shaped parcel lying across a portion of the eastern third of a building lot that cannot be readily discerned on the ground unless it is marked. 54-1227 says that it shall be the duty of each professional land surveyor to set permanent and magnetically detectable monuments at all unmonumented corners field located. In past discussions with John Howe and Gary Young, who developed the "field located" language, the intent was that if a surveyor goes to the field and locates the corner positions in any way, even if it is simply pointing to the spot or kicking the dirt, they have field located the position and must comply with applicable sections of Idaho Code.

2. 55-1901 states that the provisions of this chapter are supplementary to existing laws relating to surveys, subdivisions, platting and boundaries. 55-1904(5) includes easements and lease areas. This links the Record of Survey law and Platting law together and provides the justification to require the monumenting of irregular shaped easements in a subdivision.
3. The Rules of Professional Responsibility require the licensees and certificate holders to protect the safety, health and welfare of the public. It does not protect the public if the purchaser of Lot 6 has to hire a surveyor to come locate the easement on the ground in order to ensure they do not encroach into the easement or that the users of the access easement don't encroach onto them. That obligation should rest with the surveyor preparing the plat and locating the lot corners and the developer of the property who has profited from the sale of Lot 6.

As to Mr. County Surveyor's dilemma regarding signing or not signing a plat, he would be well within his right not to sign if he felt the public was not being protected. Because it is not spelled out exactly when it is required, it should be a judgement call of the professional land surveyor doing the review of when that threshold is reached. Quite often we hear from surveyors that the Board is trying to remove professional judgement from the surveyor by the issuing of these opinions. Quite the contrary, the Board issues these opinions based on specific questions being asked. We respond by reviewing the rules and statutes and then responding to that question with what we believe best protects the public. The easement question is one of those topics that is best left to the judgement of the land surveyors involved, with the caveat that they **must** keep in mind that their primary obligation is to the public as a whole and not just their client.

Keywords: Protection of Public, County Surveyor, Easement, Monuments

Approved 1-1-2017 NB 58. Updated 6-17-2020

### **MONUMENT "PAVED OVER" DISTURBED**

In response to an inquiry of "Does the board consider monuments that are paved over "disturbed"?", the Board expressed an opinion that paving over monuments with an overlay or chip seal does not disturb them as "disturbed" is used in Idaho Code Section 55-1613, nor is the monument "defaced," "injured," or "removed" as those terms are used in Idaho Code Section 54-1234. Prior to a "rotomilling" operation or other construction, monuments should be located by a professional land surveyor so they can be reestablished if they are "disturbed," as required under Idaho Code Section 55-1613.

Keywords: monument, paved over, disturbed

Approved 11-1-2011, NB48



## **MONUMENT “POINTS ON LINE”**

A P.L.S. inquired of the Board whether or not “points on a line” that a client has asked by identified need to be monumented under the amendments incorporated in House Bill No. 132 passed by the 2011 session of the Idaho Legislature. The Board expressed an opinion that the law does not require monumentation of points on a line unless that point is a corner as defined in Idaho Code.

Keywords: monument, point on line

Approved 11-1-2011, NB48

## **MONUMENTS REQUIRED AT PROPERTY CORNERS**

Based on the circumstances presented in a recent Investigatory Hearing, the Board expressed an opinion that a land survey monument was required to be placed at all corners that were on the boundary of property being surveyed. In that particular case, it was improper to calculate the position of a corner on the boundary of property being surveyed and not monument the location of the corner.

Keywords: monument, corner, property boundary

Approved: 7-1992, NB 18

## **MONUMENTS REQUIRED ONLY FOR FIELD LOCATED LEGAL DESCRIPTIONS**

### **Question:**

If a surveyor prepares a description for an easement from record data, are they required to set monuments and file a record of survey?

### **Answer**

"54-1227, Idaho Code, Surveys – Authority and Duties of Professional Land Surveyors and Professional Engineers. Every licensed professional land surveyor is hereby authorized to make land surveys and it shall be the duty of each licensed professional land surveyor, whenever making any professional boundary land survey as defined in section 54-1202, Idaho Code, that is not preliminary in nature, to set permanent and reliable magnetically detectable monuments at all unmonumented corners *field-located*, ..." [*emphasis added*]

The language “field-located” was developed to give a clear trigger for setting monuments and filing a record of survey. A description that is not based on field work and where the location is not marked in any way does not *require* monuments and a map. It may be advisable to educate the client on the benefits and do the work. This is especially true

where the easement or defining feature is to be staked as part of the project. Getting the easement monumented and into the record (as a survey) reduces questions of location and intent. If the easement is final and the work is going to be done, getting it done sooner rather than later is good practice.

Key words: PLS, Monuments, Easements, Record of Survey

Approved 11-9-2018, NB62

## **MONUMENTS UPGRADED TO BLM STANDARDS**

One of the provisions of 55-1608, Idaho Code, requires that in every case where a corner record of a survey corner is required to be filed or recorded under Idaho Code Title 55 Chapter 16, the Corner Perpetuation and Filing Law, “Any monument set shall conform to the provisions of section 54-1227, Idaho Code, and shall be surmounted with a cap of such material and size that can be permanently and legibly marked as prescribed by the manual of surveying instructions issued by the United States department of the interior, bureau of land management, including the license number of the professional land surveyor responsible for placing the monument.” The same basic requirement applies when a PLS encounters a nonmetallic corner set in a survey conducted by an agency of the United States government. The requirements for marking the caps are contained on pages 109 to 121 of the *Manual of Surveying Instructions 2009 Edition* of the U.S. Department of the Interior, Bureau of Land Management.

Key words: Corner monuments, BLM, cap, reconstruct, rehabilitate, nonconforming, manual

Approved: 11-2012, NB50. Updated 6-17-2020

## **NAILS AS MONUMENTS**

During recent discussions and discipline cases professional land surveyors have made several assertions regarding the use of nails as permanent survey monuments. The article is intended to clarify the Board opinion on the laws, rules and standard of care when it comes to this practice.

### **Assertion 1:**

**Surveyors may use non-compliant nails when a corner falls in asphalt.**

54-1227. SURVEYS — AUTHORITY AND DUTIES OF PROFESSIONAL LAND SURVEYORS AND PROFESSIONAL ENGINEERS. (1) Every licensed professional land surveyor is hereby authorized to make land surveys and it shall be the duty of each licensed professional land surveyor, whenever making any professional boundary land survey as defined in section 54-1202, Idaho Code, that

is not preliminary in nature, to set permanent and reliable magnetically detectable monuments at all unmonumented corners field-located, the minimum size of which shall be one-half (1/2) inch in least dimension and two (2) feet long iron or steel rod, or a metallic post or pipe one (1) inch in least dimension and two (2) feet long with minimum wall thickness of nominal one-eighth (1/8) inch, or other more substantial monuments designed specifically for use as a survey monument. Such monuments must be substantially in the ground, stable, and permanently marked with the license number of the professional land surveyor responsible for placing the monument.

***(2) Where special circumstances preclude use of such monuments, the professional land surveyor must place an alternate, stable, permanent monument that is magnetically detectable and marked with the license number of the professional land surveyor placing the monument.***

Subsection 2 above clearly states the monument requirements are mandatory unless circumstances ***preclude*** setting a conforming monument. Mere inconvenience or wishes of the client are not sufficient to allow alternative monuments. A factual circumstance supporting the use of a non-conforming monument ***must*** exist. Asphalt does not prevent the use of conforming monuments. Where alternatives are justified, they must meet the requirements of stable, permanent, magnetically detectable and marked with the license number of the professional land surveyor placing the monument. A nail in concrete may meet this requirement if it has a washer stamped with the PLS number. It must also be a minimum of 1.5 inches long, 0.25 inches diameter to be stable and substantial enough to be permanent. The term “permanent” does not mean indestructible, but it does mean “not intended to be temporary”. PK, MAG or other nails set in concrete roadways or walks that are not set below the surface are neither stable nor permanent. They will be destroyed or removed during snow removal.

**Assertion 2:**

**I have set new accessories and filed a corner record as required. There is an existing concrete nail marking the corner. The nail can stay in place if I describe it on the corner record.**

***Idaho Code 55-1608*** Professional Land Surveyor to Establish or Rehabilitate Monuments. (1) In every case where a corner record of a survey corner is required to be filed or recorded *under the provisions of this chapter, the professional land surveyor must rehabilitate or remonument any corner in accordance with subsection (2) of this section. Where the corner position is monumented with a stable, permanent, substantial, accessible, magnetically detectable, and uniquely identifiable monument, a new monument will not be required...*

The last sentence of the excerpt above provides clear direction. The existing monument must meet all six conditions to remain. In the case above the “concrete nail” was less than two inches long in broken asphalt or cracked concrete. It was neither “stable” nor

“substantial”. The provision allowing some monuments to remain was written for the rare exception where the existing monument did not meet the letter of the law and setting a new monument would not help perpetuate the corner location. It is not a catch-all to avoid setting monuments to fulfill the purpose of the corner perpetuation act.

### **Assertion 3:**

**Setting a nail and washer for a public land survey system corner is acceptable.**

*Idaho Code 55-1608 Professional Land Surveyor to Establish or Rehabilitate Monuments. (1) In every case where a corner record of a survey corner is required to be filed or recorded under the provisions of this chapter, the professional land surveyor must rehabilitate or remonument any corner in accordance with subsection (2) of this section. Where the corner position is monumented with a stable, permanent, substantial, accessible, magnetically detectable, and uniquely identifiable monument, a new monument will not be required. The professional land surveyor must also recover, establish, or rehabilitate a minimum of three (3) accessories to such corner where practicable. Where the professional land surveyor determines accessories are impracticable, an explanation shall be included on the corner record.*

*(2) Any monument set shall conform to the provisions of section 54-1227, Idaho Code, and shall be surmounted with a cap of such material and size that can be permanently and legibly marked as prescribed by the manual of surveying instructions issued by the United States department of the interior, bureau of land management, including the license number of the professional land surveyor responsible for placing the monument. Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot. If the monument is set by a public officer, it shall be marked by an appropriate official designation. Where it is impracticable to monument a corner due to situations beyond the professional land surveyor’s control, reference points or witness corner shall be recovered or established. The professional land surveyor must also document the reason the monument cannot be set, the method of establishing the corner location, and the presence of any found or set reference point or witness corner on his corner record and record of survey or plat.*

Based on 55-1608, Idaho Code, if a surveyor has to file a new corner record due to inadequacies outlined in 55-1604, Idaho Code, then the land surveyor is required to rehabilitate the monument to the standard called for in 55-1608, unless special circumstances preclude use of such monument as described in 54-1227 Idaho Code. The same answer as given in assertion one above applies. A condition **precluding** the use of a conforming monument **must** exist to justify the use of an alternative monument. Corners of the public land survey system have additional considerations. Placing an alternative monument for a PLSS corner does not eliminate the requirement to surmount the monument with a cap stamped in accordance with the manual. The exception where the corner position is previously monumented with a stable, permanent, substantial, accessible, magnetically detectable, and uniquely identifiable monument is just that; an exception. Placing a monument that would not be allowed to remain if found is not logically supportable practice.

Keywords: monument, nail, asphalt, concrete, preclude, compliant

Approved 9-11-2020

## **QUESTIONS FOR THE BOARD REGARDING MONUMENTS**

### **Question 1**

#### **Rehabilitating PLSS Corners**

If I find a section corner (or any original gov't corner) that is a rebar with a plastic cap am I required to replace the plastic cap with a cap marked as shown in the BLM manual and with my PLS number? Would this also apply to finding an iron pipe, RR spike, etc. with no cap?

#### **Answer:**

The relevant sections of Idaho Code are as follows:

#### ***Idaho Code 55-1604. Filing requirements.***

*A professional land surveyor shall complete, sign, and file with the county clerk and recorder of the county where the corner is situated, a written record of the establishment, reestablishment, or rehabilitation of a corner monument and its accessories. This record shall be known as a "corner record" and such a filing shall be made for every public land survey corner, center one-quarter (1/4) corner, and accessory to such corner which is established, reestablished, monumented, remonumented, rehabilitated, perpetuated or used as control in any survey. The survey information shall be filed within ninety (90) days after the survey is completed, unless the corner and its accessories are substantially as described in an existing corner record filed in accordance with the provisions of this chapter.*

*And:*

***Idaho Code 55-1608 Professional Land Surveyor to Establish or Rehabilitate Monuments. (1) In every case where a corner record of a survey corner is required to be filed or recorded under the provisions of this chapter, the professional land surveyor must rehabilitate or remonument any corner in accordance with subsection (2) of this section. Where the corner position is monumented with a stable, permanent, substantial, accessible, magnetically detectable, and uniquely identifiable monument, a new monument will not be required. The professional land surveyor must also recover, establish, or rehabilitate a minimum of three (3) accessories to such corner where practicable. Where the professional land surveyor determines accessories are impracticable, an explanation shall be included on the corner record.***

***(2) Any monument set shall conform to the provisions of section 54-1227, Idaho Code, and shall be surmounted with a cap of such material and size that can be permanently and legibly marked as prescribed by the manual of surveying instructions issued by the United States department of the interior, bureau of land***

*management, including the license number of the professional land surveyor responsible for placing the monument. Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot. If the monument is set by a public officer, it shall be marked by an appropriate official designation. Where it is impracticable to monument a corner due to situations beyond the professional land surveyor's control, reference points or witness corner shall be recovered or established. The professional land surveyor must also document the reason the monument cannot be set, the method of establishing the corner location, and the presence of any found or set reference point or witness corner on his corner record and record of survey or plat.*

*(3) Where closing corners that are not on or controlling for the line closed upon were set in any government survey authorized by the congress of the United States and the true point of intersection of the pertinent lines is controlling in a survey, resurvey, or subdivision of a section, **the true point of intersection shall be monumented with a monument conforming to subsection (2) of this section.** Any professional land surveyor establishing such a monument shall prepare and file a corner record for the true point of intersection monument, including any evidence related to and the pedigree of the original closing corner. If found, the original closing corner monument position must be remonumented as an amended monument in accordance with subsection (2) of this section.*

Based on 55-1604, Idaho Code, if a land surveyor finds a monument at a public land survey system corner, C ¼ or offline closing corner position and the conditions are as shown on the most recent corner record (same monument, cap, marks and accessories) then an updated corner record is not required. In the case of an off-line closing corner, a new corner record will be required if the true point of intersection is controlling and not shown on a current corner record. If, however, the land surveyor finds a different type of monument or cap than what is called for in the corner record or any accessories of record are missing or different, then a new corner record is required to be filed because it is no longer substantially as described. A professional land surveyor or subordinate must visit the corner location to substantiate that the corner monument and accessories are substantially as described. If a monument was previously replaced or new accessories added and the changes are not reflected on the most recent corner record, then a new corner record must be filed.

Based on 55-1608, Idaho Code, if a professional land surveyor has to file a new corner record due to inadequacies outlined in 55-1604, Idaho Code, then the professional land surveyor is required to rehabilitate the monument to the standard called for in 55-1608, unless special circumstances preclude use of such monument as described in 54-1227 Idaho Code. The only exception is where the corner position is monumented with a stable, permanent, substantial, accessible, magnetically detectable, and uniquely identifiable monument. If **all** of these conditions are met, a new monument will not be required. When a corner record is required and a professional land surveyor finds a monument without a cap conforming to subsection (2) of 55-1608 (such as a plastic cap), he or she must place or replace a conforming cap on the monument, unless the monument

is incapable of being surmounted by a conforming cap (RR spike, etc.). A PK or MAG Nail is not considered a substantial monument and must be replaced.

## Question 2

### MONUMENT REQUIREMENTS

**My client does not want to pay me to set rebar at his corners that fall in asphalt or concrete. Can I just set a nail?**

54-1227. SURVEYS — AUTHORITY AND DUTIES OF PROFESSIONAL LAND SURVEYORS AND PROFESSIONAL ENGINEERS. (1) Every licensed professional land surveyor is hereby authorized to make land surveys and it shall be the duty of each licensed professional land surveyor, whenever making any professional boundary land survey as defined in section 54-1202, Idaho Code, that is not preliminary in nature, to set permanent and reliable magnetically detectable monuments at all unmonumented corners field-located, the minimum size of which shall be one-half (1/2) inch in least dimension and two (2) feet long iron or steel rod, or a metallic post or pipe one (1) inch in least dimension and two (2) feet long with minimum wall thickness of nominal one-eighth (1/8) inch, or other more substantial monuments designed specifically for use as a survey monument. Such monuments must be substantially in the ground, stable, and permanently marked with the license number of the professional land surveyor responsible for placing the monument.

*(2) Where special circumstances preclude use of such monuments, the professional land surveyor must place an alternate, stable, permanent monument that is magnetically detectable and marked with the license number of the professional land surveyor placing the monument.*

Subsection 2 above clearly states the monument requirements are mandatory unless circumstances *preclude* setting a conforming monument. Mere inconvenience or wishes of the client are not sufficient to allow alternative monuments. A factual circumstance supporting the use of a non-conforming monument *must* exist. Asphalt does not prevent the use of conforming monuments. Where alternatives are justified, they must meet the requirements of stable, permanent, magnetically detectable and marked with the license number of the professional land surveyor placing the monument. A nail in concrete may meet this requirement if it has a washer stamped with the PLS number. It must also be a minimum of 1.5 inches long, 0.25 inches diameter to be stable and substantial enough to be permanent. The term “permanent” does not mean indestructible, but it does mean “not intended to be temporary”. PK, MAG or other nails set in concrete roadways or walks that are not set below the surface are neither stable nor permanent. They will be destroyed or removed during snow removal.

## Question 3

## **MONUMENT REQUIREMENTS**

**The corner of my client's property is in a deep lake. Do I have to set the corner?**

Subsection 3 of the above statute reads:

*(3) Where the corner position cannot be monumented due to special circumstances, the professional land surveyor must establish reference monuments or a witness corner and mark them as such.*

Professional Land Surveyors are required to set monuments at the corners of their client's property. There are times the actual corner location cannot be accessed or monumented. In these cases, the surveyor is required to set a witness corner or reference monuments. The monument itself must be marked as a WC or RM. It is also recommended any WC or RM be set at a "whole foot" distance from the corner with the distance stamped on the cap. Even with these new requirements the professional land surveyor must remember that uninformed landowners will use these monuments. The position for the WC or RM should be selected to minimize the impact if the owner inadvertently uses it as a "true corner". In keeping with that thought, Witness Corners are preferred over reference monuments as they occupy a known position on one of the lines being surveyed.

### **Question 4**

## **MONUMENT REQUIREMENTS**

**I have found a stone marking the northeast 16<sup>th</sup> corner of a section. The corner was not set by the GLO or BLM, County records indicate it was set by the County Surveyor. It's in good shape. Can I leave it in place?**

54-1227 (4) reads as follows:

*(4) Any found nonmagnetically detectable monument must be remonumented with a magnetically detectable monument compliant with subsections (1) through (3) of this section.*

In every case where stones, posts or other nonmetallic corner monuments are found, they must be re-monumented with a monument conforming to 54-1227, marked with the license number of the professional surveyor in responsible charge. Public Land Survey System corners, Center ¼ corners and controlling true points of intersection at off-line closing corners must also have a cap of a material that can be marked in conformity with the BLM Manual of Surveying Instructions. Note the requirement is to remonument the corner location. Setting a rebar next to the non-magnetically detectable monument does not conform with the law.

Professional land surveyors should also bear in mind that a PLSS corner is not just a section or one-quarter corner. It also includes corners of non-rectangular entities, subdivision of



section corners and any other corners monumented in an official survey of the United States government.

*55-1603(11) – defines a “Public land survey corner” as any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat and in the field notes thereof, accepted and approved under authority delegated by congress to the U.S. general land office and the U.S. department of the interior, bureau of land management. This excludes GLO-surveyed townsite lot corners, except those marking exterior angle points or block corners within the townsite.*

During the course of their research, professional land surveyors must remember that the GLO and BLM performed surveys and set monuments for more than just townships and sections. As such, professional land surveyors must include a visit to the BLM website in their research and verify which corners were monumented during the GLO/BLM surveys. This search should be expanded to include **ALL** official surveys in the area of concern. If any tract, one-sixteenth, center of section, or other corners were monumented, a corner record is required to be prepared and recorded if the corner is established, reestablished, monumented, remonumented, rehabilitated, perpetuated, or used as control in the survey. This includes witness corners, reference monuments, and any potentially controlling intermediate monuments shown in the notes or on the plat.

#### **Question 5**

#### **MONUMENT PRESERVATION**

**I am an Idaho Professional Engineer who provides services to local highway districts and small municipalities. My plans always contain a note requiring the contractor to preserve any survey monuments they find or have them reset by a surveyor. Does the inclusion of the note comply with the law?**

#### **Answer**

No, such a note does not comply with the law.

*55-1613. Monuments Disturbed by Construction Activities -- Procedure -- Requirements. The physical existence and location of the monuments of property controlling corners and accessories to corners, as well as benchmarks established and points set in control surveys by agencies of the United States government or the state of Idaho, shall be determined by a field search and location survey conducted by or under the direction of a professional land surveyor prior to the time when project construction or related activities may disturb them. Construction documents or plans prepared by professional engineers shall show the existence and location of all such monuments, accessories to corners, benchmarks and points set in control surveys. All monuments, accessories to corners, benchmarks and points set in control surveys that are lost or disturbed by construction shall be reestablished and re-monumented, at the expense of the agency or person causing their loss or disturbance, at their original location or by the setting of a witness corner or reference point or a replacement benchmark or control point, by or under the direction of a professional land surveyor.*

*Professional engineers who prepare construction documents or plans that do not indicate the existence and location of all such monuments, accessories to corners and benchmarks and points set in control surveys by agencies of the United States government or the state of Idaho shall be deemed to be within the purview of and subject to disciplinary action as provided in section 54-1220, Idaho Code.*

Professional Engineers and Professional Land Surveyors must be aware of and understand this statute. Professional Engineers preparing plans or other construction documents for projects that have the potential to disturb or destroy existing corner monuments, benchmarks and/or Federal or state control stations must show the existence and location of said monuments on their plans. This also includes property corners. All such monuments must be reestablished and re-monumented at the expense of the agency or person causing the monument's destruction or disturbance and must be done by, or under the direction of, a Professional Land Surveyor.

Professional Engineers who prepare plans or construction documents and do not show the existence and location of these monuments are subject to disciplinary action and can be held financially responsible for the cost of replacing the destroyed or disturbed monuments.

Professional Land Surveyors providing land surveying services to engineers must remind their client of this requirement and perform a thorough and diligent search for existing corners within the roadway, along the right-of-way and any other corner locations that may be impacted during construction. Professional Land Surveyors may be subject to disciplinary action and held equally responsible if it is shown that they did not provide services meeting the standard of care required under this statute.

#### **Question 6**

##### **Corner Record Form**

**Our company designed a corner record form several decades ago. It is well recognized, and we would like to keep using it. Does the law allow a professional surveyor to use their own form?**

##### ***IDAPA 24.32.01 Subchapter D - Rules for Corner Perpetuation and Filing***

##### ***300. Form.***

*The form to be used in filing corner perpetuations in the state of Idaho shall be substantially the same as that form available from the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, 1510 E. Watertower St., Suite 110, Meridian, Idaho 83642-7993. Clear spaces on the form may be provided as requested and required by County Recorders in order to place recording information in an unobstructed area. The form is not available in quantity from the Board, but one (1) copy will be furnished, upon request, and it may be duplicated or reproduced.*

The corner record form was revised in 2015. Many corner records are still being filed using the old, non-compliant forms and do not include all the required information. Professional Land Surveyors have the latitude to amend the form, but it must contain all of the required information in the same general format as the sample form provided by the Board.

Key words: Monuments, rehabilitate, CP&F, corner record, rehabilitate, BLM

Approved 11-9-2018, NB62. Updated 9-11-2020

### **RELACE EXISTING MONUMENTS NOT A VIOLATION**

A P.L.S. asked the Board to express an opinion on a situation he encountered in which he found an existing ½ inch steel rod (rebar) monumenting an angle point on the exterior boundary of land being platted as a subdivision. The dilemma is that Idaho Code Section 50-1303 requires such corners to be monumented with a minimum of a 5/8 inch by 30 inch long steel rod, yet Idaho Code Section 54-1234 creates a liability for a person who “willfully remove[s] any . . . monument . . . set . . . by a professional land surveyor”. The Board concluded that it would not be a violation of Idaho Code Section 54-1234 for a professional land surveyor to remove **and replace** an existing monument with another, more substantial monument in order to comply with the requirements for monuments contained in Idaho Code Section 50-1303.

Key words: Monument, remove and replace, exterior boundary

Approved: 4-2006 NB37. Updated 6-18 2020



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

November 23, 2012

Michael Hathaway, P.L.S.  
Welch, Comer and Associates, Inc.  
350 E. Kathleen Avenue  
Coeur d'Alene, ID 83815

Dear Mr. Hathaway:

At its meeting on November 7-8, 2012 the Board requested that we respond to the question that you posed regarding monuments disturbed by construction activities via an email dated October 25, 2012.

*55-1613. Monuments disturbed by construction activities -- Procedure -- Requirements. The physical existence and location of the monuments of property controlling corners and accessories to corners, as well as benchmarks established and points set in control surveys by agencies of the United States government or the state of Idaho, shall be determined by a field search and location survey conducted by or under the direction of a professional land surveyor prior to the time when project construction or related activities may disturb them. Construction documents or plans prepared by professional engineers shall show the existence and location of all such monuments, accessories to corners, benchmarks and points set in control surveys. All monuments, accessories to corners, benchmarks and points set in control surveys that are lost or disturbed by construction shall be reestablished and remonumented, at the expense of the agency or person causing their loss or disturbance, at their original location or by the setting of a witness corner or reference point or a replacement benchmark or control point, by or under the direction of a professional land surveyor. Professional engineers who prepare construction documents or plans that do not indicate the existence and location of all such monuments, accessories to corners and benchmarks and points set in control surveys by agencies of the United States government or the state of Idaho shall be deemed to be within the purview of and subject to disciplinary action as provided in section 54-1220, Idaho Code.*

EQUAL OPPORTUNITY EMPLOYER

Our understanding is that your task is to locate monuments within the road right-of-way prior to construction in compliance with IC 55-1613, to re-monument those positions after the road construction is completed, in monument boxes, and record Corner Perpetuation Records.

In our opinion, we do not consider it to be your responsibility to determine which of the two (2) monuments purporting to represent the 1/4 section corner common to sections 23 and 24 is correct.

You should re-monument both positions after the construction is complete. The original monuments can be re-used if desired. You need to prepare and record a detailed Corner Perpetuation and Filing record (CP&F) which contains the pertinent information from all of the existing CP& F's and show both monuments and references.

A list of the Record of Surveys which used the two (2) monuments would also be desirable.

If you have an issue regarding the Rules of Professional Responsibility with another licensee, you may pursue that if you choose.

For the Board,

John W. Howe, PLS  
Board Vice Chair

John T. Elle, PLS, PE  
Board Member

JWH/JTE/dc:Hathaway, Michael.2012-11 Meeting



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

June 8, 2010

John Dunn, P.L.S.  
Latah County Surveyor  
Latah County Courthouse  
P.O. Box 8068  
Moscow, ID 83843

Dear Mr. Dunn:

At its meeting on June 3 & 4, 2010, the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors reviewed your inquiry regarding the requirement to file a Record of Survey if you replace a lot corner in a subdivision in which you did not place the original corners. The Board voted to ask me to inform you that our opinion is that a Record of Survey would not be required in this situation unless some other situation created one of the four conditions contained in Idaho Code Section 55-1904 which are:

- “(1) Discloses a material discrepancy with previous surveys of record;
- (2) Establishes boundary lines and/or corners not previously existing or of record;
- (3) Results in the setting of monuments at corners of record which were not previously monumented; or
- (4) Produces evidence or information which varies from, or is not contained in, surveys of record relating to the public land survey, lost public land corners or obliterated land survey corners.”

The Board does not consider the replacement of a lot pin by a surveyor who did not set the original monument a “material discrepancy” under (1) above.

Please call if you have any questions.

For the Board,

Gary L. Young, P.E./L.S.  
Board Chair

DLC/GLY/dc:Dunn, John.2010-06 Meeting

EQUAL OPPORTUNITY EMPLOYER

## REPLACE WITH A CONFORMING MONUMENT IN SUBDIVISION

Idaho Code 50-1303 reads in pertinent part, “50-1303. Survey — monuments — Accuracy. The centerline intersections and points where the centerline changes direction on all streets, avenues, and public highways, and all points, witness corners and reference points on the exterior boundary where the boundary line changes direction ***shall be marked with magnetically detectable monuments the minimum size of which shall be five-eighths (5/8) of an inch in least dimension and two (2) feet long*** iron or steel rod unless special circumstances preclude use of such monument...” *[emphasis added]*

The language “shall be marked with” is affirmative and clear. A ½ inch rebar would have to be replaced to comply with code. The remaining language gives some latitude by giving minimum dimensions.

Key words: PLS, Monuments, Replaced

Approved 11-9-2018, NB62



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

June 13, 2011

Rodney Jones, P.L.S.  
P.O. Box 2056  
Post Falls, ID 83877

Dear Mr. Jones:

At its meeting on June 7 & 8, 2011 the Board considered the inquiry you submitted to David Curtis dated April 8, 2011. In that communication you stated, in pertinent part,

“As part of that contract, I am required to set right-of-way markers at locations indicated on the construction plans (by others).”

“In the effort to set the monuments late last fall, I had to question the idea of these monuments being identified with my PLS number. I am willing to do so, but I am concerned with what liability I will acquire by marking those monuments with my PLS number when I am setting them solely based on control and at locations provided by ITD on the construction plans. I did not perform the research necessary for the acquisition deeds, I did not tie into any controlling monument(s), nor did I make any determination as to the legal location of the right-of-way.”

The Board asked me to let you know that the Board does not determine liability, but that you cannot place your PLS number on the monument if you were not in responsible charge of the work to determine that the monument is placed at the corner location (see Idaho Code Section 54-1227). The Board suggests that you consider meeting with representatives of ITD to see if they will alter the contracts to allow the PLS who was in responsible charge of the work to place his or her PLS number on the monument and file a Record of Survey.

EQUAL OPPORTUNITY EMPLOYER

Please call if you have any questions.

PAGE 71



For the Board,

James H. Milligan, P.E.  
Board Chair

DLC/JHM/dc:Jones, Rodney.2011-06 meeting  
Cc: Idaho Transportation Department

## **SURVEY OF LEASED SITES REQUIRE PLS AND MONUMENTS**

In response to an inquiry from a P.L.S., the Board expressed an opinion regarding the survey of leased sites in Idaho. That opinion stated, in pertinent part,

“After considerable discussion, the Board concluded that when a field survey is conducted and corners and/or boundaries are created to define the location of a leased site, professional land surveying, as defined in Idaho Code §54-1202(12) is being performed. As such, a person licensed as a Professional Land Surveyor in Idaho must be in responsible charge of such services. Further, if a field survey is conducted, monuments must be set and a Record of Survey must be filed as required under Idaho Code §55-1904(2).”

A copy of the opinion letter was sent to each County Recorder and County Assessor in Idaho.

Key words: lease site, monuments, field survey, PLS, responsible charge, record of survey

Approved June 2001, NB 31. Updated 6-18-2020

## **SURVEY MONUMENT MARKING**

On September 28, 1989 the Board received the following letter:

Dear Members of the Board:

The purpose of this letter is to request clarification regarding certain portions of Idaho Code relative to monumentation. Basically, my questions center around the nature of marks required. These include public land survey corners, subdivision points of beginnings, subdivision lot corners and record of survey angle points. The second part of my question involves acceptable alternatives to marking corners.

Idaho Code 54-1227 indicates that it is the duty of every surveyor, whenever making a professional boundary land survey, "to set permanent and reliable magnetically detectable monuments at all unmonumented corners field-located... and such monuments must be ... permanently marked with the license number of the professional land surveyor responsible for placing the monument."

Idaho Code 50-1303 indicates that " Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot. "

Idaho Code 55-1608 (corner perpetuation record) indicates that " Any monument set shall conform to the provisions of section 54-1227, Idaho Code, and shall be surmounted with a cap of such material and size that can be permanently and legibly marked as prescribed by the manual of surveying instructions issued by the United States department of the

interior, bureau of land management, including the license number of the professional land surveyor responsible for placing the monument. "

I believe my lack of understanding stems from the use of the work "marked" in these various parts of Idaho Code. In one case, it speaks to marking or tagging with the license number. In another case, it speaks to marking so that measurements may be made within a certain dimension and on the third case it states that the permanent reliable monuments must be permanently "marked".

1) Does this mean that there is a requirement to affix your license number to each and every survey monument set in the field which shows boundary locations, or are we simply setting a monument with no tagging on it, but setting a mark "on the monument", if it is larger than 1/10th of a foot, so measurement can be made to it?

2) Surveyors frequently change their place of employment and seldom do they take the records of each survey they performed for their prior employer with them when they go to another firm. It occurs to me that should there be a dispute about the location of a corner, not only the licensed surveyor responsible for setting the corner, but also the records he used to determine where he set the corner are pertinent. I am wondering if the intent and practical use of law would not allow a business entity registered under Idaho Code 54-1235 to affix their certificate of authorization number on the survey tag. This is if, in fact, the answer to question number one, above, is in the affirmative that some form of numbering and tagging does need to be left on survey monuments. The reason I write this letter is because I see various standards used by different surveyors or firms practicing here in the Boise Valley and it seems that clarification should be made to Idaho Code.

The Board response dated February 2, 1990 is below:

Dear Mr. PLS:

In response to your correspondence of September 26, 1989 the Board considered your questions and have evaluated the statutes and the following represents the Board opinion.

Of the three Sections of Idaho Code for which you requested a clarification, Section 55-1608 is the most clear. This section requires that " Any monument set shall conform to the provisions of section 54-1227, Idaho Code, and shall be surmounted with a cap of such material and size that can be permanently and legibly marked as prescribed by the manual of surveying instructions issued by the United States department of the interior, bureau of land management, including the license number of the professional land surveyor responsible for placing the monument." That same Chapter and Title of the Idaho Code defines a "monument" as a "physical structure that occupies the exact position of a corner" and defines a "corner" as a "property corner, or a property controlling corner, or a public land survey corner, or any combination of these". Section 55-1906 of the Record of Survey law requires the record to show "All monuments found

or set or reset or replaced or removed, describing their kind, size, location using bearing and length of lines, and giving other data relating thereto." It is our interpretation of the intent of Section 55- 1608 to include property and property controlling monuments - the set, reset, replace portion of 55- 1906. To stretch this coverage to include the random PK nails, hub and tack, etc. set by the surveyor during his control survey is unrealistic and unenforceable. Premolded plastic or precast aluminum caps set on steel rebars and identifying the surveyor by license number are used in practice, and stamping of pertinent information (including the license number) on brass caps with number and letter dies would be considered acceptable, as might other means of identification such as wiring a scribed or otherwise marked metal identification tag to the monument. This letter is not intended to serve as an all-inclusive listing of acceptable means of marking monuments, but only as a guide.

Idaho Code Section 54-1227 requires professional land surveyors to " to set permanent and reliable magnetically detectable monuments at all unmonumented corners field-located... and such monuments must be ... permanently marked with the license number of the professional land surveyor responsible for placing the monument." In conjunction with Section 55-1608 discussed above, we interpret this "mark" to be an identification of the responsible surveyor, not necessarily a physical point or scribe on the monument itself identifying the exact point as it falls on the head of the hardware used as the monument.

Finally, Idaho Code Section 50-1303 and 55-1608 indicates that " Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot. " Our interpretation of this Section is that if a monument is greater in diameter than one tenth (1/10) of a foot then a mark or scribe should be indicated on the head of the monument such that the mark is within one tenth (1/10) of a foot of the exact location of the point as indicated on the plat. If the head of the monument is less than one tenth (1/10) of a foot in diameter then the head of the monument itself should be positioned to within one tenth (1/10) of a foot of the exact location of the point as indicated on the plat.

In regard to your question about affixing a tag to monuments identifying the business entity employing the responsible surveyor who sets the monuments, we are of the opinion that such identification, while permissible and perhaps of value, would not be mandatory. Idaho Code Section 54-1235 allows the offering of professional engineering or professional land surveying services as follows: "The practice of or offer to practice professional engineering or professional land surveying, as defined in this chapter, by professional engineers or professional land surveyors, through a business entity, or by a business entity through professional engineers or professional land surveyors, as employees, or officers, is permitted subject to the provisions of this chapter, provided that all personnel of such business entity, who act in its behalf as professional engineers or professional land surveyors in this state are licensed as provided by this chapter" The Code further states that "No business entity shall be relieved of responsibility for the conduct or acts of its employees or officers by reason of its compliance with the provisions of this chapter, nor shall any individual practicing

professional engineering or professional land surveying . . . be relieved of responsibility for engineering or land surveying services performed by reason of his employment or relationship with such business entity. All final drawings, specifications, plats, reports, or other engineering or land surveying papers or documents involving the practice of professional engineering or professional land surveying. . . which shall have been prepared or approved for the use of or for delivery to any person or for public record within this state shall be dated and bear the signature and seal of the professional engineer or professional land surveyor who prepared or approved them." This portion of the Code clearly makes the individual licensee responsible for the work, even though it may be performed through a business entity which has been issued a Certificate of Authorization. Professional seals are to be used by individual licensees and are not authorized for use by business entities.

We want to reiterate the interrelationship between the marking of monuments, the Record of Survey, and Corner Perpetuation and Filing. The purpose of this combination is to leave a permanent record, not only of surveyors who have moved, but those who have passed on. Real property and the survey records thereof are forever. Professional land surveyors need to be proud of what they do and of the records of their endeavors.

We appreciate your inquiry and concur that there may be room for improvement in the language of the Idaho Code. While it is too late for our Board to submit suggested changes to the laws for the current session of the legislature, we will consider such changes for subsequent sessions and would welcome your input as to the specific language which might better define the requirements.

Please contact the Board Executive Director if you have further questions on these matters.

Key words: monument, markings, cap, tag, stamp

Approved: May 1990, NB15. Updated 7-30-2020

## **TIES TO MONUMENTS**

### **Question 3**

My question is that I did a survey and did not tie into 2 land corner Monuments. I had traced a previous surveyor and tied into a neighboring plat that I have listed as The Estates. I was not able to gain permission the day of the survey to locate the meander so I located accessories to the Section Line. The question is do I need to go out again and tie into the meander corner to the south? Surveyor from Spokane, WA.

### **Answer**

The relevant portions of Idaho Code are highlighted below.

**55-1906. Records of survey -- Contents.** *The records of survey shall show:*

- (1) All monuments found or set or reset or replaced, or removed, describing their kind, size, location using bearings and distances, and giving other data relating thereto;*
- (2) Evidence of compliance with chapter 16, title 55, Idaho Code, including instrument numbers of the most current corner records related to the survey being submitted and instrument numbers of corner records of corners which are set in conjunction with the survey being submitted; **basis of bearings**, bearing and length of lines, graphic scale of map, and north arrow;*
- (3) Section, or part of section, township and range in which the survey is located and reference to surveys of record within or crossing or adjoining the survey;*
- (4) Certificate of survey;*
- (5) Ties to at least two (2) public land survey corner monuments of record in one (1) or more of the sections containing the record of survey, or in lieu of public land survey corners, to two (2) corners of record recognized by the county surveyor. Records of survey which are within previously platted subdivisions of record need not be tied to public land survey corner monuments.***

In reviewing the information you included with your question, you have complied with the current Idaho Code by tying and showing the found monuments along the easterly boundary of *The ESTATES* which you have listed as (R3) in your Record Document list, and would not be required to tie the meander corner. Past Board opinions have determined that a subdivision plat that has been approved by the County Surveyor means that it has been recognized by said party and would, therefore, fall under “corners of record recognized by the county surveyor.”

However, the subdivision boundary line should be shown as your basis of bearing and not the section line using the meander corner that you did not locate. The Board has given an opinion that the basis of bearing must be on a line that has a found and tied monument at each end.

Key words: Monuments, Record of Survey, Basis of Bearing, County Surveyor, Corners of Record, Public Land Survey Corner

Approved 1-1-2017, NB58

## PLATS

Affidavit of Correction Not for Revisions

Amended Plat Sealed by New Surveyor

Board Opinion on Reviewing Surveyor

Both Lot and Block Numbers Needed

City Engineer License Number or Seal on Plat

Condominium Plats Require PLS

Dimensions and Elevations of Condominiums

Plat Seal Reviewing Surveyor

Plats City Engineer Seals

Preliminary Plat Must be Sealed

Relative Elevations Acceptable on Condominium Plats

Seal on All Plat Sheets



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

April 2, 2008

Richard D. Dunn, Administrator  
Twin Falls County Planning and Zoning Administration  
246 Third Avenue East  
Twin Falls, Idaho 83301

Dear Mr. Dunn:

At its meeting on February 26-28, 2008 the Board reviewed your correspondence dated January 2, 2008 regarding changes made to plats through affidavits. The Board voted to inform you that, in its opinion, relative to surveying, Idaho Code Section 55-816 is intended to record "corrections," not major revisions to recorded plats as the example you proved for our review seems to try to accomplish. The Board is not familiar with any other sections of Idaho Code that address corrections of recorded documents by affidavit, nor is the Board familiar with any case law regarding Idaho Code Section 55-816. The filing of an amended plat should eliminate the possibility that improvements will be placed within the expanded easements created in the affidavit.

Please call if you have any questions.

For the Board,

James H. Milligan, P.E., Ph.D.  
Board Chair

JHM/DLC/dc:Dunn, Richard D.2008-02 Meeting

EQUAL OPPORTUNITY EMPLOYER





---

**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

September 7, 2006

David Couch, P.L.S.  
395 E. Ustick  
Meridian, Idaho 83642

Patrick Scheffler, P.L.S.  
1967 Creekside Lane  
Boise, Idaho 83706

Dear Mr. Couch and Mr. Scheffler:

At its meeting on August 29, 30 & 31, 2006 the Board of Registration of Professional Engineers and Professional Land Surveyors reviewed an email from David Couch, P.L.S. to David Curtis, P.E. and John Howe, P.L.S dated July 11, 2006 as well as an email from Patrick Scheffler, P.L.S. to David Curtis, P.E. dated August 28, 2006. The issue related to a professional land surveyor filing an amended plat on a subdivision originally surveyed by a different professional land surveyor.

The Board expressed an opinion that an amended plat is a separate and distinct document from the original plat. A professional land surveyor in responsible charge of the amended plat, who takes no exception to the survey which created the original plat, and identifies the corners and monuments as having been set originally by the first professional land surveyor, can sign as being in responsible charge of the amended plat.

Please call if you have any questions.

For the Board,

Scott McClure, P.E. Board Chair  
SM/DLC/dc:Couch, David and Scheffler, Patrick.2006-08 Meeting

EQUAL OPPORTUNITY EMPLOYER

## **BOARD OPINION REGARDING 50-1305 REVIEWING SURVEYOR**

In the section of State law related to subdivisions, Idaho Code **50-1305 Verification** reads;

*“The county shall choose and require an Idaho professional land surveyor to check the plat and computations thereon to determine that the requirements herein are met and said professional land surveyor shall certify such compliance on the plat. Such certification shall not relieve the professional land surveyor who prepared the plat from responsibility for the plat.”*

There are two ways counties have complied with this section of code. Some counties assign the duty to the County Surveyor, others contract with a professional land surveyor in the community. The requirements of the law are the same regardless of how the review is accomplished. Compliance checks of recently recorded plats have revealed several common problems. This opinion is intended to clarify the expectations of the Board.

Idaho Code 50-1304 is titled “Essentials of Plats” and contains a list of basic requirements to be met and items to be included on subdivision plats. Licensees are reminded there are 34 other sub-chapters in 50-13 over 20 of which apply to most subdivisions. Numerous references in the law incorporate other sections of code. 55-1901 Idaho Code reads as follows:

*55-1901. PURPOSE. The purpose of this chapter is to provide a method for preserving evidence of land surveys by providing for a public record of surveys. **The provisions shall be deemed supplementary to existing laws relating to surveys, subdivisions, platting and boundaries.***

This is a clear link requiring subdivision plats to also meet Title 55, Chapter 19 requirements for surveys. Accepting the assignment of 50-1305 reviewing surveyor requires the licensee to know and understand these requirements. Signing the plat in the review capacity is a tacit declaration of expertise in platting and survey law. Licensees are reminded of IDAPA 24.32.01.B.101.01:

***Assignments in Field of Competence. A Licensee must undertake to perform assignments only when qualified by education or experience in the specific technical field involved, however, a Licensee, as the prime professional, may accept an assignment requiring education or experience outside of his own field of competence, but his services are restricted to those phases of the project in which the Licensee is qualified. All other phases of such project must be performed by qualified associates, consultants or employees. For projects encompassing one (1) or more disciplines beyond the Licensee’s competence, a Licensee may sign and seal the cover sheet for the total project only when the Licensee has first determined that all***

*elements of the project have been prepared, signed and sealed by others who are competent, licensed and qualified to perform such services.*

While the licensee preparing the plat is responsible for meeting the laws, rules and standard of care, the reviewing surveyor has certified compliance and is responsible as well. Inadequate review or certifications made without the required qualifications can result in discipline or civil liability. Professional land surveyors should check with their E&O provider before accepting these assignments.

As stated above the review of plats is performed by both County Surveyors and contracted 50-1305 surveyors. There is a common misconception that having a contract to review plats makes one a County Surveyor. That is not accurate. The County Surveyor has authorities and duties in statute specific to that office. The certification each places on a plat after review will vary in form.

A 50-1305 reviewing surveyor must include a certification such as “I, the undersigned, in my capacity as reviewing surveyor under 50-1305 Idaho Code do hereby certify that I have checked this plat and that it complies with Idaho Code related to plats and surveys.” The statement must be signed and dated by the licensed professional land surveyor along with his or her printed name and license number. The seal of the land surveyor may but is not required to be used on the plat in lieu of license number so long as the reviewing surveyor’s certification statement is next to the seal.

A County Surveyor reviewing a plat must use a certificate tailored to his office such as, “I, the undersigned, County surveyor in and for (county name) County do hereby certify that I have checked this plat and that it complies with Idaho Code related to plats and surveys.”

The reviewing or county surveyor signature should not sign the plat before it is complete and ready to record.

Keywords: plat, survey, reviewer, professional land surveyor, seal, verification, certification.

Approved: September 11, 2020

## **BOTH LOT AND BLOCK NUMBERS NEEDED**

### **Question**

I am asking if Lots are needed in a Block? I am platting a new subdivision and I have attached an exhibit map for your reference. The Block in question is Block 16. Block 16 will be an unbuildable area or designated as "Open Space". It seems that

identifying it as Block 16 versus of Lot 1, Block 16 or Parcel A, Block 16, is a cleaner method. I would like to get the boards opinion for this situation.

**Answer**

The Board considered your request below at its meetings Jan 28-29, 2016 and “**it requires both lot and block numbers.**”

Keywords: lot, block, subdivision, plat

Approved 1-2-2016

**CITY ENGINEER’S SEAL ON PLATS IS OPTIONAL**

The Fall/Winter 2016 Board Opinion regarding Surveyor’s seal on plats raised a question from a County Surveyor about whether or not the professional engineer reviewing and signing the plat on behalf of a city should also include his or her license number.

**Idaho Code 50-1308 Approvals** says “*No plat of a subdivision requiring city approval shall be accepted for record by the county recorder unless said plat shall have first been submitted to the city and has been accepted and approved and shall have written thereon the acceptance and approval of the said city council and bear the signature of the city engineer and city clerk.*”

To remain consistent with the previous opinion, and to ensure that the person signing as the city engineer is indeed licensed, the professional engineer signing on behalf of the city should sign, date and include their license number. The seal of the professional engineer may be, but is not required to be used on the plat in lieu of license number so long as the reviewing engineer’s approval statement is next to the seal.

Keywords: seal, plat, city engineer, subdivision

Approved 11-7-2017 NB60

**CONDOMINIUM PLATS MUST BE COMPLETED BY PLS**

The Board reviewed an inquiry from s P.E./L.S. in which he asked the Board “I’m wondering if you could enlighten me on how you think the surveying world, including the Board, has come to the conclusion that condo plats must be done by a PLS.”

The Board responded that it relies upon Idaho Code Section 55-1527 which states

“55-1527. ZONING LAWS APPLIED WHERE NOT INCONSISTENT. Except where inconsistent with the provisions or purposes of this act, state and local laws relating to plats, recording, subdivisions or zoning shall apply to condominiums and to projects as herein defined.”

The Board also relied on Idaho Code Section 50-1309, which states, in pertinent part,

“The professional land surveyor making the survey shall certify the correctness of said plat and he shall place his seal, signature and date on the plat.”

Keywords: plat, condominium, professional land surveyor

Approved 6-2008, NB 41

## **Consecutive Numbering of Lots Required in Subdivisions**

Several professional land surveyors have approached Board staff with questions related to apparent conflicts between Idaho Code and local ordinances related to subdivision plats. The primary concern is that some jurisdictions are requiring plats to show some lots designated with numbers and other lots labeled as “tracts” designated by letters. These questions are coming from both platting surveyors and reviewing surveyors working under 50-1305 Idaho Code.

### **Analysis:**

Idaho Code 50-1304(2); Essential of Plats; reads in pertinent part:

50-1304. ESSENTIALS OF PLATS. (2) The plat shall show: (a) the streets and alleys, with widths and courses clearly shown; (b) each street named; (c) **all lots numbered consecutively in each block, and each block lettered or numbered**, provided however, in a platted cemetery, that each block, section, district or division and each burial lot shall be designated by number or letter or name; *[emphasis added]*

The clear language of the statute requires consecutive numbering for all lots within each block. The primary purpose of the plat is to create the individual parcels and the legal description for each. The requirement that the designations be “numbered consecutively” is intended to make the descriptions uniform throughout the State of Idaho. While the Statute allows the political subdivisions local control over many functions of subdividing, the core system of describing the lots is fixed in code. Every parcel created by plat must be consecutively numbered within each block, except for burial lots in cemeteries.

The second component to this question is the use of the term “Tract” to designate lots. The terms “lot” and “tract” are not defined in statute. Both terms are used throughout Title 50, Chapter 13 and meanings can be derived with reasonable certainty. Context tells us repeatedly that “tract” is the larger parcel and “lot” is the unit of division. The term “tract” is used nearly 120 times in Idaho Code and almost universally refers to larger parcels as opposed to units of a subdivision.

### **Summary:**

Idaho Code 50-1304 states that all lots in the subdivision are to be numbered consecutively. The fact that an exception for cemeteries is described immediately after this makes the existence of other, unwritten exceptions highly unlikely. The absence of a prohibition against using terms other than “lot” should not be construed as an invitation to do so. This is especially true where the term being used to describe lots has a different common meaning. Both the platting surveyor and the 50-1305 reviewing surveyor must adhere to the clear language of the statute. Where local ordinance does not follow Idaho Code, the professional land surveyor must work with the local authority having jurisdiction to resolve the conflict in a productive and professional manner.

Keywords: Subdivision, plat, tracts, lots, numbers, parcels

Approved: AGD 11-17-2020



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

April 24, 2007

Gary Briant, P.L.S., Survey Manager  
Welch Comer & Associates, Inc.  
1626 Lincoln Way  
Coeur d'Alene, Idaho 83814

Dear Mr. Briant:

At its meeting on April 19 & 20, 2007 the Idaho Board of Registration of Professional Engineers and Professional Land Surveyors reviewed your email to Dave Curtis dated February 23, 2007. The Board voted to advise you that the relative location and approximate dimensions of interior perimeter walls of each condominium unit are sufficient and that the elevations can be relative and need not be tied to a standard datum.

Please call if you have any questions.

For the Board,

Scott McClure, P.E.  
Board Chair

SM/DLC/dc:Briant, Gary.2007-04 Meeting

EQUAL OPPORTUNITY EMPLOYER



## **PLAT SEAL REVIEWING SURVEYOR**

In January of 1999, News Bulletin 28, the Board issued an opinion that surveyors who were reviewing plats on behalf of a county and certifying compliance, should not place their seal on the plat. Recently, the Board has discovered some reviewing surveyors continue to place their seal on the plats. After further review, the Board has revised that opinion as follows:

Idaho Code **50-1305 Verification** says “The county shall choose and require an Idaho professional land surveyor to check the plat and computations thereon to determine that the requirements herein are met, and said professional land surveyor shall certify such compliance on the plat. Such certification shall not relieve the professional land surveyor who prepared the plat from responsibility for the plat.”

The reviewing surveyor in all cases should include a statement such as “I, the undersigned, county surveyor in and for (county name), Idaho, do hereby certify that I have checked this plat and that it complies with the state of Idaho code related to plats and surveys.” The statement should be signed and dated by the licensed professional land surveyor along with the license number. The seal of the land surveyor may be, but is not required to be used on the plat in lieu of license number so long as the reviewing surveyor’s certification statement is next to the seal.

Key words: plats, seal, verification

Approved 1-1-2017, NB58

## **PLAT CITY ENGINEER SEALS**

### **Question 1- Should the City Engineer include the license number when signing plats?**

The Fall/Winter 2016 Board Opinion regarding Surveyor’s seal on plats raised a question from a County Surveyor about whether or not the professional engineer reviewing and signing the plat on behalf of a city should also include his or her license number.

### **Answer**

**Idaho Code 50-1308 Approvals** says “*No plat of a subdivision requiring city approval shall be accepted for record by the county recorder unless said plat shall have first been submitted to the city and has been accepted and approved and shall have written thereon the acceptance and approval of the said city council and bear the signature of the city engineer and city clerk.*”

To remain consistent with the previous opinion, and to ensure that the person signing as the city engineer is indeed licensed, the professional engineer signing on behalf of the city should sign, date and include their license number. The seal of the professional engineer may be, but is not required to be used on the plat in lieu of license number so long as the reviewing engineer's approval statement is next to the seal.

Keywords: plats, city engineer, seal, sign

Approved 1-2-2018, NB60



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>  
December 1, 2008

Randall K. French, P.L.S.  
P.O. Box 3149  
Hailey, Idaho 83333

Dear Mr. French:

At its meeting on November 20-22, 2008 the Board of Licensure of Professional Engineers and Professional Land Surveyors reviewed your email exchange with David Curtis regarding Idaho Code Section 54-1215(3)(b) and the need to seal and sign and date preliminary plats "thru their metamorphosis of the project." The Board reviewed the subject Idaho Code Section which states

"(b) The seal, signature and date shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations, whenever presented to a client or any public or governmental agency. Any such document presented to a client or public or governmental agency that is not final and does not contain a seal, signature and date shall be clearly marked as "draft," "not for construction" or with similar words to distinguish the document from a final document. In the event the final work product is preliminary in nature or contains the word "preliminary," such as a "preliminary engineering report," the final work product shall be sealed, signed and dated as a final document if the document is intended to be relied upon to make policy decisions important to the life, health, property, or fiscal interest of the public."

The Board concluded that each iteration of a preliminary plat could be relied upon to make policy decisions important to the life, health, property or fiscal interest of the public and that iterations of preliminary plats submitted to clients or public or governmental agencies must be sealed, signed and dated.

Please call David Curtis, P.E. at the Board office if you have any questions.

For the Board,

John W. Howe, P.L.S.  
Board Chair

DLC/JWH/dc:French, Randy.2008-11 Meeting

EQUAL OPPORTUNITY EMPLOYER

## **RELATIVE ELEVATIONS ACCEPTABLE ON CONDOMINIUM PLATS**

A P.L.S. asked the Board several questions regarding condominiums. Idaho Code Section 55-1504iii requires “diagrammatic floor plans of the building or buildings built or to be built thereon in sufficient detail to identify each unit, its relative location and approximate dimensions, showing elevations where multi-level or multi-story structures are diagrammed.” Idaho Code Section 55-1509(a) states, in pertinent part, “In interpreting the declaration, plat or plats, and deeds, the existing physical boundaries of the unit as originally constructed or as reconstructed in lieu thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed or depicted in the declaration, plat or plats, or deed, regardless of settling lateral movement of the building and regardless of minor variance between boundaries shown in the declaration, plat or plats, or deed and the actual boundaries of units in the building.” He comments “My interpretation of diagrammatic floor plans . . . is that the plat simply needs to show a width, length and height of the interior perimeter walls of each unit. . . I’m just looking for a way to calculate what the air space would be that [the] public is buying. . . In other words the building itself is the monument.” The Board agreed and told him that the relative location and approximate dimensions of interior perimeter walls of each condominium unit are sufficient. On another related matter he asked the Board for an interpretation of the requirement in Idaho Code Section 55-1504 which requires “showing elevations where multi-level or multi-story structures are diagrammed.” He said “My interpretation of “showing elevations” is to show by either a section view with dimensions showing the height from finish floor to finish ceiling and if multi-story showing a relationship to each story finish floor from the first floor finished elevation. This could be done also with elevations of each finished floor and ceiling elevation or elevations if ceiling heights vary. Where the confusion comes in is there are some that feel that this section is referring to actual elevations from a known datum like NGVD 29 or NAVD 88 for each of these. I feel it is just dimensions to be able to calculate volume of space that the person is buying and that a known datum is unnecessary.” Again, the Board agreed with him and told him that the elevations can be relative and need not be tied to a standard datum.

Key words: Condominiums, datum, elevations, floors, multi-level, multi-story, plats

Approved 11-2007, NB40

## **SEAL ON ALL PLAT SHEETS**

A professional land surveyor who reviews plats on behalf of a county in Idaho inquired recently whether all sheets of a subdivision plat need be sealed, signed and dated by the professional land surveyor in responsible charge of the preparation of the plat. The Board

expressed the opinion that the “map” sheet(s) of the plat must be sealed, signed, and dated as well as the “Surveyors Certificate”. The Board based its opinion on Idaho Code §54-1215(3)(c) which states, in pertinent part, “Each plan or drawing sheet shall be sealed and signed by the licensee or licensees responsible for each sheet”, and on Idaho Code §50-1309 which states, in pertinent part, “The professional land surveyor making the survey shall certify the correctness of said plat and he shall place his seal, signature and date on the plat.”

Keywords: seal, plats, surveyor’s certificate

Approved 10-2002, NB 33

# PRACTICE OF PROFESSIONAL LAND SURVEYING

ALTA Surveys Considered a Report

ALTA Surveys Amended Opinions

Authoritative Professional Land Surveying

Error of Closure

Land Surveying County Ordinance

Limits of Surveying by Engineers

PLS Must Seal Legal Descriptions

PLS Required for Land Surveys and Marking Boundaries

PLS Required for LOMR

Practice of Surveying with Drones

Prescriptive Surveying Courses for Licensure



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

March 15, 2010

Dustin C. Shenk, P.L.S.  
P.O. Box 2263  
Hailey, ID 83333

Dear Mr. Shenk:

At its meeting on March 11 & 12, 2010 the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors reviewed your email to Dave Curtis dated March 8, 2010 concerning ALTA surveys. The Board asked me to inform you that they are of the opinion that an ALTA survey would be a “report” as that term is used in Idaho Code Section 54-1215(3)(b). The Board also stated that it has no jurisdiction or responsibility for the contents of the ALTA survey checklist or its requirements. The guiding principle is that if a professional land surveyor makes a survey in conformity with established principles of land surveying, they must file a Record of Survey if that survey results in any of the conditions listed in Idaho Code Section 55-1904. In coming to this conclusion, the Board referenced the definition of a “survey” contained in Idaho Code Section 55-1902 which is “. . . the locating and monumenting of points of lines which define the exterior boundary or boundaries common to two (2) or more ownerships, except those boundaries defining ownership in established and ongoing mineral extraction operations; or which reestablish or restore public land survey corners in accordance with established principles of land surveying by or under the supervision of a surveyor.”

Please call the Board office at (208) 373-7210 if you have any questions.

For the Board,

William J. Ancell, P.E.  
Board Chair

DLC/WJA/dc:Shenk, Dustin C.2010-03 Meeting Correspondence

EQUAL OPPORTUNITY EMPLOYER

## BOARD AMENDS 2010 OPINION ON ALTA SURVEYS

**Question:** Is an ALTA Survey a report or is it a boundary survey?

**Answer:** The short answer is it is both. The ALTA map product is a report requiring the signature and seal of the professional surveyor in responsible charge. In addition, the ALTA standards clearly require several elements of the map to be located with respect to the boundary of the subject property. The surveyor must also make several statements regarding the boundary that involve measuring the points and lines that define the parcel. It is not physically possible to perform an ALTA survey without performing a boundary survey. If any of the corners are not monumented, it is the duty of the professional surveyor under 54-1227 Idaho Code to monument the corner. If this or any other conditions in 55-1904 requiring a record of survey exist, the professional surveyor must file a record of survey.

**Question:** My client did not select Item 1 of Table 'A' when requesting an ALTA survey. This item requires the surveyor to set monuments at corners of the property where no monument exists. Does this mean I don't have to set monuments?

**Answer:** No. Idaho Code 54-1227 reads as follows:

*54-1227. SURVEYS — AUTHORITY AND DUTIES OF PROFESSIONAL LAND SURVEYORS AND PROFESSIONAL ENGINEERS. Every licensed professional land surveyor is hereby authorized to make land surveys and **it shall be the duty of each licensed professional land surveyor, whenever making any professional boundary land survey as defined in section 54-1202, Idaho Code, that is not preliminary in nature, to set permanent and reliable magnetically detectable monuments at all unmonumented corners field located, the minimum size of which shall be ... [emphasis added]***

The ALTA standards are clear where state or local laws are different, the more restrictive applies. Even without this statement in the standards, professional surveyors are required to understand and adhere to the laws, rules and standard of care for surveys in Idaho.

**Question:** What if a licensee prepares an ALTA survey that does not meet the ALTA minimum standards?

**Answer:** While the board does not enforce rules and standards set by private entities, the Rules of Professional Responsibility place several requirements on licensees. The pertinent rules read as follows:

### **IDAPA 24.32.01.102 PUBLIC STATEMENTS.**

**01. Reports, Statements or Testimony.** *A Licensee or certificate holder must not commit fraud, violate the standard of care, or engage in deceit or misconduct in professional reports, statements or testimony. Each licensee or certificate holder must include all relevant and pertinent information in such reports, statements or*



*testimony and will express opinions in such reports, statements or testimony in accordance with the standard of care.*

**02. Opinions Based on Adequate Knowledge.** *A Licensee or Certificate Holder, when serving as an expert or technical witness before any court, commission or other tribunal, may express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his testimony.*

If the licensee prepares an ALTA Survey (or other professional product) that fails to meet the standard of care or is based on inadequate knowledge they are subject to discipline. That includes falsely or incorrectly certifying adherence to other standards.

Keywords: survey, ALTA, boundaries, monuments

Approved 7-29-2019 NB64, Updated 6-19-2020

## **AUTHORITATIVE PROFESSIONAL LAND SURVEYING**

The Board guidance regarding authoritative professional land surveying is intended to provide an understanding on the services and activities that require a PLS license and those that do not. “Authoritative” is defined in Idaho Code 54-1202(1) as a service or product that is certified by a PLS in accordance with established principles of professional land surveying when used to describe products, processes, applications or data resulting from the practice of professional land surveying.

### **A. Activities Included within Authoritative Professional Land Surveying**

Activities accomplished by or under the responsible charge of a professional land surveyor (unless specifically exempted in subsection B of this section or in 54-1202(12)(b), Idaho Code) include, but are not limited to, the following:

1. The creation of maps and georeferenced databases representing authoritative locations for boundaries, the location of fixed works, or topography. This includes maps and georeferenced databases prepared by any person or government agency where that data is provided to the public as a survey product;
2. Original data acquisition, or the resolution of conflicts between multiple data sources, when used for the authoritative location of features within the following data themes: geodetic control, orthoimagery, elevation and hydrographic, fixed works, private and public boundaries, and cadastral information;
3. Certification of positional accuracy of maps or measured survey data;
4. Adjustment or authoritative interpretation of raw survey data;
5. Geographic Information System (GIS)-based parcel or cadastral mapping used for authoritative boundary definition purposes wherein land title or development rights for individual parcels are, or may be, affected;
6. Authoritative interpretation of maps, deeds, and other land title documents to resolve conflicting data elements;

7. Acquisition of field data required to authoritatively position fixed works or cadastral data relative to geodetic control;
8. Analysis, adjustment or transformation of cadastral data of the parcel layers with respect to the geodetic control layer within a GIS resulting in the affirmation of positional accuracy.

## **B. Activities Excluded from the Practice of Authoritative Professional Land Surveying**

A distinction must be made in the use of electronic systems between making or documenting original measurements in the creation of survey products, versus the copying, interpretation, or representation of those measurements in such systems. Further, a distinction must be made according to the intent, use, or purpose of measurement products in electronic systems to determine a definitive location versus the use of those products as a locational reference for planning, infrastructure management, and general information. The following items are not to be included as activities within the definition of the practice of professional land surveying:

1. The creation of general maps
  - a. Prepared by private firms or government agencies for use as guides to motorists, boaters, aviators, or pedestrians;
  - b. Prepared for publication in a gazetteer or atlas as an educational tool or reference publication;
  - c. Prepared for or by education institutions for use in the curriculum of any course of study;
  - d. Produced by any electronic or print media firm as an illustrative guide to the geographic location of any event;
  - e. Prepared by laypersons for conversational or illustrative purposes. This includes advertising material and users guides.
2. The transcription of previously georeferenced data into a GIS or LIS by manual or electronic means, and the maintenance thereof, provided the data are clearly not intended to indicate the authoritative location of property boundaries, the precise definition of the shape or contour of the earth, and/or the precise location of fixed works of humans;
3. The transcription of public record data, without modification except for graphical purposes, into a GIS- or LIS-based cadastre (tax maps and associated records) by manual or electronic means, and the maintenance of that cadastre, provided the data are clearly not intended to authoritatively represent property boundaries. This includes tax maps and zoning maps;
4. The preparation of any document by any federal government agency that does not define real property boundaries. This includes civilian and military versions of quadrangle topographic maps, military maps, satellite imagery, and other such documents;
5. The incorporation or use of documents or databases prepared by any federal agency into a GIS/LIS, including but not limited to federal census and demographic data, quadrangle topographic maps, and military maps;
6. Inventory maps and databases created by any organization, in either hard-copy or electronic form, of physical features, facilities, or infrastructure that are wholly contained within properties to which they have rights or for which they have management responsibility. The distribution of these maps and/or databases outside the organization

must contain appropriate metadata describing, at a minimum, the accuracy, method of compilation, data sources and dates, and disclaimers of use clearly indicating that the data are not intended to be used as a survey product;

7. Maps and databases depicting the distribution of natural resources or phenomena prepared by foresters, geologists, soil scientists, geophysicists, biologists, archeologists, historians, or other persons qualified to document such data;

8. Maps and georeferenced databases depicting physical features and events prepared by any government agency where the access to that data is restricted by statute. This includes georeferenced data generated by law enforcement agencies involving crime statistics and criminal activities.

Keywords: authoritative, surveys, clients, maps, boundaries

Approved April 8, 2020

## **ERROR OF CLOSURE FOR LAND SURVEYING**

During the Second Regular Session - 1984 of the 47th Legislature of the State of Idaho, a bill concerning the limits of allowable error of closure in making surveys was enacted by the legislature.

*55-1911. ERROR OF CLOSURE. Any survey of land involving property boundaries, including, but not limited to, public land survey lines, shall be conducted in such a manner to produce an unadjusted mathematical error of closure of each area bounded by property lines within the survey of not less than one (1) part in five thousand(5,000).*

Key words: error of closure, new section, surveys, property boundaries, public land survey lines.

Approved March 1985, NB 8. Updated 6-19-2020

## **LAND SURVEYING COUNTY ORDINANCE**

### **Question 4 - Is Non-Compliance with County Ordinance a Violation**

I have a questions about your “rule” listed below.

**Rules of Professional Responsibility.** Whenever a licensee receives a license or signs a license renewal form they certify that they have read and agree to abide by those rules. Let’s focus on a few of those Rules.

**Primary Obligation.** What does that mean? Our Rules of Professional Responsibility (IDAPA 24.32.01.100.01) say that it means “*All Licensees and Certificate Holders shall*

*at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties.”*

A county in Idaho has adopted a Property Boundary Adjustment Ordinance to guide the changing of property lines between adjacent property owners. A survey, which is signed by our Zoning Administrator, states that the “new” line meets zoning setbacks and there are “no” encroachments (by improvements to the land, i.e. sheds, garages, houses, etc.). When completed, at the time the survey is recorded, there will be conveyances recorded which includes “new **total**” property descriptions. [There is also an application fee of \$130, plus affidavits signed by all property owners involved, who agree to the change(s).] Because the county may have a lien on the property for current taxes, and/or there might be a mortgage (Deed of Trust) on the properties being transferred, taxes must be paid current and they must secure a release from their lender.

This past week a surveyor recorded a survey without complying with the county ordinance. Deeds have not come through yet, but this is a clear indication they desire to make a change. As a courtesy, I sent a notice to the surveyor explaining our ordinance, providing him with both a copy of the ordinance and the application. I was surprised by his response: *“I am well aware of the County Ordinance and have advised my client of his responsibility to follow it. I cannot force him to do so but I am obligated by state law to file my survey regardless of compliance with the County ordinance which is why I recorded the survey.”*

I am aware of his obligation to record a survey, but how is he “protecting the public interest”? When this was recorded, I notified Development Services who sent a letter to the surveyor also explaining the County Ordinance. If deeds come through, I will again notify Development Services, who will now contact the property owners involved telling them they must comply with the county ordinance. Depending on their reply, this might be forwarded to the Prosecuting Attorney’s Office who will send their own letter. In the meantime we have a problem with their parcels in the Assessor’s Office. We may have to add “all” their names to the parcels affected (as having an interest) until they either comply or “undo” the change(s). If someone defaults on these **new** descriptions, then the mortgage company and possibly the County Treasurer may have an issue collecting because other parties are now involved. If sold to new, unsuspecting buyers, they might be confused on just what they own.

Is this not saying “a surveyor will do anything for money”, but as long he complies with the state’s recording requirements, he’s okay? Is this protecting the public interest?

County Map Technician

**Answer**

Hello. I am the attorney for the Idaho Board of Professional Engineers and Professional Land Surveyors. Please forgive the informality of an email response to your inquiry of July 5, 2017, but the only contact information you supplied was an email address and phone number.

The Board took up your inquiry at its September meeting. After discussion, the Board asked me to reach out to you. In the fact scenario you gave the Board, the surveyor was correct in recording the record of survey, in that when field work is completed and monuments are set a record of survey must be filed as a matter of state law. I understand that the County Ordinance imposes other duties, but these duties seemingly apply to the landowner. I also understand there is a dispute of fact between the landowner and the surveyor. Based on the information before the Board, it does not appear that the dispute falls within the subject matter of the state statutes defining misconduct or the Board's Rules of Professional Responsibility. I will say that the protection of the public is the primary mission of the Board, but an allegation of impropriety must fall within the specific confines of the statutes or rules to be actionable. Failing to follow an ordinance (assuming it applies to the surveyor as opposed to the landowner) does not fall within the strictures of the Rules, and so the Board has no jurisdiction in the matter. In other words, failing to comply with a county ordinance does not fit within the acts covered by the state laws, despite the potential argument that could be made that the surveyor did not protect the public generically.

If you feel this matter is worthy of further discussion, please have your county prosecutor contact me.

Michael J. Kane

Keywords: county ordinance, record of survey, compliance, deeds, dispute

Approved 1-1-2018, NB60. Updated 6-19-2020



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

March 7, 2008

Joel Slate, P.E., CPESC, Harvesting Forester  
Potlatch Forest Products Corporation  
Panhandle RMU – St. Joe Forest Area  
531 Washington Avenue  
St. Maries, Idaho 83861

Dear Mr. Slate:

At its meeting on February 26-28, 2008 the Board reviewed your email exchange with our Executive Director, David L. Curtis, P.E. regarding the practice of surveying by engineers. By way of historical background, prior to 1978 any person licensed as a professional engineer was allowed to practice land surveying. That may have made sense when most, if not all, licensed engineers were civil engineers and were exposed to land surveying practices in their academic curriculum and in their practice. However, as the practice of engineering became more diverse and more specialized, fewer engineers had land surveying competency. In 1978 the legislature passed an amendment to Idaho Code Title 54 Chapter 12 which provided a one-year opportunity for professional engineers to submit evidence of competency in land surveying. If they qualified, those persons were issued a “combined license” as both a professional engineer and a professional land surveyor. If they did not present evidence of land surveying competency, they were no longer allowed to practice land surveying which is the establishment or reestablishment of land boundaries. Since there is a distinction between boundary surveying and non-boundary surveying, Idaho Code Section 54-1227 was amended to allow engineers to continue to do non-boundary surveys such as topography, route surveying, construction surveying, etc. Under current law, if a person desires to become licensed to survey boundaries, they must become licensed as a professional land surveyor.

Please call if you have any questions.

For the Board,

James H. Milligan, P.E., Ph.D.  
Board Chair

JHM/DLC/dc:Slate, Joel.2008-02 Meeting

EQUAL OPPORTUNITY EMPLOYER

## PLS REQUIRED FOR LAND SURVEYS AND MARKING BOUNDARIES

### Background

Several industries manage or acquire natural resources and have workers using GPS or other equipment traditionally considered “survey equipment.” These industries also use in-house talent to prepare contracts, property descriptions and maps. The mining and timber companies also employ field workers to mark trees, roads and excavation areas.

### Questions

Two questions have come up related to this practice.

Can the unlicensed employee of a logging or mining company prepare property descriptions?

Can the unlicensed employee use GPS or other survey instruments to locate and mark the property and/or lease limits for the company?

The answers to both of these questions vary depending on the facts.

### Law

We begin by reviewing the definition of “professional land surveying.” Idaho Code Section 54-1202(12) provides as follows:

*(12) (a) "Professional land surveying" and "practice of professional land surveying" mean responsible charge of authoritative land surveying services using sciences such as mathematics, geodesy and photogrammetry and involving:*

*(i) The making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvement on the earth, and the space above, on or below the earth; and*

*(ii) Providing, utilizing or developing the same into survey products such as graphics, data, maps, plans, reports, descriptions or projects. Professional services include acts of consultation, investigation, testimony, planning, mapping, assembling and interpreting and gathering measurements and information related to any one (1) or more of the following:*

*1. Determining by measurement the configuration or contour of the earth's surface or the position of any fixed objects;*

*2. Performing geodetic surveys to determine the size and shape of the earth or the position of any point on the earth;*

*3. **Locating, relocating, establishing, reestablishing or retracing property lines or boundaries of any tract of land, road, right-of-way, easement or real property lease;***

*4. Making any survey for a division or subdivision or a consolidation of any tracts of land;*

*5. Locating or laying out of alignments, positions or elevations in the field for the construction of fixed works;*

*6. **Determining, by the use of principles of surveying, the position for any boundary or nonboundary survey monument or reference point or for establishing or replacing any such monument or reference point;***

*7. Certifying elevation information;*

8. *Preparing narrative land descriptions; or*
9. *Creating, preparing or modifying electronic or other data necessary for the performance of activities in subparagraphs 1. through 8. of this paragraph.*
- (b) *"Professional land surveying" and "practice of professional land surveying" shall not mean:*
- (i) *Mapping or geographic information system work that is for nonauthoritative boundaries and nonauthoritative elevations;*
- (ii) *Construction survey work that is unrelated to establishing vertical and horizontal project control; or*
- (iii) *Construction staking of fixed works or the development and use of electronic models for machine-controlled construction that by design are unrelated to determining boundaries described in paragraph (a)(ii)3. of this subsection.*
- Any person shall be construed to practice or offer to practice professional land surveying who engages in professional land surveying, or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way, represents himself to be a professional land surveyor, or who represents himself as able to perform or who does perform any professional land surveying service or work or any other service designated by the practitioner which is professional land surveying.*

The first question we will address is the preparation of descriptions.

The law grants professional land surveyors the authority to prepare real property descriptions. The law does not grant surveyors the exclusive right to prepare descriptions. This service is often performed by attorneys, title officers and others. However, professional land surveyors are the only profession allowed to perform a field survey and memorialize the results in a description. If the employee of a company prepares a description from a field survey, they must hold a valid license as a professional land surveyor. The sole exception is work under the exemption in Idaho Code 54-1223. Subsection 1(d) of that statute provides as follows:

**54-1223. Savings Clause—Exemptions.** (1) This chapter shall not be construed to effect:

- (d) *An individual doing surveying work for himself, or through a business entity, on property owned or leased by the individual or business entity, or in which the individual or business entity has an interest, estate or possessory right and **which affects exclusively the property or interests of the individual or business entity;** provided, that all land surveying maps, plats or plans filed with any county recorder's office in the state of Idaho for the purpose of illustrating or defining boundaries of property ownership, shall be made by a licensed professional land surveyor as provided in this chapter.*

Employees practicing under this exemption need to consider the narrow language of the law. The work must not only be entirely within the lease area or ownership of the company but cannot affect the rights of others. Marking an exterior boundary or including corners that control other property is not allowed. Further, if the description includes an exhibit it must be prepared by a professional land surveyor.



### **Use of GPS or Survey instruments**

GPS equipment capable of accurate measurements and positioning is available and in use by numerous trades, industries and professions. The use of GPS or other survey instruments does not change the answers above.

As noted throughout this opinion, a person using GPS equipment does the same work that a professional land surveyor would perform. Unfortunately, an unlicensed person is unlikely to research the existence of other surveys and monuments. Furthermore, inexpensive GPS equipment is not as accurate as other surveying equipment and errors will result. If improperly used, even expensive GPS equipment will lead to erroneous information. As a consequence, the public will have serious problems when property descriptions are created and property lines marked by untrained persons. These violations of Idaho Code may be prosecuted as misdemeanors.

Keywords: boundary, mark, GPS, legal description, land survey, equipment.

Approved June 26, 1998, Letter. Updated 9-11-2020.

### **PLS MUST SEAL LEGAL DESCRIPTIONS**

At the February 2008 Board Meeting, a P.L.S. asked the Board to reconsider its previously expressed opinion regarding the sealing of legal descriptions prepared by professional land surveyors who have not performed a survey in the field of the land being described. At the February 2008 meeting, the Board created a subcommittee consisting of Gary Young, P.E./L.S. and John Howe, P.L.S. with advice and input from attorney Mike Kane and Executive Director David Curtis, P.E. to reevaluate the interpretation and interrelationships of Idaho Code Section 54-1202(12), 54-1215, 54-1227, 55-1902, and 55-1904. Following is that analysis.

The following article from the 31st edition of the Board NEWS BULLETIN (June 2001) is the opinion previously expressed by the Board on the matter.

#### **“BOARD EXPRESSES OPINION ON LEGAL DESCRIPTIONS**

P.L.S. of Lewiston, Idaho asked the Board three questions regarding a preparation of legal descriptions. The questions and the answers provided by the Board follow.

**QUESTION** Should legal descriptions written by professional land surveyors in the State of Idaho be sealed by them?

**ANSWER** Yes, we believe that a professional land surveyor **MUST** seal, sign and date legal descriptions written by them.

**QUESTION** Does it make any difference if the legal description is based on a field survey done by the surveyor or is based on office work only (using deed descriptions and recorded surveys by other surveyors)?

**ANSWER** No [it does not make a difference], but we provide the following additional analysis. Idaho Code section 54-1202(12) defines “land surveying” and “professional land surveying” as:

54-1202. DEFINITIONS. As used in this chapter, unless the context or subject matter requires otherwise:

(12) (a) "Professional land surveying" and "practice of professional land surveying" mean responsible charge of authoritative land surveying services using sciences such as mathematics, geodesy and photogrammetry and involving:

(i) The making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvement on the earth, and the space above, on or below the earth; and

(ii) Providing, utilizing or developing the same into survey products such as graphics, data, maps, plans, reports, descriptions or projects. Professional services include acts of consultation, investigation, testimony, planning, mapping, assembling and interpreting and gathering measurements and information related to any one (1) or more of the following:

1. Determining by measurement the configuration or contour of the earth’s surface or the position of any fixed objects;

2. Performing geodetic surveys to determine the size and shape of the earth or the position of any point on the earth;

3. Locating, relocating, establishing, reestablishing or retracing property lines or boundaries of any tract of land, road, right-of-way, easement or real property lease;

4. Making any survey for a division or subdivision or a consolidation of any tracts of land;

5. Locating or laying out of alignments, positions or elevations in the field for the construction of fixed works;

6. Determining, by the use of principles of surveying, the position for any boundary or nonboundary survey monument or reference point or for establishing or replacing any such monument or reference point;

7. Certifying elevation information;

8. **Preparing narrative land descriptions;** or

9. Creating, preparing or modifying electronic or other data necessary for the performance of activities in subparagraphs 1. through 8. of this paragraph.

(b) "Professional land surveying" and "practice of professional land surveying" shall not mean:

(i) Mapping or geographic information system work that is for nonauthoritative boundaries and nonauthoritative elevations;

(ii) Construction survey work that is unrelated to establishing vertical and horizontal project control; or

(iii) Construction staking of fixed works or the development and use of electronic models for machine-controlled construction that by design are unrelated to determining boundaries described in paragraph (a)(ii)3. of this subsection.

Any person shall be construed to practice or offer to practice professional land surveying who engages in professional land surveying, or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a

professional land surveyor, or who represents himself as able to perform or who does perform any professional land surveying service or work or any other service designated by the practitioner which is professional land surveying. Described in the law is “. . . preparing narrative land descriptions.”

The Board is of the opinion that the practice of professional land surveying includes preparing legal descriptions and if prepared by a professional land surveyor, it is considered to fall within the categories listed in Idaho Code section 54-1215(3)(b) requiring a professional seal, signature and date.

**QUESTION** [Idaho Code section] 54-1215(3)(b) states that “The seal, signature and date shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations, whenever presented to a client or any public or governmental agency.” Do legal descriptions fall into any of these categories?

**ANSWER** A legal description would, in our opinion, be a “report” under Idaho Code section 54-1215(3)(b) which would require a seal, signature and date.

In addition, the legal description work of a professional land surveyor for a client is a report. Although the word “report” is not defined in the statute, Black’s Law Dictionary (Sixth Edition) defines the word “report” to mean: “An official or formal statement of facts or proceedings. To give an account of, to relate, to tell, to convey or disseminate information.” It appears that the preparation and dissemination of a legal description fits within the generally accepted definition of a report. Under those conditions, under the mandatory terms of the Section 54-1215(3)(b), the licensee must seal, sign and date his or her work.

6-2008, NB 41 Updated 6-10-2020

## **PLS REQUIRED FOR LOMR**

I am reviewing a FEMA Letter of Map Revision (LOMR) application for Garden City. The land surveyor or engineer certification on the form includes a box for the certifier's seal that is labeled as optional. In my opinion in accordance with Idaho law, the seal should be included.

Am I correct in my thought? I don't think I have ever seen one before that wasn't sealed. This may just be an oversight and is easy to fix. But I thought I would ask the question. As I recall, the FEMA Elevation Certificate has the same note as optional.

PE/PLS from Southern Idaho

### **Answer**

Idaho Code 54-1215(3)(b) says, in part: “The seal, signature and date shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations, whenever presented to a client or any public or governmental agency.”

When this FEMA LOMR application is submitted to a public or governmental agency or any client, the seal, signature and date are required. Federal forms often will say the seal and signature are optional, but in Idaho they are required.

Key words: PE seal, Licensure, FEMA, LOMR

Approved 11-9-2018, NB62

## **PRACTICE OF PROFESSIONAL LAND SURVEYING WITH DRONES**

Question 1: Relates to drones for aerial imaging and mapping

Our attorney has requested we contact you and get your opinion on a question she has. So I have a partner in another company “XYZ Imaging” which currently has FAA approval to operate small unmanned aerial vehicles (sUAS) “drones” within the continental United States. One of the services that we are capable of providing is aerial imaging and mapping. I have been speaking with another surveyor on the matter and he suggested I contact you to determine if the “mapping” portion of our company would require us to complete a Certificate of Authorization or not. Thank you for your time! Surveyor from North Idaho.

Answer: Dear Mr. Surveyor:

I am the attorney for the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors (Board). The Board took up the question you posed in your email of October 23, 2015, at its last Board meeting. You have asked whether a company that uses drones for aerial imaging and mapping would be required to obtain a certificate of authorization.

The answer to your question turns on whether or not the individuals using the drones are doing so for authoritative purposes or not, and if the drones are capable of obtaining information and used for that which is defined as professional land surveying in the Idaho Code.

Idaho Code § 54–1202(12)(a) defines professional land surveying to include the use of mathematics, geodesy and photogrammetry involving:

- (i) The making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvement on the earth, and the space above, on or below the earth; and
- (ii) Providing, utilizing or developing the same into survey products such as graphics, data, maps, plans, reports, descriptions or projects. Professional services include acts of consultation, investigation, testimony, planning, mapping, assembling and interpreting and gathering

measurements and information related to any one (1) or more of the following:

1. Determining by measurement the configuration or contour of the earth's surface or the position of any fixed objects;
2. Performing geodetic surveys to determine the size and shape of the earth or the position of any point on the earth;
3. Locating, relocating, establishing, reestablishing or retracing property lines or boundaries of any tract of land, road, right-of-way, easement or real property lease;
4. Making any survey for a division or subdivision or a consolidation of any tracts of land;
5. Locating or laying out of alignments, positions or elevations in the field for the construction of fixed works;
6. Determining, by the use of principles of surveying, the position for any boundary or nonboundary survey monument or reference point or for establishing or replacing any such monument or reference point;
7. Certifying elevation information;
8. Preparing narrative land descriptions; or
9. Creating, preparing or modifying electronic or other data necessary for the performance of activities in subparagraphs 1 through 8 of this paragraph.

Assuming that the drones are being used for the purposes described above, the next question is whether the drones are being used for authoritative purposes. The word authoritative means “certified by a professional land surveyor in accordance with established principles of professional land surveying when used to describe products, processes, applications or data resulting from the practice of professional land surveying.” Idaho Code § 54-1202(1).

Conversely, the practice of professional land surveying does not include: “(i) Mapping or geographic information system work that is for nonauthoritative boundaries and nonauthoritative elevations; (ii) Construction survey work that is unrelated to establishing vertical and horizontal project control; or (iii) Construction staking of fixed works or the development and use of electronic models for machine-controlled construction that by design are unrelated to determining boundaries described in paragraph (a)(ii)3. of this subsection.” Idaho Code § 54–1202(12)(b).

So, by definition, if the drones are not being used to create maps or other geographic information that is authoritative, then no certificate of authorization is required as the practice of professional land surveying is not occurring. On the other hand, if maps or other geographic information is being used for authoritative purposes, and the drones are

capable of fulfilling that which is described in subsections 1 through 9 of Idaho Code § 54–1202(12)(a)(ii), this would be the practice of professional land surveying and a certificate of authorization would be required.

Thank you.

MICHAEL J. KANE

Keywords: drones, UAV, mapping, surveying, COA

Approved 6-2-2016 NB57. Updated 6-19-2020

## **PRESCRIPTIVE SURVEYING COURSES FOR LICENSURE**

Beginning July 1, 2010 the Idaho Code section relating to the educational requirements for certification as a Land Surveyor Intern and licensing as a Professional Land Surveyor will change. An applicant will either have to have a four-year degree in surveying approved by the Board, or will have to have a four-year degree in a related science, and evidence satisfactory to the Board, that they possess knowledge and skill approximating that attained by completion of an approved four-year surveying curriculum. The language is similar to that currently contained in the engineering licensing law. The Board has a list of prescriptive academic courses that will be required of a candidate who has a degree in a related program, but not a degree in surveying in order to satisfy the Board that they possess knowledge and skill approximating that attained upon completion of an approved surveying curriculum. The list includes thirty (30) college semester credit hours of surveying science and surveying practice. Courses must be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area.

Key words: surveying, PLS, prescriptive courses, related degree, approved curriculum

Approved April 2006, NB 37. Updated 6-19-2020

## RECORDS OF SURVEY

Attorney General Opinion ROS Law Supplements Platting Law

Board opinion Survey of Leased Sites

Filing of Amended Surveys and Plats Required

Legal Descriptions and Records of Survey

Record of Survey Law Enacted

Record of Survey and CP&F Required in 90 Days After Monuments Set

Record of Survey and Plat Coatings

Record of Survey Boundary Line Adjustment

Record of Survey Corner Ties

Record of Survey Needed when Monuments Set

Record of Survey Required Even if Not Paid

Record of Survey Required in 90 Days

Record of Survey Required for Leased Sites

Record of Survey Required when Monuments Replaced



BOARD OF PROFESSIONAL  
ENGINEERS AND LAND SURVEYORS

APR 29 1982

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL  
BOISE 83720

OFFICE OF THE SECRETARY  
BOISE, IDAHO  
STATE OF IDAHO

TELEPHONE  
(208) 334-2400

DAVID H. LEROY  
ATTORNEY GENERAL

ATTORNEY GENERAL OPINION NO. 82-5

To: R. W. Underkofler, P.E./L.S.  
Executive Secretary  
State of Idaho  
Board of Professional Engineers and Land Surveyors  
842 La Cassia Drive  
Boise, ID 83705

QUESTIONS PRESENTED

1. May a "record of survey" filed according to the requirements of chapter 19, title 55, Idaho Code, be substituted for a "subdivision plat" as required by chapter 13, title 50, Idaho Code.

2. More specifically, may a purveyor of land refer to a "record of survey" rather than a subdivision plat in title documents which purport to transfer ownership to parcels of real property by reference to parcel numbers contained within the record of survey.

ANSWER

The "record of survey" statutes are supplementary to existing laws relating to surveys, subdivisions, platting and boundaries. Sales of lots must therefore comply with existing laws and may not circumvent the requirements of those laws by the use of a record of survey.

ANALYSIS

Chapter 19, title 55, Idaho Code, entitled "Recording of Surveys" was enacted by the Second Regular Session of the Forty-fourth Idaho Legislature, Chapter 107, 1978 Session Laws.

As stated in Idaho Code § 55-1901:



The purpose of this chapter is to provide a method for preserving evidence of land surveys by providing for a public record of surveys. The provisions shall be deemed supplementary to existing laws relating to surveys, subdivisions, platting, and boundaries. (emphasis added).

The word "shall" when used in a statute is mandatory. Goff v. H. J. H. Co., 95 Idaho 837, 421 P.2d 661 (1974). The compulsory language in the statute which is underlined indicates the legislature's intent that existing laws should remain in force and that this chapter would not become a vehicle to circumvent the requirements of those laws.

Additional support for this conclusion is found in the definition of the term "supplementary." "Supplementary" means "added as a supplement, additional;" "Supplement" is defined as something that completes or makes an addition. Webster's 7th New Collegiate Dictionary (1971). A "supplemental statute" is defined as, "a statute intended to improve an existing statute by adding something thereto without changing the original text." Ballantyne's Law Dictionary, 3rd Edition (1969). Applying those definitions to these circumstances, it is clear that the legislature intended the chapter on recording of surveys to be used in addition to the existing laws, rather than in place of them. It would therefore be our opinion that chapter 19, title 55, Idaho Code, may be used in addition to existing laws, but may not be used in lieu of those laws.

As to the sale of parcels of land, Idaho Code § 50-1302 requires that, "every owner proposing a subdivision as defined above shall cause the same to be surveyed and a plat made thereof . . . and shall record said plat." Idaho Code § 50-1301(3) defines "subdivision" as "a tract of land divided into five or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; . . ." The definition does not apply to a division or partition of agriculture lands for agriculture purposes. However, any agricultural division must be in lots of five acres or larger and the lands must continue to be used as agricultural land. The definition further provides that counties may adopt their own definition in lieu of the one contained in the statute. Idaho Code § 50-1302 also goes on to discuss recorded plats for purposes other than subdivisions. It states in part that:

[T]his section is not intended to prevent the filing of other plats.

Description of lots or parcels of land, according to the number and designation on such recorded plat, in conveyances or for the purposes of taxation, shall be deemed good and valid for all intents and purposes.

The language of the statute indicates that although plats may be filed for purposes other than subdivisions, land sold by reference to lot and block or parcel number should be sold in reference to a recorded plat.

Finally, the chapter on plats contains several key provisions which would militate against the use of a record of survey in lieu of a subdivision plat. Idaho Code § 50-1314 requires the county recorder to prepare a plat and assess its cost against any person who sells five or more parcels from the same tract of land. Idaho Code § 50-1316 provides penalties for the sale of unplatted lots. Idaho Code § 50-1326 requires the satisfaction of sanitary restrictions by any party selling parcels of land smaller than five acres. Failure to comply is a misdemeanor.

Conveyance of lots or parcels based upon a record of survey would still have to satisfy the requirements of the sanitary restriction. Additionally, if five or more parcels are conveyed, the county recorder must force a plat. It must be concluded therefore that any transfers of real property that come within the definitions of the chapter on plats and vacations must comply with the requirements therein. A record of survey will not satisfy those requirements.

It is our opinion that the purpose of the adoption of the record of survey chapter was to make provisions for the filing of surveys which did not fit within the definition of documents which could be recorded under the recording statutes. The statement of legislative intent contained within the chapter clearly indicates that the recording of survey statutes is supplemental to existing laws and is not to be used in lieu of those laws. Transfers of real property must therefore comply with existing statutes including those relating to plats and cannot rely upon property descriptions contained within records of surveys.

AUTHORITIES CONSIDERED

Case

Goff v. H.J.H. Co., 95 Idaho 837, 421 P.2d 661 (1974)

Statutes

Idaho Code, chapter 19, title 55

Idaho Code, chapter 13, title 50

Idaho Code § 50-1302

Idaho Code § 50-1301(3)

Idaho Code § 50-1314

Idaho Code § 50-1316

Idaho Code § 50-1326

Idaho Code § 55-1901

Other

Webster's 7th New Collegiate Dictionary (1971)

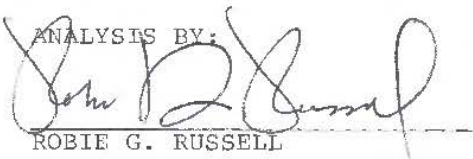
Ballantyne's Law Dictionary, 3rd Edition (1969)

DATED This 27 day of April, 1982.

ATTORNEY GENERAL  
State of Idaho

  
\_\_\_\_\_  
DAVID H. LEROY

ANALYSIS BY:

  
\_\_\_\_\_  
ROBIE G. RUSSELL  
Deputy Attorney General  
Chief, Local Government Division

RGR/tl

cc: Idaho Supreme Court  
Idaho Supreme Court Law Library  
Idaho State Library



# STATE OF IDAHO

BOARD OF  
PROFESSIONAL ENGINEERS  
AND LAND SURVEYORS

842 LA CASSIA DRIVE BOISE, IDAHO 83705  
(208) 334-3860

February 24, 1982

The Honorable David Leroy  
Attorney General of Idaho  
Room 210, Statehouse  
Boise, Idaho 83720

Dear Mr. Leroy:

In 1978 the 44th Session of the Idaho legislature enacted under Title 55, Chapter 19, Recording of Surveys, to the Idaho Code.

"55-1901. Purpose.--The purpose of this chapter is to provide a method for preserving evidence of land surveys by providing for a public record of surveys. The provisions shall be deemed supplementary to existing laws relating to surveys, subdivisions, platting and boundaries."

A problem has developed in some counties in the State of Idaho where the Record of Survey is being used to circumvent the requirements of the Idaho Code, Title 50, Chapter 13, Plats and Vacations, which requires the filing of a subdivision plat as defined in Section 50-1301, paragraph (3) as follows:

"(3) 'Subdivision.' A tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. A bona fide division or partition of agricultural purposes shall mean the division of land into lots, all of which are five (5) acres or larger, and maintained as agricultural lands. Cities or counties may adopt their own definition of subdivision in lieu of the above definition.'

The purpose of the adoption of the subdivision requirement for platting land was to provide means of conveying property by reference to an official plat by name, lots and blocks as recorded in the recorder's office of the county courthouse in which the platted property was situated. The purpose of the recording of surveys was to provide a public record of the miscellaneous surveys of metes and bounds descriptions that are used to convey parcels of land that are not in a recorded subdivision, or cannot be described by the government land survey records of section of township and range, or portions thereof.

The Board of Professional Engineers and Land Surveyors requests an Attorney General's opinion as follows:

EQUAL OPPORTUNITY EMPLOYER

PAGE 115

The Honorable David Leroy  
February 24, 1982  
Page 2

- (1) Is it proper and legal to use the land survey plat recorded under Title 55, Chapter 19, Recording of Surveys, of the Idaho Code to describe property for conveyancing in the State of Idaho by assigning parcel numbers to separate parcels of the record of survey, and referring to them in deeds as recorded in the recorder's office of the county in which the property is located?
  
- (2) May the Record of Survey plat filed as required by Title 55, Chapter 19, Recording of Surveys, be used as a substitution for a subdivision plat as required to be filed for platting land under Title 50, Chapter 13, Plats and Vacations, of the Idaho Code?

Very truly yours,



R. W. UNDERKOFER, PE/LS  
Executive Secretary

RWU:lh

Robie Russell  
Deputy Attorney General

## **BOARD EXPRESSES OPINION ON SURVEY OF LEASED SITES**

The Board expressed an opinion regarding the survey of leased sites in Idaho. That opinion stated, in pertinent part,

“After considerable discussion, the Board concluded that when a field survey is conducted and corners and/or boundaries are created to define the location of a leased site, professional land surveying, as defined in Idaho Code §54-1202(12) is being performed. As such, a person licensed as a Professional Land Surveyor in Idaho must be in responsible charge of such services. Further, if a field survey is conducted, monuments must be set and a Record of Survey must be filed as required under Idaho Code §55-1904(2).”

A copy of the opinion letter was sent to each County Recorder and County Assessor in Idaho.

Keywords: leased sites, monuments, record of survey

Approved 6-2001, NB31. Updated 6-19-2020

## **FILING OF AMENDED SURVEYS AND PLATS**

If a professional land surveyor needs to revise a previously recorded subdivision or record of survey, the Board is of the opinion that the revised document should clearly state that it is a revision to a previously recorded document and the revised document should contain the instrument number of the document that it is intended to revise. Since the original document of record cannot be altered, the surveyor should notify the County Recorder of the fact that a revision has been filed so that if someone were to request the original document they would also be notified of the existence of a revision.

Keywords: PLS, revise, plat, record of survey, instrument number, revision

Approved: 7-1992, NB 18



**BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS**

1510 E. Watertower St., Suite 110  
Meridian, Idaho 83642-7993  
Phone: (208) 373-7210 Fax: (208) 373-7213  
<http://www.ipels.idaho.gov>

February 19, 2010

Kelly Kehrer, P.E.  
Km Engineering  
391 W. State St., Suite A  
Eagle, ID 83616

Dear Mr. Kehrer:

At its meeting on February 11-13, 2010, the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors reviewed your email dated February 9, 2010 regarding questions you had regarding surveys and monumentation. Below are your questions followed by the answers provided by the Board.

**Question:** Our surveyor recently prepared legal descriptions for right-of-way dedications. The property had been surveyed previously and a record of survey was recorded. We found no material discrepancies when we tied into the prior survey. We provided the highway district descriptions for the right-of-way being dedicated. When the district recorded deeds using the descriptions, the assessor's office contacted us informing us that we needed to file a record of survey. The Assessor cited Idaho Code Section 55-1904 - When Filing Required (2) "Establishes boundary Lines and / or corners not previously existing or of record".

Our firm prepared and filed the record of survey, but we question the interpretation of Idaho code. If the Assessor is correct a record of survey would be required for every right-of-way dedication. Further, if a record of survey is required, we don't control if or when the dedication is recorded. This makes it difficult to know when to record the survey.

Does the Board agree with this interpretation? If so, when does the survey need to be recorded?

**Answer:** The answer depends on the basis of the description for the right-of-way take. Descriptions prepared from record information do not require monuments or a record of survey. The situation described above indicates the description was based (at least in part) on a field survey. The fact you found no material discrepancy is immaterial. A field survey was performed and a description for a boundary line "not previously existing or of record" was generated from the survey. IDAPA 24.32.01 Subsection B 100.06 States, "Land Surveyors have a duty to set monuments at the corners of their client's property boundaries in compliance with 54-1227 Idaho Code."

EQUAL OPPORTUNITY EMPLOYER

Since a survey was performed for the dedication, then monuments are required. The option of surveying without monuments is not available. Once the monuments marking the new line are set, the surveyor has 90 days to file a record of survey. The Board has opined that delaying the setting of monuments until construction is complete is acceptable practice.

**Question:** In the news bulletin for May 2004 the board described a material discrepancy as follows: “*The Board concluded that if a survey reveals a discrepancy with a previous survey of record which is not in excess of one part in five thousand, then the surveyor should not consider that he has found a material discrepancy, and thus would not be required to file a Record of Survey.*”

Does this mean that if a surveyor finds a discrepancy in any call along a boundary that is in excess of 1:5000 then it is a material discrepancy? My interpretation does not seem practical since 1:5000 on a 50’ leg would be 0.01’. We have run into this issue on occasion with very small properties though I don’t have a specific example to provide.

**Answer:** The answer provided in the May 2004 NEWS BULLETIN above is a good general guidance as far as measurements, but common sense and professional judgment should prevail. It is also important to read all related laws, rules and agency guidance documents together to find a complete answer.

50-1303 Survey – Monuments – Accuracy states in pertinent part that, “Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot.” The laws related to plats and surveys are supplementary to each other. This means a difference in measurement of 0.1’ plus one part in five thousand (or less) would not in and of itself constitute a material discrepancy.

While this question relates to the dimensions of the survey, it is important to remember that discrepancies are not limited to bearings and distances. In a separate opinion the Board has stated if a survey discloses a change from the record in the pedigree of a monument or some other significant piece of information *a material discrepancy exists*, and a record of survey is required.

Please call the Board Office at (208) 373-7210 if you have any questions.

For the Board,

William J. Ancell, P.E.  
Board Chair

WJA/DLC/dc:Kehrer, Kelly.2010-02 Meeting Correspondence. Updated 9-11-2020



## **RECORD OF SURVEY LAW ENACTED**

Recording of Surveys - A new Chapter 19 was added to Chapter 55 of the Idaho Code whose purpose is to provide a method for preserving evidence of land surveys by providing for a public record of surveys. The provisions are deemed supplementary to existing laws relating to surveys, subdivisions, platting and boundaries. The record of survey shall be filed within ninety days after completing the survey required to be filed. Anyone filing a survey for record should carefully review Chapter 19 of Title 55 of the Idaho Code and comply with its provisions in detail.

Keywords: record of survey, supplemental, 90 days, filed

Approved 5-1979, NB4

## **RECORD OF SURVEY AND CP&F FILINGS REQUIRED IN 90 DAYS**

At its meeting held in Coeur d'Alene, Idaho on April 28,29, 1988 the Board adopted the following:

### **INTERPRETATION ISSUED BY THE BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS**

This Board interprets Section 55-1904, Idaho Code, to mean that if a legal description is prepared for a parcel of land, but no field survey is performed, then a record of survey is not required. If a field survey is performed which meets any of the five (5) conditions listed in Section 55-1904, Idaho Code, then a record of survey shall be filed with the County Recorder of the county containing the parcel of land within ninety (90) days after the corner or corners or monument or monuments are set in the ground.

This Board interprets Section 55-1604, Idaho Code, to mean that the ninety (90) day time period allowed for filing of survey information on Corner Perpetuation and Filing forms with the County Recorder shall begin on the day the corner or monument is in the ground.

Keywords: record of survey, corner record, 90-day time period, monument, legal description

Approved: 11-1988, NB13. Updated 6-19-2020

## **RECORDS OF SURVEY AND PLAT COATINGS MUST MEET CODE REQUIREMENTS**

At its meeting on June 29 & 30, 2001 the Idaho Board of Registration of Professional Engineers and Professional Land Surveyors reviewed information regarding compliance with portions of Idaho Code Title 50, Chapter 13, Plats and Vacations. The Board reviewed examples of plat submittals which clearly did not meet the requirement of Idaho Code §50-1304 which states, in pertinent part,

“The copy and image thereon shall be waterproof, tear resistant, flexible, and capable of withstanding repeated handling, as well as providing archival permanence. If ink or toner is used, the surface shall be coated with a suitable substance, if required by the county where the plat is to be recorded, to assure permanent legibility...”

The examples viewed by the Board were not waterproof as evidenced by the application of water and very light abrasion with a paper towel. It was reported to the Board that as many as five or six coats of a surface coating substance may be required in order to truly waterproof a plat produced by an inkjet plotter on mylar.

As an alternative to filing an “ink-on-film” original plat, Idaho Code §50-1304 allows the filing of the plat using “. . . a photographic process or a process by which a copy is produced using an ink jet or digital scanning and reproduction machine with black opaque drafting film ink or fused toner that will ensure archival permanence. . . .” In addition to the filing of either an “ink-on-film” original or a fused toner copy of the original, Idaho Code §50-1310 requires the filing of a copy of the original plat and in regard to the copy, requires that “The image thereon shall be by a for archival permanence.”

Idaho Code §55-1905 also requires that records of survey use “the same media and copy process as provided in section 50-1304, Idaho Code.” Records of Survey must be waterproof. The ink surface may be coated with a suitable substance to assure permanent legibility, if required by the county recorder.

The Board wants all license and certificate holders to be aware of the requirements of Idaho Code in regard to these matters and urges compliance. Failure to comply could result in disciplinary action following an Administrative Hearing.

Keywords: record of survey, plat, coating, archival, waterproof, county recorder, silver emulsion, ink.

Approved December 2001, NB 31. Updated 6-19-2020

## **RECORD OF SURVEY BOUNDARY LINE ADJUSTMENT**

**If a PLS writes legal descriptions to be used for a boundary line adjustment that will create new parcels or lots, but uses only record information (deeds and ROS) and does no field work, is he (or her) required to set pins and file a record of survey?**

I see the requirement to file a record of survey in current code “After making a land survey in conformity.....” in 55-1904 and the definition of “land survey” as “measuring the field location of corners...” in 55-1902. My personal interpretation would be that if a legal description is written using only record information and no field work, no pins are required to be set and a record of survey would not be required. However, if any field work is performed to assist in the writing of the legal description it would seem that pins do need to be set and a record of survey filed.

In 2008, I asked the board to answer some questions I had concerning the sealing of legal descriptions and they responded in the June, 2008 Board News Bulletin. Some aspects of the board decision expressed in that news bulletin may be applicable to my current question.

Professional Land Surveyor in North Idaho

**Answer:** The applicable laws are:

#### **TITLE 54, CHAPTER 12 – DEFINITIONS**

***(12) (a) "Professional land surveying" and "practice of professional land surveying" mean responsible charge of authoritative land surveying services using sciences such as mathematics, geodesy and photogrammetry and involving:***

***(i) The making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvement on the earth, and the space above, on or below the earth; and***

***(ii) Providing, utilizing or developing the same into survey products such as graphics, data, maps, plans, reports, descriptions or projects. Professional services include acts of consultation, investigation, testimony, planning, mapping, assembling and interpreting and gathering measurements and information related to any one (1) or more of the following:***

#### ***8. Preparing narrative land descriptions;***

Descriptions could be prepared using existing record information such as deeds, subdivision plats and/or Records of Survey if the description is based entirely on the record information and contains appropriate references to prior surveys, ad joiners, lots lines, etc. However, it depends on how the new boundary line positions were determined. If the surveyor measured from monuments existing on the ground or any other readily definable position to an existing fence or other defining feature that delineates the new boundary or boundaries, then they have made a geometric measurement and gathered information pertaining to the physical and legal features of the earth and improvement on the earth. If they then use that information and develop the same into a survey product such as a map (sketch) and/or description, then they have performed a professional boundary land survey under the definition, regardless of

whether or not they have set up an instrument or done a “survey” in the traditional sense of what many consider to define a survey.

If this threshold had been reached then the surveyor must set monuments in conformity with **54-1227. Surveys – Authority and Duties of Professional Land Surveyors and Professional Engineers.** (1) *Every licensed professional land surveyor is hereby authorized to make land surveys and it shall be the duty of each licensed professional land surveyor, whenever making any professional boundary land survey as defined in section 54-1202, Idaho Code, that is not preliminary in nature, to set permanent and reliable magnetically detectable monuments at all unmonumented corners field-located, the minimum size of which shall be one-half (1/2) inch in least dimension and two (2) feet long iron or steel rod, or a metallic post or pipe one (1) inch in least dimension and two (2) feet long with a minimum wall thickness of nominal one-eighth (1/8) inch, or other more substantial monuments designed specifically for use as a survey monument. Such monuments must be substantially in the ground, stable, and permanently marked with the license number of the professional land surveyor responsible for placing the monument.*

(2) *Where special circumstances preclude use of such monuments, the professional land surveyor must place an alternate, stable, permanent monument that is magnetically detectable marked with the license number of the professional land surveyor placing the monument.*

(3) *Where the corner position cannot be monumented due to special circumstances, the professional land surveyor must establish reference monuments or a witness corner and mark them as such.*

(4) *Any found nonmagnetically detectable monument must be remonumented with a magnetically detectable monument compliant with subsections (1) through (3) of this section.*

(5) *Professional engineers qualified and duly licensed pursuant to this chapter may also perform those other surveys necessary and incidental to their work.*

Also, having reached that threshold, then the surveyor must also file a Record of Survey in compliance with **55-1904. Records of Survey – When Filing Required.** *After making a land survey in conformity with established principles of land surveying, a surveyor shall file a record of survey with the county recorder in the county or counties wherein the lands surveyed are situated. A record of survey shall be filed within ninety (90) days after completing any survey which:*

(1) *Discloses a material discrepancy with previous surveys of record;*

(2) *Establishes boundary lines and/or corners not previously existing or of record;*

(3) *Results in the setting of monuments at corners of record which were not previously monumented;*

The Rules of Professional Responsibility also apply to this circumstance.

***IDAPA 24.32.01.100. RESPONSIBILITY TO THE PUBLIC.***

***01. Primary Obligation. All Licensees and Certificate Holders shall at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties.***

The term “public” applies not just to the client, but also to the adjoining property owners and the **future** owners of those properties. Surveyors should not focus entirely on the cost to their client and disregard their obligation to the public at large in the performance of their duties as Land Surveyors. Cost is not a justification to cut corners or provide less than desirable services in order to accommodate the client’s desire for a “cheap or inexpensive” survey.

Preparing boundary descriptions for two or more parcels that adjust existing boundary lines without doing a field survey to locate features such as structures, wells, drainfields, etc. may create problems for the client, the neighbor or future owners of the properties at some point later. As an example, Mr. Brown may dig up the end of Mr. Green’s drainfield because part of it is now on his property following the boundary adjustment. Or, Mr. Green decides to add onto his garage and discovers that he not only cannot get a building permit because his garage is now located inside the setback line - he must now go through a lengthy and possibly expensive process to get a variance to keep his garage as it is within the setback. Also, how do the parties involved know for sure that what they received in the descriptions accurately reflects their wishes without benefit of a survey that shows monuments marking the new line? If no monuments were set and a Record of Survey filed, what happens when Mr. Black, who has bought the property from Mr. Brown, decides to have his property surveyed and it is discovered that the fence Mr. Green and Mr. Brown thought they were agreeing to doesn’t match what their deeds show. Mr. Brown has moved on or possibly passed away so now Mr. Black and Mr. Green are arguing over something that could have been avoided if a surveyor had done his job properly and professionally.

In conclusion, under certain circumstances it would be possible to prepare boundary descriptions for a boundary line adjustment without setting monuments or filing a Record of Survey. In many situations, this may not be advisable as it may not adequately protect the health, safety or welfare of the public. That is why in some jurisdictions the cities and counties have written requirements into their ordinances dealing specifically with boundary line adjustments. They have encountered all and more of similar scenarios described above.

Keywords: record of survey, legal description, boundary line adjustment, setback, drainfield

Approved 6-2-2016, NB 57

## RECORD OF SURVEY TIES TO CORNERS AND BASIS OF BEARING

### Question 3

My question is that I did a survey and did not tie into 2 land corner Monuments. I had traced a previous surveyor and tied into a neighboring plat that I have listed as The Estates. I was not able to gain permission the day of the survey to locate the meander so I located accessories to the Section Line. The question is do I need to go out again and tie into the meander corner to the south? Surveyor from Spokane, WA.

### Answer

The relevant portions of Idaho Code are highlighted below.

**55-1906. Records of survey -- Contents.** The records of survey shall show:

- (1) All monuments found or set or reset or replaced, or removed, describing their kind, size, location using bearings and distances, and giving other data relating thereto;
- (2) Evidence of compliance with chapter 16, title 55, Idaho Code, including instrument numbers of the most current corner records related to the survey being submitted and instrument numbers of corner records of corners which are set in conjunction with the survey being submitted; **basis of bearings**, bearing and length of lines, graphic scale of map, and north arrow;
- (3) Section, or part of section, township and range in which the survey is located and reference to surveys of record within or crossing or adjoining the survey;
- (4) Certificate of survey;
- (5) **Ties to at least two (2) public land survey corner monuments of record in one (1) or more of the sections containing the record of survey, or in lieu of public land survey corners, to two (2) corners of record recognized by the county surveyor. Records of survey which are within previously platted subdivisions of record need not be tied to public land survey corner monuments.**

In reviewing the information you included with your question, you have complied with the current Idaho Code by tying and showing the found monuments along the easterly boundary of *The ESTATES* which you have listed as (R3) in your Record Document list, and would not be required to tie the meander corner. Past Board opinions have determined that a subdivision plat that has been approved by the County Surveyor means that it has been recognized by said party and would, therefore, fall under “corners of record recognized by the county surveyor.” However, the subdivision boundary line should be shown as your basis of bearing and not the section line using the meander corner that you did not locate. The Board has given an opinion that the basis of bearing must be on a line that has a found and tied monument at each end.

Keywords: Survey, Ties, Corner, Meander, Basis of Bearing

Approved 1-1-2017, NB58. Updated 6-19-2020

## **RECORD OF SURVEY NEEDED WHEN MONUMENTS SET**

A P.L.S. posed two questions to the Board regarding the issue of when the law requires that a Record of Survey be prepared and filed. Paraphrased, the questions and the Board answers to them are as follows:

**Question:** When a surveyor does “preliminary work” but does not place monuments in the field, is he or she required to file a Record of Survey?

**Answer:** According to 55-1904, Idaho Code, a Record of Survey is required for work done by a professional land surveyor that

- (1) Discloses a material discrepancy with previous surveys or record;
- (2) Establishes boundary lines and/or corners not previously existing or of record;
- (3) Results in the setting of monuments at corners of record which were not previously monumented;
- (4) Produces evidence or information which varies from, or is not contained in, surveys of record relating to the public land survey, lost public land corners or obliterated land survey corners; or
- (5) Results in the setting of monuments that conform to the requirements of 54-1227, Idaho Code, at the corners of an easement or lease area.

Idaho Code Section 55-1902(5) defines a “land survey” as “measuring the field location of corners that: (a) Determine the boundary or boundaries common to two (2) or more ownerships; (b) Retrace or establish land boundaries; (c) Retrace or establish boundary lines of public roads, streets, alleys or trails; or (d) Plat lands and subdivisions thereof. Idaho Code Section 55-1904 states, in pertinent part “**After making a land survey** in conformity with established principles of land surveying, a surveyor shall file a record of survey with the county recorder in the county or counties wherein the lands surveyed are situated.” (**Emphasis added**) If no land survey has been performed, or none of the conditions identified in 55-1904 exist, then no Record of Survey need be prepared and recorded.

**Question:** When the “preliminary work” is eventually used as the basis for the preparation of a legal description, is it necessary to file a record of survey?

**Answer:**

If a description is prepared based on a field survey, the survey is not preliminary. The surveyor has field located lines and corners not previously of record, therefore monuments meeting 54-1227 are required and a record of survey must be filed.

Approved June 2008 NB 41. Updated 7-30-2020.

## **RECORDS OF SURVEY MUST BE FILED EVEN IF SURVEYOR NOT PAID**

In a recent disciplinary hearing, a professional land surveyor was accused of not filing Records of Survey within 90 days of their completion. The licensee told the Board that the reason he did not file the surveys was that the client had not paid him for his services. The Board expressed an opinion that the Record of Survey law has no exceptions to the requirement that the survey be filed within 90 days of completion. The Board informed

the surveyor that he should have either utilized the laws allowing the placement of a lien on the property or he should have removed the land survey monuments within the 90-day period if the client refused to pay for the services.

Keywords: Record of survey, files, recorded

Approved 5-1995, NB23. Updated 6-19-2020

## **RECORD OF SURVEY REQUIRED WITHIN 90 DAYS**

Title 55 Chapter 16 Corner Perpetuation and Filing of the Idaho Code requires the land surveyor to file corner perpetuation records which is given in Section:

*55-1604. Filing requirements. A professional land surveyor shall complete, sign, and file with the county clerk and recorder of the county where the corner is situated, a written record of the establishment, reestablishment, or rehabilitation of a corner monument and its accessories. This record shall be known as a "corner record" and such a filing shall be made for every public land survey corner, center one-quarter (1/4) corner, and accessory to such corner which is established, reestablished, monumented, remonumented, rehabilitated, perpetuated or used as control in any survey. The survey information shall be filed within ninety (90) days after the survey is completed, unless the corner and its accessories are substantially as described in an existing corner record filed in accordance with the provisions of this chapter.*

During a hearing on a complaint against a land surveyor for failure to file corner perpetuation records, considerable discussion was held on when does the 90-day time period for filing begin. It was the Board's interpretation that once a survey point has been established or reestablished, and has been monumented and marked with permanent markings, then the ninety-day requirement starts; and that the land surveying profession be notified that if they feel that it is not in compliance with practical application, then they should look to a revision of the Idaho Code if the ninety-day interpretation is not workable from a practical standpoint.

It has come to the attention of the board that some land surveyors are not complying with requirements for Recording of Surveys as called for in the Idaho Code under Section:

*55-1904. Records of Survey – When Filing Required. After making a land survey in conformity with established principles of land surveying, a surveyor shall file a record of survey with the county recorder in the county or counties wherein the lands surveyed are situated. A record of survey shall be filed within ninety (90) days after completing any survey which:*

*(1) Discloses a material discrepancy with previous surveys of record;*



- (2) Establishes boundary lines and/or corners not previously existing or of record;*
- (3) Results in the setting of monuments at corners of record which were not previously monumented;*
- (4) Produces evidence or information which varies from, or is not contained in, surveys of record relating to the public land survey, lost public land corners or obliterated land survey corners; or*
- (5) Results in the setting of monuments that conform to the requirements of section 54-1227, Idaho Code, at the corners of an easement or lease area.*

From the description of land surveys to be recorded it would appear that very few would fall outside the requirement for recording. The purpose of the act was to provide a repository for those miscellaneous land surveys that should be recorded for the information of the public and other land surveyors. The Record of Survey is not to be used as a means to transfer property but rather is to record land survey data. The Board will continue to monitor the County Recorders records to see that the law is being complied with regarding the recording of CP&F forms and Records of Survey.

Keywords: ninety days, record of survey, corner record, CP&F, filing, recording, filing requirements

Approved: May 1986, NB 10. Updated 6-19-2020

## **RECORD OF SURVEY REQUIRED WHEN MONUMENTS REPLACED**

### **Question**

A PLS asked the Board “I frequently have requests from property owners to locate the corners of their property. When I fail to find the monument marking the corner, I will replace the missing monument. Assuming I am not the surveyor who platted the subdivision, this will result in a monument with a different cap than that noted on the recorded plat. Does this constitute a change in the public record that will require a record of survey map to properly document it?”

### **Answer**

The Board concluded that a ROS is required for the replacement of lot corner. The Board considers the replacement of a lot pin by a surveyor who did not set the original monument a "material discrepancy" under IC 55-1904(1). The filing of a survey will preserve the pedigree of the corner in the record.

Keywords: record of survey, lot corner, pin, replace, pedigree, cap

Approved 7-30-2020 AGD-2

