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November 24, 2015

Daniel Dunn, P.L.S.  
25 Coyote Trail  
Cascade, ID 83611

Re: Drones for Aerial Imaging and Mapping  
MKA File No 825.00

Dear Mr. Dunn:

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(11)(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(11)(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(11)(a)(ii), this would be the practice of professional land surveying and a certificate of authorization would be required.

Letter to Daniel Dunn  
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Thank you.

Very truly yours

A handwritten signature in black ink that reads "Michael Kane". The signature is written in a cursive style with a long, sweeping tail on the letter "e".

MICHAEL J. KANE

MJK:tlp

cc: Mr. Keith Simila, P.E., Executive Director, IPELS  
Mr. James L. Szatkowski, P.E., Deputy Director, IPELS