

A Model for the Certification of Hydrographers

Canada's extensive inland, coastal and offshore areas present abundant opportunities for Canadian hydrographic surveyors. However, as was noted at the 2002 Canadian Hydrographic Conference, there is need for accredited training programs in Canada to aid in the development of individuals executing hydrographic surveys and to ensure that those surveys meet recognized standards. As Andrew Leyzack, president of the Canadian Hydrographic Association (CHA), points out, the present lack of internationally accredited training courses in Canada presents an opportunity for the ACLS to assume an important role in certifying hydrographic surveyors in Canada.

Recognizing an opportunity to fulfill a need for a national certification program for hydrographers and with an aim to protect the public from unqualified service providers, the ACLS Council tasked the ACLS Offshore Issues Committee (OIC) to look into this issue and make recommendations. As a result, the ACLS, OIC and the CHA have cooperated to form a joint task force to prepare recommendations to implement a certification program and to develop a policy on the ACLS Affidavit of Experience & Practical Training requirements. The task force which is composed of members of the CHA and the ACLS, come from private industry, government and academia. They have been meeting regularly since February 2004 to carry out the following activities:

- Develop a terminology (definitions)
- Research other provincial, national (US and Australia) and international (FIG/IHO and ISO/TR 19122:2004) certification models.
- Develop a model for the certification of hydrographers by the ACLS, which may involve changes to the CLS syllabus and address issues such as experience (log book), continuing professional development, and dues.

TABLE OF CONTENTS

A Model for the Certification of Hydrographers	1
Executive Director's Notes	3
General Instructions for Surveys of Canada Lands	5
ACLS-APEILS Joint Conference	6
Canada Boundary Management & Property Systems Program	7
Copies of Seminar Video Available	7
Quebec Region – ACLS Activities	8
Blending Traditional Mapping Skills with Technology	8
Michael O'Sullivan's Retirement	8
ACLS Continuing Professional Development Program	9
Tlicho Land Claims	10
University of Calgary Survey Camp	11
Edmonton Chosen as Site for Canadian 2010 FIG Bid	11
Report on Discipline Proceedings	12
Summary of Council Meetings	13
Call for Papers	16
Evidence	16
The Role of the CLS Commission Within the CHS	17
Practice Manual	18
A Letter from John Matthews	18

- Develop a policy on the ACLS Affidavit of Experience & Practical Training (log book) specifically for hydrographers.
- Look into the possibility of mutual recognition with respect to existing certification models.
- Present a report to the ACLS Offshore Issues Committee.

In October, 2004, the Task Force fulfilled its obligations and presented its findings and recommendations in a 10-page report to the ACLS Offshore Issues Committee. Some of these recommendations are summarized below.

Recommendations *Terminology*

It was recommended that the ACLS adopt the

Continued on page 2

Continued from page 1

following references as the official sources for terminology for the ACLS Practice Manual:

- IHO Hydrographic Dictionary (International Hydrographic Organization publication) and 900-F07 Acronyms, Terms and Definitions
- Also, the ACLS adopt the International Hydrographic Organization's definition of Hydrography.

Marine Training

Hydrographic candidates shall be required to have successfully completed the following training prerequisites:

- Transport Canada, Marine Emergency Duties, MED A1 and MED A3 marine courses
OR a combination of TC MED A1 and the equivalent of the Canadian Yachting Association's Basic Power / Commercial Endorsement certificate and
- a Canadian Coast Guard certified small vessel operator's licence and
- a VHF marine radio operator's licence.

Education and Experience Prerequisites

Hydrographic candidates must be able to demonstrate hydrographic knowledge and experience and must submit both a Hydrographic Field Survey (Training) Project Report and an Affidavit or Statutory Declaration with logbook demonstrating at least five years of varied experience in hydrographic surveying. There are however, certain exemptions available to candidates with the appropriate education and experience. With proof of successful completion of either an IHO/FIG accredited Category A or B course, hydrographic candidates applying for certification shall: be exempt from 1) submitting a Field Survey (Training) Project Report and 2) receive a credit of 3 years experience.

Certification

Certification for the Hydrographers in Canada would first involve obtaining a CLS Commission. Then, in order to become a certified hydrographer, the candidate must pay a one-time administrative fee of \$150 and demonstrate that he or she is a member in good standing of the ACLS. A certified hydrographer would be entitled to use the CLS Cert. Hydro (Canada Lands Surveyor – Certified Hydrographer) designation.

Conclusion

In summary, the task force believes that there is a definite need for professional recognition in the hydrographic surveying industry and the existing CLS model alone may not serve as the best fit for that. On the other hand, certification provided for by a licensing body will provide the credibility, and security required for the protection of public interests.

Upon implementation, certification does not necessarily mean that only those holding a certificate can perform hydrographic surveying in Canada but in future, the Task Force believes that the ACLS Hydrographic Certification will become recognised by clients and insurers as a "must have" qualification for those individuals providing hydrographic surveying services. The United States and Australia have successfully adopted hydrographic certification programs. In addition, with recognition of IHO/FIG Standards of Competence, we anticipate that such a national certification for hydrographic surveyors would contribute to ease of labour mobility between countries.

This model has been approved in principle by the ACLS Council. The next step is to undertake discussions with the Dominion Hydrographer on the appropriateness of this model for the needs of the CHS.

EXECUTIVE DIRECTOR'S NOTES

Office Move

The Association office moved into its new location, the boxes are unpacked and the pictures are up on the wall.

For several years, ACLS shared office space with the Canadian Institute of Geomatics (CIG) and then with the Canadian Council of Land Surveyors (CCLS) as well. Some items, such as the fax machine and photocopier, were shared items so we have needed to replace them. Other than that, no serious problems occurred during the move.

The staff is unanimous in its approval of the new office, which is well suited in size and receives a great deal of sunlight.

Our phone number remains 613-723-9200, our fax number is now 613-723-5558, and our address is 100E-900 Dynes Rd., Ottawa ON K2C 3L6.

New Staff Person

In August we had to let Ms. Brassard go. She did not have the profile we were looking for.

On December 6, Shauna Murphy joined the ACLS team and is being trained to take up both an administrative assistant and the Board of Examiners Administrator positions. Kevin Jones is still at his position as administrative assistant.

Born and raised in Ottawa, Shauna recently obtained a Bachelors degree in Psychology. Yes, we're going nuts out here; we need help. During her studies at Carleton University, she worked part time at McDonald's Restaurant in a junior management position. She is bilingual.

Permit Holders and Discipline

Because the ACLS has a unique licence and permit system, our legislation allows formal complaints against entities that hold an ACLS permit as well as individual CLSs. Section 24. (1) of the CLS Act reads as follows:

The Complaints Committee shall consider all complaints in writing that are received by the Association regarding the conduct or actions of any member of the Association, Canada Lands Surveyor or permit holder.

Council fall 2004 face-to-face meetings

The following meetings were held in Ottawa:

- November 24 PM and November 25 AM: Standard Council face-to-face meeting;
- November 25 PM: Strategic Planning meeting which included as participants, in addition to Council members, myself, and Jean Gagnon of LSD, the Chairpersons of the following committees:
 - Offshore Issues
 - Aboriginal Liaison
- November 26 AM: End of Strategic Planning meeting and end of the Council meeting.

The ACLS held its first Strategic Planning meeting in October of 2002. The purpose of this year's meeting was to update the Strategic Plan. We are glad to announce that great progress has been made and there are interesting challenges ahead.

The updated Strategic Plan will be presented to the membership at the up coming AGM in PEI.

New Board of Examiners

In December of 2003, following the failure of the recent National Board initiative, an informal presentation on the formation of a new combined ACLS-Western Provinces Board of Examiners was made by Jim Simpson, the ACLS Board of Examiners' Administrator, and was well received by representatives from our four western sister associations.

Last spring, a letter of invitation to enter into formal discussions on the formation of a new Board was sent to the western associations. All four responded positively. So the ACLS Council instructed me to build a business plan for

Continued on page 4

Continued from page 3

consideration in the up coming discussions between the five partners. The new Board would take over management of the Common Core Syllabus Exams for all five jurisdictions. The five associations would still have their respective Boards manage professional exams. The business plan was handed to all western provinces association presidents at the end of the Presidents' Forum at the last Association of Manitoba Land Surveyors' AGM in September.

So far, two teleconference meetings were held between the five parties and we have agreement on the structure, and details of the transition. I've been asked to develop various association levy options for an up coming meeting to try to settle the financial details. The next meeting should have been held by the time to read this.

Meetings have been very positive, so we are optimistic that the new Board will be in operation in 2005.

House of Commons' Standing Committee on Fisheries and Oceans

In early November, the ACLS received an invitation to testify before the House of Commons' Standing Committee on Fisheries and Oceans on November 30 in Ottawa.

In February 2003, Tim Lawrence, CLS, Chairman of the Offshore Issues Committee at the time, Dr. Sue Nichols of the University of New Brunswick, and myself testified on the need for a property rights system in Canada's offshore.

This time around, we were asked to bring the Committee up to date on the property rights file in the offshore. The ACLS team was composed of George Schlagintweit, CLS, Chairman of the Offshore Issues Committee, Jacques Grondin, CLS, of LSD and myself.

Our presentation and answers to questions were very well received. It seems that this issue is on the Federal Government's radar screen, which is encouraging.

A copy of the minutes of the hearing is available on the Standing Committee's Web site.

ACLS Plan Fees

Since January 1, 2004 the ACLS no longer issue plan stickers. In its place, the plan fee of \$50 is included in the new *ACLS Plan and Monument Assessment Fee Report Form*. One form must accompany each plan, plan and field notes, and field notes in plan or book form (even those where no monuments were placed) sent to Legal Surveys Division for review as first submissions. If no survey monuments were placed, the surveyor just writes the number 0 in spaces related to monuments count and fee.

If you still have stickers, please affix one on the form. Starting March 1, CLSs submitting forms not having a sticker will automatically be charged the \$50 (plus taxes) plan fee (when applicable).

DO NOT PUT THE STICKER ON THE PLAN.

The form is posted on the ACLS Web site. Please dispose of the old form.

"Marked Up Copies" and the Practice Review Process

The initial process wanted to take advantage of "marked up plan copies" or "check prints" to facilitate reviews and avoid duplication of work. After much discussion, the ACLS Council decided that it would be more appropriate for the Practice Review Department to obtain the copies directly from the practitioners.

So the Practice Review Committee is presently working on amending the Manual of Administrative Procedures to reflect that change in the process.

In order to have the plans available for review, ACLS licence holders are asked to retain their "marked up plan copies" or "check prints" in their files for at least seven (7) years.

Continued on page 5

Continued from page 4

New CLSs

The following people have met the ACLS Board of Examiners requirements and have been offered a Canada Lands Surveyors Commission (since August 2004):

- Gail Robertson, Edmonton, AB
- A. Wilson Phillips, Winnipeg, MB

Congratulations to both.

Legislation Amendments

A mail-in ACLS membership vote was held last September on a few ACLS General Bylaws and CLS Regulation amendments. All amendments were approved with a wide majority of votes.

The new Bylaw sections are in effect but the approved regulation amendments are sections, of a package, where the ACLS and the federal government reached an agreement. Other sections of the package are still contentious. The latter will be presented to the membership at the next AGM and a mail in vote will follow hopefully next summer.

Public Awareness

The Public Awareness Committee is hard at work building a PowerPoint presentation which will be available to ACLS members in order to make presentations in the event of career days in schools, or to groups of lawyers, realtors, general public and so on.

The ACLS, again this year, has been invited to participate in the University of Calgary Geomatics Engineering

GENERAL INSTRUCTIONS FOR SURVEYS OF CANADA LANDS, e-Edition

The General Instructions for Surveys of Canada Lands are available online. This *e-Edition* incorporates the Third Edition as published and all amendments to date. The URL is:

www.lsd.nrcan.gc.ca/english/manual_e.asp

The online version replaces the previously published Third Edition, and allows for sections to be amended more frequently. It is available free of charge for download, although hard copies are also available, on a print-on-demand basis.

Also available on the Instructions of the Surveyor General website are:

- links to Federal and Territorial legislation sites for legislative requirements that affect surveys on Canada Lands;
- the historical general instructions of the Surveyor General of Canada Lands as published in the first to third editions of the Manual of Instructions for the Survey of Canada Lands;
- the historical general instructions of the Surveyor General of Dominion Lands as published in the first to tenth editions of the Manual of Instructions for the Survey of Dominion Lands; and
- a search engine to assist users in determining which statutes, regulations, agreements and instructions may apply to survey operations in a given geographic area.

Department Career Day, which will be held on February 8, 2005. The ACLS booth will be manned by members of the Calgary ACLS Regional Group and Council member, Marie Robidoux, will make a presentation to the students. Thank you to members of that Group.

National Capital Commission

The National Capital Commission (NCC) is looking for people to fill seats on its Board. Its bylaws require representation from all regions of Canada. People interested should contact me. There is no financial compensation except for travel expenses.

The NCC Web site: www.canadascapital.gc.ca

Jean-Claude Tétreault Executive Director

Address Change

Please note that the ACLS offices have moved. Our new address is:

100E-900 Dynes Rd.
Ottawa ON K2C 3L6

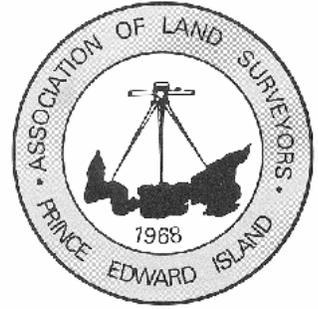
Our phone number remains 613-723-9200, but our fax number is now 613-723-5558.

We can be contacted by email at admin@acsls-aatc.ca



ACLS-APEILS Joint Conference

**Tuesday, June 21, 2005 to
Friday, June 24, 2005**
The Rodd Brudenell River
Resort, Cardigan, PEI



The ACLS is proud to announce that this year's *Annual General Meeting* will be held in conjunction with the meeting of the Association of Prince Edward Island Land Surveyors. This presents a great opportunity to interact with professional surveyors from all over Canada in a comfortable, friendly atmosphere. We invite you to take advantage of this opportunity to explore many new opportunities and challenges; to examine critical issues relevant to the profession through practical educational seminars by experts in the field; and to gain insight into the multidisciplinary aspects of surveying across the country. Use your newfound knowledge to develop your skills or apply them to your personal business practices. The ACLS and the APEILS welcome you to bring a guest to share in the fun!

Special Topics

Writing Winning Geomatics Proposals
Closing More Geomatics Sales
GPS for Cadastral Surveys
Managing Geomatics Projects for Results
The Canada Lands Survey System - A Model for Cadastral Management
Property Rights in the Offshore
Digital Cadastral and Registration Systems

Social Events

ACLS – APEILS Golf Tournament at the Brudenell Golf Course
Exhibitors Evening, including great entertainment and door prizes!
Site Seeing Bus Tours of the North Shore and Green Gables House
Horse Back Riding along the Brudenell River
Boat Cruise, including an Island Blue Mussel Buffet
Evening Dinner and Dance

If you are interested in attending this conference and would like to receive an information package, please email your contact information to s.murphy@acsls-aatc.ca For more information, please visit our website at www.acsls-aatc.ca as of February 2005.

Rodd Brudenell River Resort: Additional Information

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Canada Boundary Management and Property Systems Program (CBMPS)

"This program is designed to deliver the key elements of the Canada Lands Survey System in a Cadastral Management environment that is integrated with other components of the Property Rights systems on Canada Lands. A new Cadastral Management framework will be developed over the life of the program that will effectively support sustainable development of natural resources, Northern Development, First Nation Self-Reliance, Cadastral Institutional Reform initiatives for developing communities domestically and internationally and management of Canada's Ocean Space." [1]

The following vision was developed in the Spring of 2004.

Vision 2009:

1. Cadastral Management functions in the CLSS are increasingly integrated with all of the other components of the property rights regimes that the CLSS currently supports.
2. The framework for a Marine Cadastre for Canada is in place.
3. The CLSS is a model of flexibility, integrity and innovation that can be used as best practice for Cadastral Reform around the world.
4. ESS is recognized as a centre of excellence for cadastral and administrative boundary systems.

To accomplish this vision Legal Surveys Division has embarked on a two year mission to evolve the CBMPS through an integrated cadastral management infrastructure by developing a strategic framework with its partners (e.g. ACLS), benchmarking the Canada Lands Survey System, meeting the ESS/ACLS schedule for maintenance of the General Survey Instructions and completing 70% of the Integrated Cadastral Management (ICM) project which includes the standardization of business processes, GIS technologies and data models and the integration of information systems. In addition, the cadastral management functions within the CLSS will be integrated with the Indian Lands Registry (ILR), the framework for a Marine Cadastre for Canada will be in place and the CLSS/ILR integrated system will be a model of flexibility, integrity and innovation that may be used as best practice for property reform around the world.

A more comprehensive report is on the ACLS Web site. A half-day seminar entitled : « The Canada Lands Survey System – A Model for Cadastral Management » will basically provide an update on the program. It will be presented on the afternoon of June 22 in conjunction with our AGM.

Jacques Grondin, CLS, NBLs, P.Eng.

[1] Sullivan, Peter, "Canada Boundary Management and Property Systems Program" submission report, January 2005.

Video Footage of the "Changes in Land Registration and Survey Systems in Canada" Seminar is Now Available

This was taped during the ACLS 2004 AGM in Whitehorse YT.

Subjects include:

- Cadastre 2014: A Vision for a Future Cadastral System
- International Experiences in Property Rights
- Changes in Land Registration and Survey Systems in Canada
- Integration of the Indian Lands Registry
- Options for Land Registration and Survey Systems on Aboriginal Lands
- Yukon First Nation Land Registry Principles
- First Nations Land Management Act Initiative Project

This is available either in DVD or VHS format, and the price is \$75 (plus GST) to cover costs. Contact the ACLS staff.

Communique is published free of charge by the Association of Canada Lands Surveyors for its membership. All inquiries should be addressed to: ACLS, 100E-900 Dynes Rd., Ottawa ON K2C 3L6. Tel: 613-723-9200 Fax: 613-723-5558 Email: admin@acsls-aatc.ca

Quebec Region – ACLS Activities

On October 7th, a professional development and information session for the Canada Lands Surveyors working in the province of Quebec took place in downtown Quebec City. The Quebec Liaison Unit (CLU) of Legal Surveys Division organized this day. Thirty-one people attended including 26 ACLS members from a possible 38. A Wine and Cheese Social Activity took place at the end of the day and was well attended by the participants.

At the beginning of the day, Mr. Yvon Sanfaçon highlighted the Day's objectives, namely keeping members informed on developments in the profession, improving its practice and socializing. We can ascertain, without doubt, that the objectives were attained and are confirmed by the Day's Program as described below:

- Jean-Claude Tétreault of the Association reviewed the active files,
- Sylvain Lelièvre talked about the opportunities for improving survey documents,
- Alain Jacob discussed new standards and standardized tendencies,
- Yves Thériault and Serge Fortin elaborated on the NAD 83 versus the NAD 83 SCRS,
- Gabriel Lacombe discussed the Innu Assi Agreement,
- Rosaire Dufour talked about the on-line access to ILRS (Indian Land Registry System) from Indian Affairs,
- Éric Groulx talked about the on-line access to the Legal Surveys Division instructions and archives,
- Yvon Sanfaçon talked about the Department of Indian Affairs' inclinations with respect to survey funding,
- Josée Bastien and Éric Groulx presented the mapping and survey work budget for 2004/2005,
- Yvon Sanfaçon moderated a discussion relating to the possibility of a establishing a public tendering system on the Legal Surveys Division Web site.

Except for a few delays in the schedule, the Day was well received and participants thanked the team from the Quebec CLU who devoted their time in organizing this Day. Participants who benefited from this meeting and the organizers are to be congratulated.

Yvon Sanfaçon, a.-g., CLS

Blending Traditional Land Skills with Technology and Mapping in Nunavut

Legal Surveys Division, Iqaluit has piloted a new technical module for Nunavut secondary schools, in partnership with the Nunavut Department of Education. The kits include a compass, hand-held GPS unit, local NTS maps, manuals for teachers and students, along with indoor and outdoor exercises. To date, module kits have been delivered to schools in Sanikiluaq, Chesterfield Inlet and Arviat.

The goal of this pilot project is to enable residents of remote northern communities to use their traditional knowledge along with the assistance of high tech tools and NTS maps to safely and accurately traverse the land in their area. These tools will enhance the traditional knowledge of the Inuit people and their keen observation of the land in which they live.

Stan Hutchinson, CLS

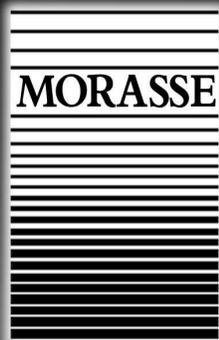
Retirement of Michal O'Sullivan

On May 11th, 2005, Surveyor General Michael O'Sullivan will retire.

His career as a surveyor started in 1960 in Toronto, was a cofounder of a surveying firm in Ottawa, and entered public service in 1989 as Assistant Surveyor General. He was promoted to Surveyor General in 1995, making him the fourth longest serving Surveyor General.

During that time, he presided over the 20th Century's largest land-surveying program in Canada with the aboriginal land claims in the northern territories and southern Ontario. He is the only Surveyor General to serve as International Boundary Commissioner. In addition, he led the Legal Surveys Division through an internal audit, a study of the legislated mandate of the Surveyor General, a comprehensive program evaluation, preparation of a business case and reshaping program, and a massive reorganization, reengineering and downsizing.

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THE ACLS CONTINUING PROFESSIONAL DEVELOPMENT PROGRAM FOR 2005

The ACLS CPD Program is designed for regular members. As professionals, it is assumed that all regular members are participating in the program. Annual submission of reports is on a voluntary basis. Monitoring of the program by the CPD Committee is only possible with input from the members.

Members were invited to submit their 2004 CPD Reporting Form in a mailout from ACLS head-office last November. The deadline for submitting the forms was January 31, 2005. We are glad to announce that Gérard Jacques of Saint-Georges, Québec won the draw for a PRIZE of a \$100 Canadian Tire shopping card.

The November 2004 mailout included the latest version of the CPD Reporting Form, a sheet of the category definitions and also a sheet of CPD examples. These materials are all available on the ACLS website as well.

The ACLS Geomatics Scholarship Program was implemented last year. The deadline for applications for the educational scholarship awards is May 15. Brochures have been widely distributed and are available from ACLS head-office.

Regular ACLS members can apply under the scholarship program for a CPD travel bursary to encourage them in their CPD endeavours. If a regular member identifies a worthwhile CPD event that they will be attending, please contact the Executive-Director of the ACLS at least six weeks in advance for the application form.

Funds for the Scholarship Program are managed by the Association of Canada Lands Surveyors Foundation Inc. The Foundation can accept donations from a variety of sources. ACLS members are encouraged to donate and tax receipts will be issued.

In 2005, selected ACLS sponsored seminars (from the past few years) will be made available for purchase in DVD

Continued on page 11

THE TLICHO LAND CLAIMS AND SELF-GOVERNMENT ACT

Note: This article is a summary of the text we received.

Early in 2005, Parliament is expected to give Royal Assent to Bill C-14: the Tlicho Land Claims and Self-Government Act. It is presently at the Senate in second reading.

This will give force of law to the August 2003 tripartite land claim and self-government agreement between the Tlicho and the federal and territorial governments.

The Tlicho people, (known by the English translation Dogrib until 2002) are members of the Northwest Territories Dene Nation, along with the Gwich'in, Sahtu, Deh Cho and Akaitcho peoples. They are known for entrepreneurship and economic development in the North Slave region and were successful in negotiating impact and benefit agreements as well as training and employment guarantees.

The Tlicho Agreement is the first to extend Section 35 protection to self-government rights. Comprehensive land claims settled previous to the Nisga'a Final Agreement (1998) would surrender their Aboriginal title to lands and resources in exchange for defined rights set out in a land claim settlement.

Section 35 of the Constitution Act, 1982, recognized the existing Aboriginal and treaty rights of Canada's Aboriginal peoples, and began to change how comprehensive claim agreements were negotiated. Comprehensive land claims are based on assertions of continuing Aboriginal rights and title that have not been dealt with by treaty or other means.

In 1986, the federal government's revised land claim policy started to include Aboriginal self-government issues. It is only in 1995 that the government started to give recognition to self-government as an existing Aboriginal right.

Since 1973, a total of 17 comprehensive land claims have been settled, 14 of them located in the three territories (Northwest Territories, Nunavut and Yukon).

Only two give Section 35 constitutional protection to self-government rights as well as to land rights in the same agreements; the 1998 Nisga'a Final Agreement, ratified by Parliament in 2000, and the 2003 Tlicho Land Claims and Self-Government Agreement (Bill C-14).

The Tlicho Agreement was initialed in March 2003, ratified by 84 per cent of eligible Tlicho voters in June 2003, and signed by the parties in August 2003. As required by the Agreement, Territorial Government ratified it as well. The Tlicho Land Claims and Self-Government Agreement Act (Bill 34) were ratified in October 2003.

One aspect that makes this comprehensive claim agreement different is its overlap agreements. The Tlicho and four other Dene groups concluded agreements to decrease the potential for future overlap disputes. These were required to resolve shared or overlapping traditional use areas or traditional territories claimed.

The Tlicho reside primarily in four communities in the North Slave region of the Northwest Territories, and are mostly members of the four Indian Act bands located respectively in those communities.

The traditional Tlicho territory extends into what is now Nunavut as well as into the settlement area under the Sahtu Dene and Métis land claim agreement. The Tlicho will retain wildlife-harvesting rights in those portions of their traditional territory. Other harvesting rights, for example with respect to trees and plants, may be exercised only in that portion in the Northwest Territories.

Public government created by the Agreement will have jurisdiction over an area called Wek'èezhii, bounded by Nunavut and the Sahtu settlement area and by lines agreed to with the Deh Cho and Akaitcho Dene.

Tlicho lands will vest in fee simple title to the Tlicho Government. They are in a single mass of land totaling roughly 39,000 square kilometers, including subsurface resources, subject to the interests set out in the agreement. The Tlicho Government exercises legislative authority over these lands.

Continued on page 11

Continued from page 10 (Tlicho)

Although the four Tlicho communities are located within the boundaries of Tlicho lands, they are not included in those lands. The communities are within Tlicho Community Lands, which will be vested in fee simple title to Tlicho Community Governments (these governments in turn to be established by Territorial Legislation). These are mostly within community boundaries. This title does not include prescribed excluded parcels, mines and minerals, or interests existing, and leases granted, prior to the coming into effect of the Agreement.

Natural Resources Canada's Earth Science Sector, Geomatics for Aboriginal Property Rights Infrastructure Program will put into effect the Tlicho Land claim survey implementation plan once Bill C-14 receives Royal Assent and effective date has been given to the Tlicho Land Claim Agreement.

For info contact:

Nancy Kearnan, a.-g., C.L.S.
Lorne E. McNeice, A.L.S., C.L.S.
R. H. Beaumont, A.L.S., C.L.S.

Continued from page 9 (CPD)

and VHS formats. This material is being assembled for use both by ACLS members in their CPD endeavours and students preparing for exams.

For several years, the CPD committee (on behalf of the ACLS) has been working with CCLS on distance learning ideas and general cooperation amongst Canadian Survey Associations. A National Working Group has recently begun work on these issues, so look for more news in the near future.

Every issue of Communique has an update on the ACLS CPD Program, either under the Executive Director's notes or as a separate article.

**Jim Banks, CLS, PEILS, NLS
Chairman, ACLS CPD
Committee**

University of Calgary Survey Camp

Approximately 40 students attended the University of Calgary Kananaskis Survey Camp, September 1 and 2, 2004. Nine presenters covered a wide range of topics, including Ethics, Becoming a Land Surveyor, Water Boundaries, GIS Applications, International Survey Work, First Nations Land Claims, Land Administration in Landmine Affected Areas, Project Management, and Running a Land Surveying Business.

The Association of Canada Lands Surveyors was well represented by Bryan Bates, Paul Dixon, Ian Lloyd, Roy Pominville, and Robert Allen. All presenters expressed an interest to return for next year's camp.

**Robert W. Allen,
BCLS. CLS**

Edmonton Chosen as Site for Canadian 2010 FIG Bid

The Council of the Canadian Institute of Geomatics (CIG) has selected Edmonton as the Canadian venue for a bid for the 2010 International Federation of Surveyors (FIG) Congress. CIG is the Canadian member association of FIG.

Markku Villikka, Executive Director of FIG and Ken Allred, FIG Vice-President, toured convention facilities in Edmonton, Calgary and Vancouver examining potential sites. In addition to favourable convention centre and hotel costs, organizations such as the Alberta Land Surveyors' Association, the Alberta Director of Surveys and Western Regional Natural Resources Canada are located in Edmonton.

The bid will go to the FIG Council, which will shortlist the bids and submit them with a report to the General Assembly in Cairo in April for a final decision. At least four bids from other countries are expected.

Report on Discipline Proceedings

Complaint Against Michael Kearney, CLS

A discipline hearing against Michael Kearney, CLS was held on November 4, 2004 after charges were laid in March 2004 in respect to a land claim survey project undertaken for the Legal Surveys Division, Natural Resources Canada, in the Yukon Territory. The Discipline Committee found Mr. Kearney guilty of professional misconduct.

Mr. Kearney was the project manager for the entire Project and was the supervising CLS for three of the plans of survey. There were significant discrepancies between the GPS observations taken and certain field measurements in respect to the plans of survey under his supervision. These matters were not dealt with or known to Mr. Kearney before the survey camp and crews were demobilized. Later, however, Mr. Kearney decided to ignore the results of certain short baseline GPS observations and remove these from adjustments made, instead of conducting further field investigations. Consequently, the plan that was produced contained measurements and statements which were inaccurate. Mr. Kearney acknowledges and the Discipline Committee finds that the appropriate procedure would have been to conduct further field work or investigations to determine whether the GPS measurements were accurate or whether there had been survey errors by the field crews. Furthermore, Mr. Kearney as well as the Discipline Committee acknowledge that the former did not follow proper survey practice and that the decisions relative to the adjustments he made should have been reported and communicated clearly to Natural Resources Canada.

As a result of this act of professional misconduct, the Discipline Committee has issued the following orders and directions pursuant to section 31 of the Canada Lands Surveyors Act.

1. There will be a suspension of the Member's Licence and Canada Lands Surveyors Commission for a period of two months. This suspension will be suspended, pursuant to Section 31(4) of the *Canada Lands Surveyors Act*, for a period of one year and, in the event that no further matters of complaint arise or come to light within that period, the order of suspension shall be of no further force and effect.
2. The Member will be reprimanded. The reprimand will be recorded in the register maintained by the Registrar.
3. The Member will reimburse the Association of Canada Lands Surveyors for a portion of the costs associated with the Complaint and the Hearing in the amount of \$10,680.00. Mr. Kearney must pay the costs within thirty-six (36) months of the date of this Decision and the payment of costs will be monitored by the Registrar of the Association. Further, the Discipline Committee retains jurisdiction to deal with any issues that may arise as to whether these orders and directions have been implemented.
4. The members of the Association will be notified of the action taken by the Discipline Committee in this matter.

Dated November 25, 2004

Complaint Against Sylvain Lessard, CLS

A discipline hearing against Sylvain Lessard, CLS was held on November 4, 2004 after charges were laid in March 2004 in respect to a land claim survey project undertaken for the Legal Surveys Division, Natural Resources Canada, in the Yukon Territory. The Discipline Committee found Mr. Lessard guilty of professional misconduct.

Mr. Lessard supervised a crew in respect of two plans of survey. With respect to the first, the latter acknowledges that he both ignored and failed to report the results of certain GPS observations rather than undertake further review and field work to assess the problem, resulting in a failure to report a discrepancy between the GPS and the field measurement. Moreover, some of the adjustment listings contained manually edited adjusted coordinates in the final listings. Mr. Lessard admits and the Discipline Committee finds that such actions do not constitute proper practice and that Mr. Lessard's decisions and adjustments should have been communicated clearly to the Complainant.

As for the second plan, Mr. Lessard, acting as the CLS on the site, was responsible for ensuring that all survey procedures were executed properly before leaving the subject areas. However, Mr. Lessard acknowledges that he failed to detect or note a problem with the GPS baselines on the final plan before submitting it to the client, decisions that could have affected the final bearing of the boundary. Mr. Lessard admits that no further field work or investigation was undertaken at his direction even though there were potential concerns with regard to the plans as well as the information submitted. Mr. Lessard acknowledges that further checks and reviews, possibly including further field work, should have been completed in order to ensure that these concerns were adequately addressed and the consequent errors were corrected. Mr. Lessard admits and the Discipline Committee finds that this decision should have been communicated to the

Continued on page 13

Continued from page 12

Complainant and should have been represented on the Plan. Finally, Mr. Lessard admits and the Discipline Committee finds that his decisions did not constitute good survey practice.

As a result of these acts of professional misconduct, the Discipline Committee issued the following orders and directions pursuant to section 31 of the Canada Lands Surveyors Act:

1. The Member will be reprimanded. The reprimand will be recorded in the register maintained by the Registrar.
2. The Member will reimburse the Association of Canada Lands Surveyors for a portion of the costs associated with the Complaint and the Hearing in the amount of \$7,120.00 within twenty-four (24) months of the date of this Decision.
3. The members of the Association will be notified of the action taken by the Discipline Committee in this matter.
4. The Member is directed to undertake, within six (6) weeks of the date of this decision, the reasonable steps necessary to correct the two Plans in question, submitted under his signature, to the satisfaction of Natural Resources Canada.
5. The Discipline Committee directs that the Registrar of the Association monitor the implementation of these orders and directions. Further, the Discipline Committee retains jurisdiction to deal with any issues that may arise as to whether these orders and directions have been implemented.

Dated November 25, 2004

News Flash

It is with great pleasure that we announce Mike Eaton CLS, has been awarded the Order of Canada. Mike's dedication and his tireless commitment to his work with CHS, particularly in the development of the electronic chart, have made him somewhat legendary in the halls of hydrography.

(Email from Dr. Savi Narayanan, Dominion Hydrographer)

Summary of Council Meetings

August 10, 2004 - Teleconference

- Council considered a paper on the position of the Practice Review Committee in reply to a letter from an ACLS member who raised serious issues on LSD staff providing marked up copies of plans directly to the ACLS Practice Review Department. Council decided to wait for results of an LSD managers meeting before adopting a position.
- I presented a first draft of the new Board of Examiners business plan (see article on this topic in this issue). A few changes were made and Council decided that the ACLS would present a proposal to provide registrar services, administrative support and the use of its office space for the new Board.
- Council approved the six resolutions for the harmonization of entry standards adopted at the Winnipeg CCLS March, 2004 meeting.
- Decision to hold Council face-to-face meetings on November 25, 26 and 27 in Ottawa. The Strategic Plan will be updated.
- A report of the ACLS-LSD: CLSS Benchmarking Project was presented. Work is proceeding at a satisfactory pace.
- Last spring, the ACLS received a letter from the First Nations Lands Advisory Board asking for help for capacity building within Aboriginal Communities. A positive reply letter will be sent to the FNLAB.
- Decision to go ahead with searching for new office space.
- A first draft of the ACLS Annual Report to the NRCan Minister was circulated to both the Past President and President. Both proposed changes. A new version will be circulated to all Council members before submission to the Minister.
- Council approved the Board of Examiners' recommendation to pay a fee of \$100 a day to exam invigilators.
- Appointment of 13 people on various ACLS committees and of three committee chairmen.
- Five ACLS members will make presentations at the University of Calgary Geomatics Engineering Department Survey Camp.

Jean-Claude Tétreault
Secretary-Treasurer

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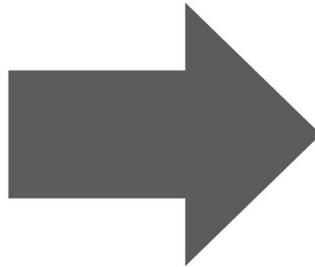
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**The ACLS and APEILS National Surveyors Conference 2005
GPS for Cadastral Surveys Seminar, June 21, 2005**

Call For Papers

Abstracts may be submitted until March 11, 2005

The ACLS invites members to speak at its 2005 GPS Seminar at the AGM in Prince Edward Island this summer. The presentations must focus on the application of GPS for cadastral surveys, with emphasis on innovative methods and quality control procedures.

Please submit an abstract of no more than 250 words describing your proposed presentation. The abstract should include the title of your presentation, address, phone number, and email. Please email your abstract as a Word or Word Perfect document to the address below.

For further information contact :
Tel : (613) 723-9200 Fax : (613) 723-5558 s.murphy@acsls-aatc.ca

Sometimes the only thing worse than not finding evidence - is finding it!

It is becoming apparent to the Practice Review Department that some of our members may not be reconciling physical and documentary evidence in accordance with established legal principles. Existing monumentation is very often depicted on plans in its exact original position. Now this would seem ok if the surveyor was to kick the odd bar back in place and note on the plan that it has been reset. But this is not always the case. We know from experience that monuments are seldom found in their exact theoretical location. If they are more than a couple of cm off, and there is no evidence of them having been disturbed, the surveyor has to consider the rules of law. Under the heading "Concept of confidence regions for Legal Surveys" in Appendix E4 of the General Instructions, we are reminded that "in legal surveys, monuments define boundaries, not measurements". This is one of the fundamental legal principles that govern the practice of land surveying.

Section E2 of the General Instructions entitled "Legal Principles" is based on an essay by Justice Cooley of the Michigan Supreme Court written in 1879. In this essay, Justice Cooley outlines the court's hierarchy of evidence as respects surveying. Some would argue these ancient principles are outdated and have little meaning in today's highly technical world. But there is an even older principle of common law known as "Stare Decisis - the Rule of Precedence" that says the longer a rule has been around, the more weight the courts are willing to give it. This often puts the surveyor in an awkward position. On the one hand, the surveyor is to accept the original monuments (even if they were placed incorrectly), provided they are still in their original location. On the other hand, clients, planners, lawyers, regulators and everyone else it seems, expects the property to match the records. Holding the found evidence may satisfy the courts but it is sure to upset just about everyone else.

When forced to decide between found evidence and documentary evidence, some surveyors show the proximity of the found monument to the boundary. This would appear to be contrary to the rules. The only time a surveyor can choose the mathematical position over the physical position of an original monument is when there is evidence to prove the monument is no longer in its original location. Keep in mind, mathematics can often provide this proof. For instance, under Section 28(4) of the Canada Lands Surveys Act, in Coordinated Survey Areas, the coordinates can provide proof of the position of a lost monument in the absence of evidence to the contrary.

This is a serious dilemma for the surveying profession. Documentary evidence such as deeds and coordinated plans of survey has assumed a very important role in our society. In many cases they are the sole basis for conveyance, approval process, taxation and so on. Because of this, there is a great tendency on the part of the surveyor to make the survey fit the plan. The Ontario Land Surveyor's Association has long recognized this problem and they offer a partial solution to their members in O.Reg. 42/96, Interpretive Guide S.15

If a measurement of distance or direction on a plan differs by less than the allowable error (1:5000 ratio +/-) from that shown on a published document (an underlying plan/description) the measurement should be shown to be in agreement with the published measurement. Otherwise you have to show a comparison on the plan with that published dimension.

Continued on page 18

The CLS Commission within the Canadian Hydrographic Service (CHS)

The ACLS Offshore Issues Committee is dedicated to examining issues such as hydrographer training and certification, ramifications of UNCLOS, as well as emerging/ongoing requirements for a marine cadastre. Recently, George Schlagintweit, Chair of the Committee, prepared a comprehensive report entitled *The Canada Lands Surveyor Commission within the Canadian Hydrographic Service; A Situation Analysis of the Role of the Profession* which outlines issues facing the Canadian Hydrographic Service (CHS) in the context of past, present, and future.

As part of the basis for his report, Schlagintweit sent out a 5-question survey to all CHS employees who have their CLS Commissions, for which there was a 94% response rate. The questionnaire had two main objectives. The first objective was to establish what the value proposition is for ACLS membership by CHS CLSs. The thrust of the second objective was to establish the level of understanding CHS CLSs have with respect to how they 'fit' within the profession. Responses to the survey yielded many findings, some of which may have important implications for both the CHS and ACLS.

Results

With regard to Schlagintweit's first objective, respondents of the survey were asked which benefits, in their opinion, stood out as the most appreciated. In order of importance, these are Continuous Professional Development (CDP), Networking, and the Recognition of Competence. These responses are important as they will be taken under consideration by the ACLS Public Awareness Committee, which is continuously working toward refining the focus of its activities such that the hydrographic community can better appreciate the merits of membership. At present, one third of CHS CLSs are members of the ACLS.

Part of the report's second objective was to establish the extent to which CHS CLSs understand the extent of their authority to carry out surveys on Canada Lands pursuant to the CLS Act. One finding was that CHS CLSs are aware that having a Commission does not assume ACLS membership. Regarding use of the CLS designation, responses showed that many are mistakenly using their CLS designation in a certification capacity even though they do not have a License to Practice, let alone being a member of the ACLS. The latter results are suggestive of the following. First, there is a need for the ACLS to effectively communicate to CHS CLSs the ramifications of the changes to the profession which came into force when ACLS assumed regulatory authority over all matters pertaining to the profession. Second, there is a need to clarify the intent of the term "entity" in Section 25 (2) of the CLS Regulations. Third, there is a need for ACLS to forge a mutually beneficial relationship with the CHS. As Schlagintweit mentions in his report, an example of such an initiative would be for CHS and ACLS to partner as co-hosts to the Canadian Hydrographic Conference in 2006.

There have been several recent developments pertaining to the field of hydrography which present ideal opportunities for CHS and the ACLS to be more aligned. One such development pertains to **Canada's ratification of the United Nations Convention on the Law of the Sea (UNCLOS)**. On November 7, 2003, Canada's ratification of UNCLOS, signed by the Minister of Foreign Affairs became official. Canada has 10 years with which to submit to the Commission on the Limits of the Continental Shelf (CLCS) a claim respecting Canada's outer limits of the continental shelf beyond 200nm. Therefore, on behalf of the Department of Fisheries and Oceans (DFO), CHS would likely participate in the following capacities: project management; quality control; data management; and technical support. This project will require hydrographers for mapping and positioning techniques, geological experts to determine slopes and sediments, as well as cadastral experts (CLS) in order to ensure that the delimitation also takes into account legal aspects and the protection of the public. As such, hydrographers with a CLS commission would be perfectly suited in this regard. Moreover, this presents an opportunity for ACLS to engage in dialogue with the CHS and NRCan regarding the role the CLS profession can play.

A second development that may share a common interest to both CHS and ACLS is the **Marine Cadastre Initiative**. A Marine Cadastre is a system that enables the boundaries of maritime rights and interests to be recorded, spatially managed and physically defined in relationship to the boundaries of other neighbouring or underlying rights and interests. Thus, a CLS would have an important role, as he or she would have the necessary education and training to deal with legal boundaries and ensure that public interest is protected.

Continued on page 18

Practice Manual

The Standards of Practice Committee just finished its review of the ACLS Practice Manual. It will be presented at the up coming AGM. It's expected that version 2005 will be available during the summer.

The Manual is presently being translated into French. It should be available at the same time as the new English version.

New sections on Geographic Information Systems and Hydrography may be added in the up coming version. Both the GIT, and Offshore Issues committees are involved.

Continued from page 16 (Evidence)

This is not to say the surveyor can avoid the tough choice by showing both sets of measurements when they differ by more than a reasonable amount. On the contrary, the surveyor must apply the rules of evidence and if necessary, show the extent to which the new survey disagrees with the documentation. As agents of the court, the first question we must ask ourselves when faced with a clear conflict between physical and documentary evidence is: "how would the courts handle this?" A little common sense helps too.

Practice Review Department

Continued from page 17 (ACLS & CHS)

In summary, Schlagintweit presents an excellent and comprehensive report which not only brings pertinent issues facing the ACLS and CHS to the forefront but recommends objectives for change. It is evident from the results of most questions that both of the latter groups would greatly benefit from the development of stronger ties, including more frequent and efficient communication on the parts of both groups. It is our hope that this survey will serve as a catalyst for positive change initiatives for both the ACLS and the CHS.

For a complete copy of this report, email ACLS Executive Director Jean-Claude Tetreault at jct@acsls-aatc.ca.

For additional information on the Rights to Practice refer to <http://www.acsls-aatc.ca/ENGLISH/pemit&licence/permit-and-licence.htm>

John Matthews was one of two recipients of an Honorary Life Membership at the 2004 AGM in Whitehorse, YT

Gentlemen:

Thank you for presenting me the Honorary Life Membership.

Receiving this award at the 20th Annual Meeting at Whitehorse was a major highlight of my CLS career.

Any volunteer work I participated in on behalf of Canada Lands Surveyors was enjoyable and educational for the writer. The time I spent working alongside my colleagues on ACLS work was beneficial to my career. I learned a lot from my fellow CLS's.

It gives me great pleasure to listen to the new Canada Lands Surveyors solving today's survey problems, and earning respect from the Government and private sectors.

Keep up the good work!

Yours sincerely,

John WP Matthews, BCLS, CLS