

February 2019

# SIDE SHOTS

Professional Land Surveyors of Colorado

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## WHERE IS NORTH?

- From astro. Observations
- Star  $\pm$  acc. Instrument
- Solar  $\pm 1$  minute of arc

### Astronomic North



- With magnetic compass
- $\pm 1$  degree
- Varies annually
- Varies with magnetic storms (solar activity)

- Calculated for Mercator  
projections from Lat/Long  
**GRID (Coord) NORTH**

- Calculated for Lambert  
projections from Lat/Long  
**MAG. NORTH**  
**GRID (Coord) NORTH**

NAD83

UTM

NAD27

UTM

NAD83

UTM

NAD27

UTM

NAD83

UTM

NAD27

UTM

NAD83

UTM

NAD27

UTM

Northing

Easting

Mapping Angle  
(convergence)

Mapping Angle  
(convergence)  
Declination

Northing

Easting

see page 10

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# Rule of the Month: CRS 12-25-208(1)(b) Standards of Practice

By Earl Henderson, PLS

I have been hearing stories recently that make me realize that the Standards of Practice issue needs to be revisited. The statute, CRS 12-15-208(1)(b), describes one of the Grounds for Discipline the AES Board can use when taking action against a Professional Land Surveyor and reads, "Failing to meet the generally accepted standards of the practice of land surveying through act or omission;". It bears repeating that the Standards of Practice is NOT a geographic determination. In other words, just because most of the PLS's in the local area are completing their surveys in a particular way doesn't make it the standards of practice. After all, the statute reads, "...the standards of practice of land surveying..." and not "...the standards of practice of the local land surveyors...". We are held to the standards of the profession, which I am told, is unfortunately a much higher bar than the standards in some geographic areas of the state. The best definition I have ever heard for the standards of practice is, "What a reasonably prudent surveyor would do under like or similar circumstances." But of premium import is that we should be holding ourselves and our colleagues to a standard that will instill in our clients and other professions the respect that we all think we deserve.

Here are three real life examples that I've experienced recently that have led me to believe that this issue needs attention.

A PLS contracts to complete an ILC and does so on an 8½"x 14" legal sized form. On this ILC the PLS depicts property corner monuments both found and set by the PLS. Regardless of if other PLS's in the local area are setting property corner monumentation during the completion of ILC's or not, and regardless of if the real estate agent, title examiner, loan officer, purchaser and/or seller want monuments set at the property corners but for the document to still be titled as an ILC, this PLS is not complying with the standards of practice.

There are at least two statutes which are being directly violated in this situation. The first is CRS 38-51-108(1) which describes an ILC as being based on the PLS's "...general knowledge of land boundaries...". If the PLS has developed enough knowledge to set property corner monuments, then their knowledge is not general in nature but specific in nature and an ILC is no longer applicable. The second are CRS 38-51-102(13) & (12). I've listed them in opposite order because that is how the logic flows. (13) defines a Monumented Land Survey

as one in which "...monuments are either found or set... to mark the boundaries of a specified parcel of land." So clearly if monuments are set during a survey, that survey must be defined as a Monumented Land Survey and (12) defines a Land Survey Plat as a plat depicting a Monumented Land Survey. An ILC does not depict a Monumented Land Survey based on CRS 38-51-108(2) (a)(i) so clearly these statutes are also being violated.

The lessons here are at least threefold. The first is as described and simply that if property corner monuments are set the survey is defined as a Monumented Land Survey and must be documented by a Land Survey Plat, not an ILC. The second is a bit more hidden. Even if a PLS documents their survey on legal sized paper and titles it an ILC doesn't mean that it will be interpreted or in any way limited to that definition. The Board and the courts will define the survey based on the statutes and definitions regardless of what the title is at the top of the page. So don't ever think that just because you've titled a document an ILC that you're forever protected by the definition of an ILC. If it smells like it, it probably is it. The third is also a bit more hidden. Don't let other professionals, surveyors, clients or others, pressure you into doing work that is against the standards of practice. Let the other PLS's get into trouble with the Board and the courts. That will leave more work for you in the long run. And don't let other non-surveying professionals working on the project pressure you into substandard work either. You will establish their respect by educating them on the standards of practice and maintaining your standards regardless of the other substandard but geographically local PLS's. More work, more profitable work and more interesting work will come your way via word of mouth when you've established locally that you have higher standards for your work than all the cheap substandard work put together.

But the first example is clear cut. What's right is obvious and what's wrong is obvious. The statutes that apply are written and clear. So let's try another that isn't as direct.

A Land Survey Plat is being completed on a metes and bounds tract of land and there's a property corner location that needs to be re-established. A particular line of the subject property is described (and this is NOT a quote from a description) as proceeding on a northerly bearing to a point on the south boundary of an adjoining parcel. Thence on an easterly bearing along the south boundary of that adjoining parcel. This is a very

common situation and a principle that can be applied to many, many situations. The PLS needs to determine a location on a line at which the corner of their subject property lies. What's surprising is how often a PLS will magically determine (usually from geometry) where that location lies without ever determining, or even trying to determine, the two ends of the line on which the corner lies. How is it possible to set a monument on a line for which the two ends of the line are unknown? Now, to be fair, there are instances when both ends of the line in question are not monumented. But in those cases even more effort needs to be exerted to determine the location of that line, not less effort. And if you find yourself in this situation, where a corner needs to be determined on a line that is itself difficult to determine, consider writing a surveyor's narrative to describe the situation and the means used to resolve it so that your fellow PLS's, the Board and the judge will be aware that the standards of practice of the profession were met, the cheap and easy shortcut was not used, and havoc in the neighborhood among the landowners was avoided. The principle is simple, but the execution seems to be difficult for some. If you need to establish a point on a line, you first need to establish the line at both ends or provide a reasonably prudent explanation of how you couldn't, not how you didn't want to, or how your client didn't expect the extra charges, or how that would put your survey over budget. I can assure you that the Board and the courts are interested in the results, not the costs to get the results.

One final example, a PLS is completing a Land Survey Plat with the use of a title report. And note this can be an ALTA/NSPS Land Title Survey if you'd like but not necessarily. CRS 38-51-106(1)(i) requires a written property description so the PLS copies the description from the title report and indicates as much on the face of the plat, "Property Description from Title Report No...". Hopefully you already know that this does not meet the standards of practice, but many don't because it's done quite often. One issue with such a note is that the description from the title report is NOT a description of real property. It is a description of what the title company is going to insure. Our duty as professionals is to survey real property which is property described in a deed. The title company can insure whatever property they choose to describe. What they choose to insure may or may not coincide with the described property in the Instrument of Record. The title company may be excluding portions of

the property and including other properties. Their typist may have tried to copy the description precisely from a deed description of real property, but made inadvertent errors or omissions (happens all the time). But our responsibility as professionals is to survey the property which is described in a deed, preferably the Instrument of Record. And by doing so we are providing a valuable service to our clients in that if there are differences between the property as described/surveyed and the title company's description, our clients will be fully aware and hopefully fully insured in title when closing comes.

CRS 38-51-106(1)(i) requires us to show a written property description on the face of the plat. And Board Rule 6.5.2 requires us to "...conduct...research activities...to properly define the property boundaries relative to the instrument of record...". It does NOT say "relative to the description found in a title report". Board Rule 6.5.2 does allow us to obtain the instrument of record from a title commitment, but one way or the other we are required to obtain the instrument of record and survey the property relative to the instrument of record. So clearly, if you continue to include a note that you obtained the description of the property from the title commitment, then what you are indicating to your fellow professionals, the Board and the courts is that you did not obtain the instrument of record or survey the property relative to the instrument of record. And that falls below the bar we label as the standards of practice.

Above all else, I hope what you've culled from this article is that the standards of practice is not a minimal level at which any PLS should want to practice or that will elevate our profession in the eyes of our clients, fellow professional land surveyors, or other professions. The standards of practice is the minimum at which a PLS can complete their work at minimally acceptable levels. It's the low bar. That's not where I want to practice. I want to practice at a level at which I can be proud of my accomplishments, at which I can charge a price comparable to my abilities, and at which my work will raise the bar among my fellow professional land surveyors. As that happens, our profession will be raised in the eyes of others. Please feel free to join us. There's a lot of room above that bar.

Happy New Year everyone.