URISA Board’s Position in MAPPS, et al. v. the United States of America

(The following statement was approved by the Board at its February 7 meeting.)

Background. The Management Association for Private Photogrammetric Surveyors (MAPPS) and three other associations filed suit in US federal court in June 2006 to compel US federal agencies to rewrite the definition of “surveying and mapping” used in federal procurement regulations for architectural and engineering services. The case was slated for a hearing on February 2 (since postponed to mid-February or later).

Specifically, the plaintiffs ask the court to order the Federal Acquisition Regulation (FAR) Council to:

…define “surveying and mapping” in such a way as to include contracts and subcontracts for services for Federal agencies for collecting, storing, retrieving, or disseminating graphical or digital data depicting natural or man made physical features, phenomena and boundaries of the earth and any information related thereto, including but not limited to surveys, maps, charts, remote sensing data and images and aerial photographic services.

Read that carefully, as if your job depended on it, because it very well might if you do contract work for the federal government. By that definition I could not take a photo of my mother on my front porch unless I erased the porch—or became a registered surveyor.

Board Opposition. In January, when a decision appeared imminent, the Board elected to join with AAG, GISCI, GITA, and UCGIS in filing a friend of court brief in opposition to the plaintiffs, and to contribute $7,500 to the effort. That brief opposes the plaintiffs’ contention that they represent the entire spatial data community and that all work within that community is or should be done by surveyors and engineers. Al Butler’s article in this issue provides the details of the case and the brief. The rest of this column sets forth the context and rationale for the Board’s action.

What the Case Is and Is Not About. Before setting forth the Board’s position on the case, it is important to clarify what the case is NOT about:

1. It is not about qualifications-based selection (QBS) procurement, the procurement method prescribed by the Brooks Act, which governs federal procurement of architectural and engineering services. No party to the case has raised any questions about QBS procedures or suggested that any other procurement method should be used.

2. It is not about licensure. The federal government does not license surveyors, engineers, or architects; states do. No party to the case questions whether or how states ought to license practitioners of any profession.

The case concerns which geospatial services must be provided under the supervision of a licensed surveyor, engineer, or architect—and which services do not require such expertise.

NCEES Model Law and Rules (ML&R). It would be most helpful, in resolving this last question, if representatives from the various professions involved could get together and argue out exactly when the expertise of surveyors and engineers is necessary and legally required, and when it is not. In fact that was done several years ago. Representatives of MAPPS, ASPRS, ASCE, NSPS, URISA, NSGIC and ACSM came to a consensus over the course of many discussions in 1999-2001. The results were compiled in the National Council of Examiners for Engineering and Surveying (NCEES) ML&R in 2003.

The ML&R provides common ground for several associations on both sides of the case. The NCEES Model Law article presented on page 12 reviews the issues that were resolved and what the ML&R mean for GIS professionals.

The ML&R are intended to provide guidance to states as they revise their survey licensure laws. One state, Oregon, relied on the ML&R in revising its state law to define clearly the surveyors’ field of practice, and to delimit what GIS professionals could do outside the responsible supervision of a licensed surveyor. In their article, URISA Board members Eric Bohard and Cy Smith provide first-hand insight into how the ML&R can clarify the roles of the different geospatial professions and so increase professional respect between them.

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Important URISA Dates to Remember

March 4-7, 2007
11th Annual Integrating GIS & CAMA Conference
Flamingo Hotel - Las Vegas, Nevada

March 23, 2007
Date by which URISA 2007 Board of Directors ballot must be distributed to membership

April 2, 2007
Deadline to submit applications for the 2007 Exemplary Systems in Government Awards

April 15-18, 2007
2nd Annual Geospatial Integration for Public Safety Conference
Marriott New Orleans

May 7, 2007
Last day to vote in the URISA 2007 Board of Directors' Election

May 20-23, 2007
1st Annual URISA GIS in Public Health Conference
Marriott New Orleans

August 20-23, 2007
45th Annual URISA Conference
Washington Hilton in Washington, DC

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Response of the URISA Board of Directors. The URISA board opposes the plaintiffs’ claims because of their potential to harm our professions and our industry:

1. Their claims, if accepted, would expand the scope of architectural-engineering surveying and mapping far beyond the scope of any professional expertise certified by registration or licensing as a surveyor, engineer, or architect.

2. These claims are thus in fundamental conflict with the norms of professional practice across the geospatial professions.

3. The claims contradict the NCEES Model Laws and Rules, which URISA (and MAPPS, among others) have endorsed for several years.

4. The claims, if accepted by the federal courts, would not affect state licensing directly, but they would set an important precedent that would likely influence the development of state licensing and registration laws.

5. Acceptance of these claims would cause significant harm, in a variety of ways, to the majority of geospatial professionals—those who are not licensed surveyors, engineers, or architects.

6. Acceptance of these claims would place under the responsible supervision of licensed surveyors, engineers, or architects crucial federal geospatial services requiring expertise in geography, remote sensing, information science and technology, and numerous other specialties, all well outside the licensed professional competence of surveyors, engineers, or architects.

7. Placing these federal services under the control of persons lacking the professional expertise to oversee them would cause inefficiency and waste of public funds, and would risk significant harm to the public health, safety, and welfare.

8. Encouraging licensed professionals to claim competence in areas outside their professional expertise violates a fundamental tenet of professional ethics.

9. By seeking to expand via court order the scope of the surveying, engineering, and architecture professions, the plaintiffs are attempting to achieve by regulation what cannot be sustained through competition in a free market economy. Such regulation could only stifle innovation and growth in a high-growth industry that is crucial to research, defense, and economic development.

The Board’s opposition is rooted in URISA’s core values as well as our professional interests. URISA is a multidisciplinary association where professionals from all parts of the spatial data community can come together and share concerns and ideas. Such a community requires respect for the specialized expertise of the various professions that have contributed to our industry and to URISA. The plaintiffs’ claims would undermine those values by subordinating all geospatial professions to surveying and engineering, thereby disenfranchising the majority of URISA’s members and threatening the quality of spatial data available to the public.

Our opposition does not reflect in any way on the professions themselves, but simply on the plaintiffs’ claims in this court case. Likewise, while we disagree in court on this case, URISA and MAPPS will continue to find many issues where we agree and work together. And on this issue we will remain open to further discussion with the plaintiffs in alternate forums.

Creating a URISA Policy Commit-tee. This case may be decided as early as mid-February, but the underlying issues are long-term issues. Several other policy issues have also arisen in the past few years. Our website now has a “Policy Watch” page where Board statements and background materials are posted.

All of this underscores URISA’s need for a means by which the entire URISA membership can be involved in raising issues and articulating URISA’s stand on them. At the Vancouver conference, URISA’s past presidents (led by Pete Croswell and Will Craig) recommended that URISA create a Policy Advocacy Committee enhance and formalize URISA’s role as a policy advocate. As Pete wrote, “The overall idea is to increase our level of activity in submitting comments, drafting formal resolutions, and lending our voice to policy initiatives of national, international, or regional scope that have relevance for our membership and our mission.” The Board expects to act on their recommendation in the next few months.

Meanwhile, we’d like to know your opinion on this case—please email us at: urisaboard@urisa.org

Association Viewpoints

UCGIS statement http://www.ucgis.org/docs/UCGIS_position_MAPPS_lawsuitFinal.htm


AAG statement http://www.aag.org/Donate/links.html

NSGIC statement http://www.directionsmag.com/article.php?article_id=2388

MAPPS statement http://www.mapps.org/QBSlawsuit.asp
GIS Provides the Geographic Advantage

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DenverGIS is the centralized geographic information system (GIS) department for the city and county of Denver. It uses ESRI’s ArcGIS® software to provide GIS services that are aligned with the mayor’s service delivery goals. More than 34 city and county departments use the GIS for applications to generate a real return on investment. Applications range from tax assessment, community planning and development, and public works to public safety. Visit www.denvergov.org/gis.

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Chief Information Officer, City and County of Denver

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David Luhan,
GIS Manager, DenverGIS

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"If the Court Accepts This, Then No Geographer Could Ever Make Another Map for the U.S. Government"
By Jack A. (Al) Butler, GISP

The title of this article is the concluding sentence in testimony I recently filed in a federal lawsuit. In January, URISA joined with four other professional associations representing the broad geospatial community to file a brief amicus curiae (friend of the court brief) in the matter of Management Association for Private Photogrammetric Surveyors (MAPPS), et al. v. United States of America. MAPPS and other associations in the architectural, engineering, and surveying industries filed this suit in U.S. District Court in Alexandria, Virginia on June 9, 2006. This article will summarize the case and URISA’s actions to date.

MAPPS, et al., are asking the court to compel the U.S. Federal Acquisition Regulation (FAR) Council to redefine all “surveying and mapping,” as architectural and engineering services. As currently interpreted by the FAR Council, the term refers only to surveying and mapping that is incidental to architectural or engineering services, or is logically and justifiably performed by members of the architectural or engineering professions (40 U.S. Code 541(3)).

The plaintiffs are asking the court to compel the FAR Council to “define ‘surveying and mapping’ in such a way as to include contracts and subcontracts for services for Federal agencies for collecting, storing, retrieving, or disseminating graphical or digital data depicting natural or man made physical features, phenomena and boundaries of the earth and any information related thereto, including but not limited to surveys, maps, charts, remote sensing data and images and aerial photographic services.”

The new definition would greatly expand the scope of the term “surveying and mapping,” and, more important, it would require that only registered surveyors, engineers, or architects could do any work within that scope. As our attorney said, “the lawsuit threatens to hijack the GIS and related industries by excluding anyone and everyone other than licensed engineers or surveyors from receiving any type of federal mapping contract.”

Who Are the Plaintiffs?
Although MAPPS is taking the lead on the suit, there are actually three other associations participating as plaintiffs: the Council on Federal Procurement of Architectural and Engineering Services (COFPAES), the National Society of Professional Engineers (NSPE), and the American Society of Civil Engineers (ASCE). COFPAES is comprised of the American Congress on Surveying and Mapping (ACSM), the American Institute of Architects (AIA), ASCE, MAPPS, and NSPE. So, even though I will use “MAPPS” as a shorthand reference to the plaintiffs in this action, the plaintiffs include several business and professional associations serving the architecture, engineering, and surveying industries and representing the hundreds of thousands of people they employ.

MAPPS is a non-profit business association (501(c)(6)) with a mission of “aggressive advocacy of the private photogrammetry, remote sensing, surveying, and GIS community” (http://www.mapps.org/AboutMAPPS.asp). The Association’s stated objective is “to develop strength and unity on matters affecting the interests of its member firms” so as “to promote a quality, profitable profession” (Ibid.). It undertakes legislative monitoring and lobbying as it seeks to “make the voice of private practice surveying and mapping heard in Federal agencies and the Halls of Congress” (Ibid.). MAPPS members include:

- Aerial photography firms, like Aerial Services, Inc., Pictometry, and Photo Science, Inc.;
- Engineering companies, like Merrick & Co., Woolpert, and Michael Baker, Jr., Inc.;
- Satellite imagery suppliers, like SPOT Image Corp. and GeoEye;
- Mapping companies, such as Smart Data Strategies, Inc. and Sanborn; and Software and equipment companies supporting these industries, including ESRI, Optech, Inc., Leica Geosystems, and Intergraph (http://www.mapps.org/Members/membercapabilities.asp).

continued on page 6
The MAPPS Lawsuit

If there is one aspect of the case that can summarize the divergence of position, it is MAPPS’ classification of surveying and mapping as one thing while the federal government has traditionally looked at them as two different things. Certainly, some maps are records of land surveying and should be prepared by the surveyors who did the work. However, the associations filing the amicus brief in support of the federal position believe that most mapping is quite different from the plats and other limited-purpose maps produced by surveyors.

According to the suit, MAPPS seeks to have “surveying, photogrammetry, satellite and airborne remote sensing, aerial photography, hydrography, aerial and satellite image processing, GPS, and GIS data collection and conversion services” procured by the federal government placed under the exclusive province of architects, engineers, and surveyors. MAPPS contends that the FAR Council erred when it refused to amend 48 CFR Part 36 to eliminate the distinction between mapping associated with surveying and mapping associated with other activities. If the Court agrees that the FAR Council improperly implemented the Brooks Act, then it may issue an injunction that would stop federal spatial data procurements until the regulations were changed to reflect the “surveying and mapping is one thing” position.

The original Brooks Act was silent on the subject of surveying and mapping. That term appeared when the Congress amended the original act in 1988 to clarify that the range of services that could be included in such a procurement may involve several enumerated “incidental services.” Among these were “studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, ... and other related services.”

The FAR Council looked at this language and said that “surveying and mapping” associated with architectural and engineering procurements is something separate from other kinds of mapping:

Mapping associated with the research, planning, development, design, construction, or alteration of real property is considered to be an A&E service and must be procured using the process in FAR 36.601 [QBS selection]. However, mapping services, such as those procured by the Defense Mapping Agency, that are not connected to traditionally understood or accepted A&E activities, are not incidental to such A&E activities or have not themselves traditionally been considered A&E services, shall be procured pursuant to provisions of FAR part 13, 14 and 15 [competitive bidding]. (56 Fed. Reg., 29128-29)

MAPPS originally sought the regulatory change being pursued in court through a federal rulemaking under a petition to the FAR Council in 2004. The FAR Council rejected the request following a public comment period during which the majority of submissions said that the change was inconsistent with the practice of mapping unrelated to land surveys and the qualifications required for the work. Based on this input and other considerations, such as the NCEES Model Law and Rules for the practice of surveying, the FAR Council rejected the regulatory change on April 12, 2005.

MAPPS argues in its suit that the Brooks Act amendment of 1988 did not permit the FAR Council to make a distinction between different kinds of mapping. By listing “surveying and mapping” within the scope of architectural and engineering services, MAPPS claims that the Congress was declaring all mapping to be a result of surveying. Since there is no “non-surveying” form of mapping mentioned in the statute, MAPPS contends that the FAR Council cannot create such a classification.

The Issue of Standing

In addition to supporting the FAR Council’s actions and present procurement rules, the U.S. government contends that MAPPS does not have standing to bring the suit. This challenge is based on the principle that someone must be harmed by a regulation in order to contest it. The U.S. government contends that the competitive bidding process used for “regular” mapping services has not harmed MAPPS and its members. If they have not been harmed, then they cannot sue for relief. To date, this part of the suit has been dominant.

It was on resolving this matter that the Court spent the majority of its effort in rendering the opinion filed on December 13, 2006. You may have seen the pronouncements by MAPPS at the time saying that the Court had ruled in its favor on the standing issue. Well, yes and no. What the Court said was that there are two tests for standing. The first test, which is applied at the very earliest stages of the suit, is whether it is possible that the plaintiffs were harmed. The Court ruled that it was possible, and then listed the detailed test to be applied at the next stage of the proceeding. It is this second test that is to be applied at a February 26, 2007 hearing.

Technically, the hearing is about the plaintiffs’ motion for summary judgment, but the court will look to the evidence offered in support of that motion for proof of standing. The court told the plaintiffs they must prove at the summary judgment hearing that “one or more of their members were precluded from bidding on a federal mapping contract that was procured through a non-QBS procedure.”

If you have made it this far, you are likely wondering what the big deal is about standing? To me, the big deal is that should the Court decide MAPPS does not have standing to bring the suit, the central question—is mapping always part of surveying?—will be ignored. Then we will just have to go through this again after the plaintiffs find someone with standing to bring the suit later. I would rather settle the central issue now.

There was, though, a point to be made in our brief on this topic. The
court said the plaintiffs had to show that at least one of plaintiff association's members was harmed by the regulation as a result of having been precluded from bidding on a non-QBS project “as allowed by the Brooks Act, the challenged regulatory provision, and the state law where the procurement occurred.” What this means is that, in order to show standing, the state law would have to preclude a licensed surveyor or engineer from doing any work for which the license was not required. This is highly unlikely, as we pointed out. Indeed, the plaintiffs provided no evidence to answer this element of the test.

The Real Question
Of course, that central issue is whether surveying and mapping is one thing or two. At its January 13, 2007 meeting, the URISA Board voted to join the AAG-led effort to file an amicus brief in support of the “two things” view contained in the current federal regulations, and to allocate up to $7,500 towards the cost of attorneys in this effort. GISCI and GITA similarly voted to support the effort.

Frankly, we had little choice. As our attorney wrote in the brief, “a victory for the plaintiffs would not only insulate all federal mapping contracts from price competition, but also exclude everyone else – that is, anyone and everyone other than licensed surveyors and engineers – from even being eligible to receive a federal mapping contract, even where engineers and surveyors lack the training and subject matter expertise needed to perform the contract” (emphasis his). Our members have too much at stake for URISA to remain silent.

An amicus brief must offer the court something new that helps it resolve the issues before it. In this case, the brief offered the geospatial community's perspective—as seen by the four associations—that there were many kinds of mapping, only a small portion of which falls into the scope of surveying. Even Representative Brooks, author of the founding legislation, said that there was a distinction between mapping related to surveying conducted in the course of an architectural or engineering project, and mapping related to other activities. The protested FAR language almost exactly mirrors what Rep. Brooks said on the floor of the U.S. House of Representatives in 1988:

“To the extent that the maps and mapping products to be produced … are not connected to traditionally understood or accepted architectural and engineering activities, are not incidental to such architectural and engineering activities, or have not in themselves traditionally been considered architectural and engineering services. The language contained in [the act] would not apply to procurements in those instances and they would not be required to be conducted under this provision.”

The brief notes that the list of incidental services associated with architectural and engineering projects includes such generic activities as studies, investigations, tests, evaluations, and consultations. It is clearly not reasonable to say that only surveyors and engineers can conduct such activities. It is equally unreasonable to pick one thing from the list – surveying and mapping – and say the Congress meant for engineers and surveyors to do all such work.

We also pointed out that commas frame the phrase “surveying and mapping,” which means that surveying and mapping is one thing within the context of architecture and engineering projects. We argued that there are other “and mapping” things, too, that are not part of architecture and engineering. Besides, what sense does it make to lump all kinds of mapping into something called architecture and engineering when architects do not work with any other kind of map except a survey?

The brief also points to the fact that the contested federal regulations have been on the books since 1991, when the rules were changed to accommodate Congress’s 1988 revisions. If the Congress did not like the way its law was being implemented, it could have fixed the problem by now. (I would not be surprised to learn that MAPPS and COFPAES have encouraged the Congress to make such a change.)

My affidavit supporting the brief includes a list of several examples in which non-surveyors legitimately produce and utilize spatial data in and for the federal government. Almost every sector of the federal government uses spatial data provided by experts from numerous fields: doctors map disease outbreaks at the Centers for Disease Control, the FAA manages flight patterns, the Department of Energy monitors the nation’s electric power grid, and the Department of the Interior produces maps for federal facility management. Doug Richardson’s affidavit also offered evidence about the rich variety of spatial data sources, applications, and qualified suppliers.

What’s Next?
The issues raised by the MAPPS case will not go away, regardless of the outcome in this case. State surveying associations continue to push forward with legislative efforts designed to broaden the scope of work that only their members may perform. If this case has shown us anything, it is that we must be more alert and proactive in the regulatory arena if we are to serve our members well. We must also continue to work with other associations in the geospatial community. Spatial data is too important to too many people in professions not represented by lobbyists for URISA to end its active participation in this arena after a two-week sprint.

Here is where it gets sticky. How politically active should URISA become? Have we already gone too far? For me, this is not a one-time deal. I plan to encourage URISA’s continuing involvement in the issue of whether surveying embraces all of mapping. How to be involved is a question to answer after we decide whether to be involved.

If ever there was a time when
Recruiting new members requires efforts from all fronts – URISA Headquarters staff, Board members, chapters and individuals. Member-to-member recruitment is the most effective way to expand our membership - after all, who knows better about the benefits of URISA membership than a member?

Three out of four of our members first learned of URISA from a colleague. Why not take this opportunity to introduce someone to URISA? We ask you to reinforce the benefits of belonging to a professional association to your colleagues, particularly younger professionals who may not be aware of URISA.

Our activities are supported by members’ dues payments. The more members we have, the more services we can provide. By reaching out to your colleagues, you can help URISA continue to grow.

JUST IMAGINE — IF EVERY YEAR EACH MEMBER RECRUITED ONE NEW MEMBER, IN FIVE YEARS URISA WOULD BOAST A MEMBERSHIP OF MORE THAN 75,000!

How It Works
This year’s process is easier than ever - just let URISA know whom you’ve contacted (email info@urisa.org or call us with the person’s contact information) and we’ll do the follow-up. Once your recruit becomes a member, we’ll notify you.

To show our appreciation for your efforts, you’ll be entered in our drawing to win one of the following prizes:

- **Grand Prize:** Every recruiter will be entered in a drawing for a complimentary 2007 annual conference registration and a $100 food & beverage gift certificate to be used at the Hilton Washington. Recruiters will receive one entry for each individual member they recruit; five entries for each business member recruited; and ten entries for each corporate or federal agency member recruited. The more members you recruit, the more chances you have to win!

- **Monthly Prize:** Each month, (in March, April, May, June, and July) the top recruiter will win their choice of a $50 Amazon.com Gift Certificate or a one-year subscription to URISA’s online publication service.

- Everyone who recruits at least one new member will receive a small token of our appreciation.

In addition, all recruiters receive the grateful appreciation of the Association and will be recognized at the 2007 URISA Annual Conference. The top recruiter will be acknowledged during the opening ceremony and in the conference program. Any current member who successfully sponsors a new member will be listed in a special article of recognition to be published online and in URISA NEWS.

The 2007 URISA Member-Get-A-Member campaign runs until August 1, 2007. Your nominee for membership can be former members who left URISA in 2006 or before.

Corporate & Business Members...

Receive discounts on the price of your exhibit booth at URISA 2007 in Washington, DC for every new corporate or business member recruited!

- For every new business member recruited, current members receive $100 off their exhibit booth fee in DC
- For every new corporate member recruited, receive $200 off their exhibit booth fee in DC

If you have any questions at all about the member recruitment campaign, please do not hesitate to contact the URISA Headquarters’ staff (847/824-6300, info@urisa.org).

“Success is not counted by how high you climbed, but by how many people you brought with you.”
ESRI has expanded its 4-H Club GIS grant program for 2007. The grants include software, training, and supplemental materials.

Spot Image has entered into an agreement with Google in order to improve the available resolution of Google Earth products over wide areas of the world. Under a multi-year agreement, Spot Image will provide Google Earth with 2.5 meter resolution imagery taken from the SPOT 5 satellite.

Aerial Cartographics of America Inc. (ACA) announced a record 27 percent growth in 2006 due to its expanded MultiVision USA operations. An ACA company, MultiVision USA succeeded in capturing a significant share of the oblique imagery market in 2006.

DVP-GS (QC, Canada) is pleased to announce the release of Version 6.2 of its professional photogrammetry software.

GTG introduced a new version of GeoBlade (4.0), an Intranet/Internet software solution. GeoBlade 4.0 offers layer grouping, hot linking, and search by latitude and longitude for the Intranet and configurable interfaces and customizable field names for the Internet.

People News

Congratulations to URISA Past President, Robert Hurst, on his retirement from the City of Kansas City, Missouri.

The Canadian Association of Geographers has reappointed Dr. Barry Wellar to the position of Media Program Director for Geographic Awareness Week and GIS Day 2007. New activities under development for 2007 include the GIS-Transportation Competition that will be done in partnership with Transport 2000 Canada, and Weather and Climate Day that is being discussed in partnership with the Canadian Meteorological and Oceanographic Society.

Dr. Wellar is a former URISA President and Horwood Award recipient. He retired from the University of Ottawa in 2005, and established Wellar Consulting Inc. His appointments include Distinguished Research Fellow at Transport 2000 Canada, Distinguished Geomatics Scientist at the University of Ottawa, and he is a continuing member of the Safety and Security Panel of the Natural Sciences and Engineering Research Council of Canada.

Data Transfer Solutions is proud to announce the expansion of their team. DTS welcomes William E. Walter, Laura Duncafl, and Hilary Perkins.

Data Transfer Solutions has added William E. Walter to their team with the opening of a Tampa Bay Regional office. Mr. Walter, who has over 15 years of GIS industry experience, will be responsible for managing the office and expanding DTS asset management, data development, and GIS application solutions for public utility, transportation, planning and information systems business sectors.

Laura Duncafl has several years of experience in many areas of Transportation Planning and GIS. She is currently a member of the American Planning Association (APA), Central Florida Regional/GIS User’s Group and the Seven Hills Regional/GIS User’s Group. She will be leading marketing/business development along with presentation support and project management.

Hilary Perkins joined Data Transfer Solutions as the Regional Manager for the Midwest. In this role, she will focus on providing GIS-based solutions to complex transport and environmental planning projects. Ms. Perkins has been in the GIS industry for over 20 years, having worked for both the public and private sector. Ms. Perkins is a certified Geographic Information Systems Professional (GISP) and a member of the American Institute of Certified Planners (AICP). She serves as co-chair of the URISA-sponsored Federal Address Standard Working Group, as well as on the URISA Workshop Development Committee, the URISA Program Co-Concepting, work for the Florida Department of Transportation, County and Municipal governments.

In her role as Director of International Programs, as well as providing project management, Ms. Perkins is also the Vice-Chair of the American Planning Association’s Transportation Planning Division.

Aaron Ford, GIS technical manager of R.A. Smith & Associates, Inc., recently met the standards and requirements as established by the GIS Certification Institute to become a certified GIS professional (GISP).

GeoDecisions announced the promotions of two key staff members. Susanna Kodlick was promoted to manager of geographic information systems (GIS) and Steven Korzekwa was promoted to director of advanced technologies.

International Land Systems (ILS), Inc. has hired Doug Baker as Director of International Programs, becoming the most recent member of its innovative and skilled team of professionals providing solutions in land titling, land administration, land registration, and management of land-related information in the US and overseas. He will help drive the growth of the company’s portfolio of international programs, as well as provide project management of new and existing projects.

Jennifer Rouse has joined Geographic Technologies Group as a GIS Specialist. In addition Bill Craft was appointed as a Solutions Provider, Karen Brown became the new Marketing Technician, and Chris Wray has joined the Software Specialist Team.

Project Awards

The City of Suffolk, VA and the Town of Greenwich, CT have retained Geographic Technologies Group for GIS Training. The City of Pearland, TX has selected GTG to update their Implementation Plan. GTG was selected for software contracts including: Greenville County, SC - upgraded from L2Address to Community Connect; City of Alamogorda, New Mexico – L2Address for Public Administration.

Digital Data Technologies, Inc. (DDTi8), successfully installed its AccuGlobe® E9-1-1 Dispatch and Mobile mapping software in the Englewood (OH) Police Department.

Merrick & Company was awarded a contract by REIS, Inc. (Monroe, NY) to deliver raw and processed LIDAR data and digital black and white orthophotography for approximately 900 square miles in Sullivan County, New York. The flight missions are planned for the spring of 2007 with delivery of data expected in May 2007. The geo-spatial data will be delivered in accordance with FEMA guidelines and will support 2-foot contour generation.

GeoAnalytics and their partners Varion Systems, PG Govenr, and CompassCom, have been retained by Pasco County, Florida to deliver a state of the art Development Services System (DSS). As the County embarks on a Countywide IT infrastructure and systems upgrade, Varion Systems will implement a Land Management solution, an Enterprise Addressing System (EAS), and an Automated Vehicle Location System (AVL) as part of the DSS project.

Pictometry International Corp. announced that over the 90 day period from October 1, 2006 to December 31, 2006, it secured new government agreements to provide oblique aerial data to 150 counties in 19 states.

With the announcement of a sale to Augusta, GA, Municipal Software has announced ten sales of CityView PreBuiltsTM in the past six months with a cumulative value in excess of US$3 million. These ten projects range in size from US$144,000 to US$710,000 and the majority are scheduled for completion in the first half of 2007.

EarthData’s push to increase its presence in California gained hold recently, having signed a $1 million contract with URS Corporation for aerial lidar surveys over the Sacramento-San Joaquin River Delta. Covering 1,600 square miles, the project calls for 1-meter post-spacing lidar data, hydrographic breaklines, and 1’ contours. California’s Department of Water Resources (DWR) will use these datasets to evaluate levee stability under various flooding scenarios as part of its Delta Risk Management Strategy.
In early 2001, the Professional Land Surveyors of Oregon (PLSO) presented legislation to “clarify” survey law. The proposed legislation would have placed the practice of GIS under the authority of a licensed surveyor. In Legislative committee, it became apparent that surveyors and GIS professionals had lots to work out before any legislation could be agreed upon. A grassroots task force was created in the late summer of 2001 to try to resolve the issues.

The task force included representatives from Oregon professional organizations including: the PLSO, the Oregon Association of County Engineers and Surveyors (OACES), the Oregon Geographic Information Council (OGIC), the Oregon Geographic Information Systems Association (OGISA), and Oregon chapters of the American Society for Photogrammetry and Remote Sensing (ASPRS) and the Urban and Regional Information Systems Association (URISA).

The task force spent a lot of time getting all the issues on the table. They worked on definitions for the various professions involved in the matter. They reviewed many examples and looked for common solutions. They met monthly or bi-monthly for more than three years. The primary focus of the task force was on process, not on technology, and the stated intent of their activities was to ensure protection of the public.

The following primary issues were identified by the task force.

1. Data: Geographic information has become far more accessible than in the past. Professionals, decisions makers, and the public are using data from a wide variety of sources in ways that were not intended or appropriate, putting us all at risk.
2. Tools: New tools are providing professionals, decisions makers, and the public with the means to collect, use, and integrate geographic information in ways that may be inappropriate.
3. Definitions: There are not clear definitions as to what the various professions do, and how they relate to each other.
4. Education/Communication: Professionals have not identified what the real problems and concerns are, so rumors abound. Professionals also do not know what the various statutes, AG opinions, and administrative rules are that impact the various professions.
5. Disparate Activities: Professional organizations do not have a good mechanism (process) for review of actions that affect other professional organizations.
6. Focus: Nobody really understands how big the problems are so it is hard to focus on any specific issue.
7. Responsibility: When the public is at risk due to problems with collection, analysis, and dissemination of geographic information, there is no way to address and resolve the problem.

The task force agreed on three key results:

- GIS data and products should always be accompanied by a clear disclaimer.
- GIS professionals should at a minimum be certified.
- State law should be changed to reflect NCEES Model Law recommendations.

The Oregon Geographic Information Council, authorized by Governor’s Executive Order 00-02, took responsibility for the first two items. In 2002, as soon as the task force agreed that a disclaimer was necessary, OGIC developed and adopted standard disclaimer language and a policy that this language is to accompany all GIS data and products. That disclaimer and policy are posted at: http://gis.oregon.gov/DAS/EISPD/GEO/ogic/OGIC_Disclaimer_Policy.pdf

In June 2002, OGIC developed and adopted a GIS professional certification plan and, in 2003, became one of the first two states to endorse what evolved into the GIS Certification Institute professional certification process. The Oregon plan says that, “Senior professionals who are responsible for managing GIS programs or supervising the production of products (digital or paper) for the public or other organizations should be certified.” The OGIC certification plan is posted at: http://gis.oregon.gov/DAS/EISPD/GEO/ogic/docs/CertificationPlan.pdf

On the third point of agreement, we made the following requests in January 2004 of the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS):

1. Work with the task force to review and adopt the inclusions/exclusions contained in the new NCEES model law, as administrative rules;
2. Work with task force organizations to update current survey statutes to reflect the new NCEES model laws during the next legislative session; and
3. Work with the task force to ensure that the concerns of the participants are addressed, such as incorporating the NCEES Savings Clause language along with a provision to leave the grandfather period open until such time as an appropriate exam
During the ensuing process to develop and propose draft legislation, OSBEELS and the task force agreed to include the inclusions/exclusions for GIS (the Model Rules) in to the new statutory language, rather than writing them in to the Oregon Administrative Rules. The new statute that defines the practice of land surveying in Oregon, adopted in the 2005 legislative session, can be found at: http://www.leg.state.or.us/ors/672.html. The inclusions/exclusions are specifically called out in ORS 672.060.

Following the passage of the new legislation, OSBEELS developed a checklist to assist everyone in determining whether they are practicing land surveying or GIS with any particular activity. You can find that checklist in the box below.

The process we followed in establishing and working with a grass roots task force that included all the affected organizations was invaluable in resolving the issues. It took us almost three and half years by the time we got legislation passed in the 2005 legislative session, so perseverance and persistence were key characteristics of the effort. There were lots of opportunities for things to move in the wrong direction as we proceeded and we had to stay on top of things, communicating regularly to make sure we headed off any misunderstandings. We’ve developed trust and partnerships that are now paying dividends as we work together on other issues, such as data sharing between government organizations at all levels.

### OSBEELS Surveying or GIS Checklist

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Does it provide or offer to provide professional services that apply mathematics, geodesy and other sciences and involve the making of geometric measurements and gathering of related information pertaining to the physical or legal features of the earth?</td>
</tr>
<tr>
<td>2.</td>
<td>Does it provide or offer to provide professional services that apply mathematics, geodesy and other sciences and involve the making of geometric measurements and gathering of related information pertaining to improvements on the earth?</td>
</tr>
<tr>
<td>3.</td>
<td>Does it provide or offer to provide professional services that apply mathematics, geodesy and other sciences and involve the development of measurements and information described in questions 1 through 3 above into georeferenced data?</td>
</tr>
<tr>
<td>4.</td>
<td>Does it provide or offer to provide professional services that apply mathematics, geodesy and other sciences and involve the development of measurements and information described in questions 1 through 3 above into georeferenced data?</td>
</tr>
<tr>
<td>5.</td>
<td>Is it a geodetic survey?</td>
</tr>
<tr>
<td>6.</td>
<td>Does it establish, reestablish or replace boundaries or geodetic control monuments or reference points?</td>
</tr>
<tr>
<td>7.</td>
<td>Does it locate, relocate, establish, reestablish or retrace any property lines or boundaries for any tract of land, road right of way or easement?</td>
</tr>
<tr>
<td>8.</td>
<td>Was it a survey for the division or subdivision of a tract of land or the consolidation of tracts of land?</td>
</tr>
<tr>
<td>9.</td>
<td>Did it involve locating and laying out alignments, positions or elevations for the construction of fixed works?</td>
</tr>
<tr>
<td>10.</td>
<td>Did it involve performing or offering to perform any investigation, interpretation or evaluation of, or any consultation or testimony about any of the services described above?</td>
</tr>
<tr>
<td>11.</td>
<td>Did it involve the collection, preparation, manipulation or modification of data related to any of the services described above, other than acting as a scrivener?</td>
</tr>
<tr>
<td>12.</td>
<td>Did it fall within the new definition of photogrammetric mapping?</td>
</tr>
<tr>
<td>13.</td>
<td>Did it result in surveys involving horizontal or vertical mapping control or geodetic control?</td>
</tr>
</tbody>
</table>

If the answer to one or more of the above questions is yes, then the act or acts performed may fall within the new definition of the practice of land surveying. However, new exemptions were added to ORS 672.060, and if the act or acts fall within any of these exemptions, the act would likely be exempt from being regulated as the practice of land surveying.

1. Did the person prepare maps or compile databases depicting the distribution of natural or cultural resources, features or phenomena and the maps or data are not intended to indicate the authoritative location of property boundaries, or the precise shape or contour of the earth, or the precise location of fixed works by humans?
2. Did the person perform activities under ORS 306.125 or 308.245 involving transcribing tax maps, zoning maps or other public data records into GIS or LIS formatted cadastre and maintain those cadastre where the data are not modified for other than geographical purposes and the data are clearly not intended to authoritative represent property boundaries?
3. Did the person prepare maps or compile databases depicting the distribution of natural or cultural resources, features or phenomena and the maps or data are not intended to indicate the authoritative location of property boundaries, or the precise shape or contour of the earth, or the precise location of fixed works by humans?
4. Was the act performed by a federal agency or its contractors in the preparation of military maps, quadrangle topographic maps satellite imagery or other maps that do not define real property?
5. Was the act performed by a federal agency or its contractors in the preparation of documents or databases into a GIS or LIS format, including but not limited to the preparation or transcription of federal census and other demographic data?
6. Was the act performed by a law enforcement agency or its contractor in the preparation of documents or maps for traffic accidents, crime scenes or similar purposes depicting physical features or events or generating or using georeferenced data involving crime statistics or criminal activities?
7. Was the act performed by a peace officer as defined in ORS 161.015 or fire service professional as defined in ORS 181.610 in conducting, reporting on or testifying about or otherwise performing duties regarding an official investigation?
8. Did the act result in the creation of general maps prepared for private or governmental agencies: (1) for use as guides to motorists, boaters, aviators or pedestrians; (2) for publication in a gazetteer or atlas as an educational tool or reference publication; (3) for use in the curriculum of any course of study; (4) for use as an illustrative guide to the geographic location of any event (if produced by electronic or print media); or (5) for use as advertising material or user guides (if prepared for conversational or illustrative purposes)?

If the answer to one or more of the above questions is yes, then the act or acts performed may fall within an exemption from regulation of the practice of land surveying. These exemptions were added to ORS 672.060.
NCEES Model Law: What it Means to GIS Professionals

The ‘Model Law’ published by the National Council of Examiners for Engineering and Surveying (NCEES) provides state engineering and surveying licensure boards national guidance in developing individual state practice laws. In 1995, the surveying portion of the Model Law was revised to include specific reference to the use of ‘land information systems and geographic information systems’. Once aware of the change, GIS professionals raised concerns as to the potential impact of the Model Law on the practice of GIS.

The NCEES responded to the concerns by adding representatives from URISA and the National States GIS Council (NSGIC) to a ‘Multi-organizational Task Force’ (MOTF) already comprised of representatives from several engineering, surveying and photogrammetry professional associations. The mission of the MOTF was to discuss the application and misapplication of GIS and to develop a set of recommendations to clarify the language of the Model Law and clearly identify those mapping activities that required the services of a licensed surveyor.

The MOTF convened regularly by telecon over a period of 13 months. The dialog was typically frank, occasionally contentious, but always constructive. There was early agreement that surveyors ‘determine’ location and GIS professionals ‘reference’ location. Revising the language of the Model Law to reflect this agreement was tedious. The 1995 preamble paragraph was especially broad in scope:

The term “Practice of Surveying or Land Surveying,” within the intent of this Act shall mean providing professional services such as consultation, investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location, size, shape, or physical features of the earth, improvements on the earth, the space above the earth, or any part of the earth, and utilization and development of these facts and interpretation into an orderly survey map, plan, report, description, or project...

By reviewing the paragraph, as a group, word by word, the MOTF was able to identify some small, but critical changes that resulted in a more narrow definition (emphasis added to illustrate key changes)

The term “Practice of Surveying or Land Surveying” within the intent of this Act shall mean providing, or offering to provide, professional services involving both (1) the making of geometric measurements of, and gathering related information pertaining to, the physical or legal features of: the earth, improvements on the earth, the space above the earth, or any part of the earth; and (2) utilization and/or development of these facts into survey products such as graphics, digital data, maps, plans, reports, descriptions, and/or projects...

A second key issue for the GIS professionals was the 1995 explicit reference to the use of GIS/LIS technology in item (h) below:

The practice of surveying or land surveying includes, but is not limited to, any one or more of the following:

(a) Determining the configuration or contour of the earth’s surface or the position of fixed objects thereon by measuring lines and angles and applying the principles of mathematics or photogrammetry.

(b) Performing geodetic surveying which includes surveying for determination of the size and shape of the earth utilizing angular and linear measurements through spatially oriented spherical geometry.

(c) Determining, by the use of principles of surveying, the position for any survey control (non-boundary) monument or reference point; or setting, resetting, or replacing any such monument or reference point.

(d) Creating, preparing, or modifying electronic or computerized data, including land information systems, and geographic information systems, relative to the performance of the activities in the above described items (a) through (c).

(e) Locating, relocating, establishing, reestablishing, laying out, or retracing any property line or boundary of any tract of land or any road, right of way, easement, alignment, or elevation of any of the fixed works embraced within the practice of engineering.

(f) Making any survey for the subdivision of any tract of land.

(g) Determining, by the use of principles of land surveying, the position for any survey monument or reference point; or setting, resetting, or replacing any such monument or reference point.

(h) Creating, preparing, or modifying electronic or computerized data, including land information systems, and geographic information systems, relative to the performance of the activities in
the above described items (e) through (g).

It was unclear why GIS/LIS was singled out and no reference made to the use of other mapping technologies. Given that a range of mapping professionals utilize GIS, the explicit reference served to muddy, rather than clarify, the professional roles. The GIS professionals pushed for the removal of any reference to tools and technologies and provided recommendations to focus the language on the mapping activities that define the practice of surveying. The surveying professionals cited specific concerns as to the use of GIS by non-surveyors when making permitting and other regulatory decisions related to land records. The following compromise language was developed:  

(h) Creating, preparing, or modifying electronic or computerized data relative to the performance of the activities in the above described items (e) through (g).

The most significant work, however, achieved by the MOTF was the development of a set of ‘Model Rules’ intended to accompany the Model Law. Based upon a set of ‘Inclusions and Exclusions’ developed cooperatively by the Surveying and GIS professionals within the State of North Carolina, the Model Rules set forth specific mapping activities considered ‘included within the surveying practice’ and ‘excluded from surveying practice’ and are intended to serve as guidelines for the both the mapping community at large and the regulatory boards. The Model Rules emphasize that ‘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 NCEES was highly receptive to the work of the MOTF and implemented most of the group’s recommendations in the 2003 revision to the Model Law. The success of the effort is due in great part to willingness of the survey community to include the GIS community in the dialog and explore issues of mutual concern. It was unfortunate that the dialog occurred after the inclusion of GIS/LIS within the Model Law; discussion before the fact is far more productive than dialog after the fact and provides greater opportunities for shared learning and fewer feelings of mistrust.

The Model Law remains just that, a model. Each state implements the law as it sees fit. Some adopt the text verbatim, some adopt modifications, and some adopt practice laws that are completely independent. As such, it is difficult to determine how many states have adopted the 2003 revisions to the Model Law and, perhaps more importantly, how many states have adopted the Model Rules. Current estimates are extremely low. What is clear, however, is that in states with Survey practice laws that include specific reference to GIS; 1) the GIS community is challenged in its ability to effectively coordinate and, 2) the state typically lack both a statewide GIS Coordinator and formal representation in national GIS efforts and organizations such as NSGIC.

It is in the interest of all GIS professionals to review the Surveying practice law of their state and determine their own professional liability. More importantly, all geospatial professionals should follow the example of the MOTF and actively engage in efforts to craft state licensure laws that sincerely protect the public interest with regard to not only safety but the ability to secure the most qualified individual to provide the services needed.

Bottomline… there is plenty of work for us all. The US Department of Labor identified the geospatial industry as a ‘high growth, high demand, and economically vital sector of the American economy’ and is funding a GITA/AAG joint effort to support geospatial workforce development. Our time and energy should be spent working to define the industry and elucidate the skills each profession brings to the table. Each of us should identify those in allied geospatial professions that we can depend upon to support our work and form partnerships to meet the geospatial information needs of the public. The MOTF represented a strong start toward an industry-wide dialog and the NCEES Model Rules remain a testament to the success of that effort. Unfortunately, too much energy has been misdirected toward litigation and lobbying efforts and valuable ground has been lost.

For more information:
DOL Geospatial Workforce Development: http://www.doleta.gov/BRG/Indprof/Geospatial.cfm
the URISA membership needed to be heard, it is now. Let the Board hear from you with regard to the questions raised by the MAPPS case and the motives behind it. Do you want us to stay out of “politics” or do you want us to keep going? My preference is to push for a federal regulation that says spatial data is part of interstate commerce and should not be regulated by the states under any narrowly defined profession, but there are clearly other ideas and ways for URISA to express its members’ views and interests.

What do you want URISA to do?

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abutler@mpzero.com

This article expresses only the views of the author and does not reflect the opinions of URISA or its Board of Directors.

URISA 2007 Board of Directors Election
URISA members will receive election ballots (including candidate biographies and statements to the membership) by March 23 and the voting process will remain open until May 7, 2007. This year’s distinguished slate:

FOR PRESIDENT—
Hilary Perkins, GISP, AICP, Data Transfer Solutions, Webster Groves, Missouri

FOR BOARD OF DIRECTORS—(to fill 3 seats)
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