FRED CLARK *Serving Adams, Columbia, Marquette & Sauk Counties*

STATE REPRESENTATIVE ◆ 42ND ASSEMBLY DISTRICT

Public Hearing
Senate C. Economic Development
Thursday, January 07, 2010
1:00pm, Rm. 201 SE

Testimony – AB 271 / SB 194
Land Surveyor's Licensure

Chairperson Lassa and members of the Economic Development Committee, thank you for allowing me to testify today on behalf of Assembly Bill 271 (SB 192), which is important and necessary legislation that modernizes the laws that regulate and define the practice of professional surveying.

Land surveyors are custodians of the *cadastral system*, which is the system of public and private land ownership with the chain of title going back to the foundation of the United States. Surveyors of the Government Land Office were among the first civilian employees of the government that settlers saw in the last half of the 19th century.

Through their work, land surveyors establish interests in real property that affect more than one party. Although a property marker or boundary may be yours, it is likely to be your neighbor's boundary as well. When a surveyor establishes points or boundaries on the ground, or in the air, they become part of a system of monuments and measurements that will be relied on for years to come by others. Likewise, errors in surveying can also become perpetuated for years to come and when they do it can result in very expensive conflicts between neighbors, or conflicts between property owners and local units of government.

Thus, ensuring that the work of surveyors is precise and of consistent quality is paramount to protecting the integrity of our system of land ownership, preventing conflict between neighboring owners, and protecting all of the rights that are associated with land ownership.

AB 271 is a long bill, but has a fairly simple purpose. It serves to more tightly define the practice of professional land surveying, make consistent the definitions of terms used in statutes, and clarify some areas of law that have been previously vague.

AB 271:

- Replaces various references to surveying in statutes with "The Practice of Professional Land Surveying", and Professional Land Surveyors".

State Capitol: P.O. Box 8952, Madison, WI 53708 ◆ (608) 266-7746 ◆ Toll-free: (888) 534-0042
E-mail: rep.clark@legis.wi.gov ◆ FAX: (608) 282-3642 ◆ Printed on recycled paper.

- Updates the requirements for surveyor licensure and testing under the Department of Regulation and Licensing, under a re-named Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors.

- More clearly defines the practice of professional land surveying and those activities that are subject to licensure requirements.

- Clarifies ambiguity in the law related to surveying around bodies of water and the determination of ordinary high water marks.

- Provides a suite of exemptions from licensure under the bill for a variety of activities including:

    - Employees of the State of Wisconsin, until 2018.
    - Employees of DATCP preparing maps and documents in connection with the C.R.E.P. program
    - Employees of the DNR preparing maps for enrollment in the Managed Forest Law program.
    - Persons performing cartographic, construction, or geodetic surveying not in connection with defined surveying practice in s. 443.01 (6s) (a) 1. to 5.
    - Persons preparing maps that show the boundaries of land parcels or tracts of land provided such maps include a disclaimer.
    - Zoning maps or other regulatory maps prepared by state or local governments.
    - Property owners surveying their own lands for purposes other than for sale.
    - Employees of licensed land surveyors
    - Employees of utilities and cooperatives until 2018.
    - Employees of utilities and cooperatives establishing easements provided they include certain information about easement location in recorded documents.
    - Employees of the federal government
    - Employees of the State of Wisconsin until 2018.
    - Employees of local units of government using Land Information Systems (LIS) or Geographic Information Systems (GIS).

With the emergence of new computer technology and new professions utilizing mapping technologies, the boundaries between professional practices are becoming narrower. Partly for this reason, there are several groups interested in AB 271 other than surveyors, and we have worked closely with most of those groups to help address their concerns. The substitute amendment improved many aspects of the bill that were previously less clear.

I am willing to work with Senator Risser to continue to address concerns that have more recently been raised. In particular we are committed to:

- Ensuring that requirements for disclaimers on maps that depict property boundaries prepared by non-surveyors are realistic and not overly burdensome.
- Clarifying that the mapping done for regulatory and enrollment programs such as Managed Forest Law is exempt from licensure requirements.
- Ensuring that non-recorded agreements establishing property usage, such as temporary recreational trails remain exempt from licensure requirements.
- Ensuring that the identification and determination of existing property boundaries for purposes of natural resource management remains an exempt activity.

I appreciate your committee's consideration of this important legislation. We want to assure consistent professional practice, protect the current and future integrity of the surveying system, and protect land owners and others with interests in land. Please feel to contact my office any time with questions about this legislation.

WHEELER, VAN SICKLE & ANDERSON, S.C.
a Wisconsin Service Corporation

ATTORNEYS AT LAW

SUITE 801
25 WEST MAIN STREET
MADISON, WISCONSIN 53703-3398
TELEPHONE (608) 255-7277
FACSIMILE (608) 255-6006
EMAIL: wheeler@wheelerlaw.com

NILES BERMAN
JEFFREY L. LANDSMAN
THOMAS J. ZAREMBA*
STUART G. MONDSCHEIN†
COURT COMMISSIONER
WILLIAM PRAY O'CONNOR
DENIS R. VOGEL**
RHEA A. MYERS
JANET L. KELLY
MARY BETH PERANTEAU
JAY DONALD JERDE **
JUSTIN W. CHASCO

* ALSO ADMITTED IN MICHIGAN
**ALSO ADMITTED IN MINNESOTA
† Certified Civil Trial Advocate, National Board of Trial Advocacy

OF COUNSEL
CHARLES S. VAN SICKLE
NORMAN C. ANDERSON

FLOYD E. WHEELER
(1905 - 1995)

STATEMENT IN SUPPORT OF ASSEMBLY BILL 271

SENATE ECONOMIC DEVELOPMENT COMMITTEE
January 7, 2010

WILLIAM P. O'CONNOR
WISCONSIN SOCIETY OF LAND SURVEYORS

I want to thank Representative Clark, Senator Risser and the other sponsors from both parties for their work and support for this important bill. Thanks, too, to Sen. Lassa and the Committee for scheduling this hearing.

All of the lands in this state were first described in the United States Government Survey mostly in the mid-1800s. A lot has changed since then. Global positioning systems, computers and other technologies have taken the place of the chains and other hand tools used when State lands were first described in the 19th Century.

Wisconsin has regulated the practice of land surveying for decades in order to provide assurance that the boundaries of land people purchase for homes, farms and businesses are clearly established. The Department of Regulation and Licensing has statutory responsibility to ensure that surveyors have the knowledge and experience necessary to do this work accurately. That system includes experience and education standards, a license examination, professional responsibility standards and continuing education requirements for land surveyors. It also includes accuracy standards governing survey practice. State laws sets detailed requirements for special types of maps and land divisions, including subdivision plats, certified survey maps, cemetery and assessor's plats and condominiums. A county surveyor in each county is charged to maintain records of every plat, subdivision and land survey prepared by professional land surveyors and registers of deeds are only authorized to record maps and other survey documents that are signed and sealed by a registered land surveyor.

AB-271 would not change the fundamental elements of this system. Rather the bill aims to bring the statutes in line with modern survey practice and technology, to narrow the definition of land surveying to avoid overbroad coverage and to eliminate conflicting language adopted in session laws adopted over the decades since World War II.

The most consequential provisions of the bill are contained in the sections that define the regulated practice of professional land surveying. What is land surveying? Under current law, a single sentence defines the practice of land surveying. Under Section 443.01(4)(a), a surveying license is required for anyone who determines the location of land boundaries and corners or prepares maps showing the shape and area of tracts of land. This very broad definition might have been appropriate years ago, when it took a long time and specialized skills to prepare any map showing the boundaries of tracts of land. But the computer age of has transformed map making. Nowadays, anybody with a computer can make a map showing the general location of the boundaries of tracts of land and millions do, for reasons that range from recreation to travel planning to property tax listing, zoning regulation and traffic management. This bill aims to draw a clear line that allows anybody to make maps of lands without worrying about violating state law, but places responsibility for particular types of maps that require demonstrated qualifications on licensed professional land surveyors.

Section 65 of the adopted Assembly Substitute Amendment 1 creates a revised (and much more precise) list of services that constitute the practice of land surveying. These include: (1) determining property boundaries, (2) designing land division plats and subdivisions, (3) preparing survey maps showing property boundaries and several specific types of maps called for under specific statutes, including subdivision plats, certified survey maps, assessor's plats, cemetery plats and condominium plats. This revised definition of the practice of professional land surveying will legalize a considerable about of map making that is being conducted now in violation of Chapter 443 and sharply limit the activities that do require licensure.

Since AB-271 was adopted by the Assembly, representatives of the Wisconsin Society of Land Surveyors have been involved in extensive discussions with Representative Clark, agency staff, GIS professionals and others about the bill. These discussions have focused on a few key areas of concern that I would like to briefly address this morning.

First, the bill recognizes that professional land surveyors must have knowledge of electronic land information systems, sometimes known as GIS or geographic information systems. The language of the bill was intended to recognize the need for licensed surveyors to understand these systems and be tested to confirm their competence in this area. However, the bill does not require that every person involved in the design, management or operation of these systems hold a license as a professional land surveyor. Section 100 provides an express exemption from survey licensure for the hundreds of state, county and local government employees who manage Geographic Information Systems. The bill requires that exempt GIS maps that actually show property boundaries include a disclaimer beginning one year after the bill is enacted alerting users to the possible limitations on their use as follows:

> "This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes."

I have reviewed the lengthy correspondence sent to the committee by the Wisconsin Geographic Information System Coordinating Council. Apparently, some members of WGICC feel that this disclaimer is unnecessary for some maps showing parcel boundaries, because the map scale or other factors that would make it unlikely that a map user would expect the map to precisely show a property boundary. WSLS would support an appropriate amendment to the bill to address this issue, although we agree with the concern expressed by members of the Assembly Consumer Protection Committee that citizens who access state and local government land information records may well assume that property boundaries are accurately depicted. In some cases they are, but in many cases the data used to produce the maps is not adequate to depict a property boundary with precision and is not intended to do so. The disclaimer is designed to prevent misunderstandings. We understand that the vast majority of GIS systems already incorporate disclaimers in order to prevent consumer confusion or limit legal liability.

Second, I have reviewed correspondence sent to each of you by representatives of two Wisconsin firms engaged in photogrammetric mapping and related geospatial services and the MAPPS association. In letters sent earlier this week, these firms and the association correctly noted that Sections 60 and 61 of the bill (and the same section of the adopted Assembly Substitute Amendment) define the terms "Cartographic surveying" and "Construction surveying." Under Section 65, the activities defined as cartographic and construction surveying are listed among the practices defined and professional land surveying. These topics must be within the knowledge of licensed professional land surveyors and are included in the examination administered by the Department of Regulation and Licensing. But the concerns of these firms that the inclusion of these activities within the definition of land surveying is misplaced, because Section 89 categorically exempts cartographic, construction and geodetic surveying from licensure, unless these activities are conducted in connection with the regulated surveying practice activities, such as establishing boundaries, setting boundary and corner monuments and producing maps showing parcel boundaries.

There are other model state laws regulating surveying and related mapping professions. The particular one proposed by the National Council of Examiners for Engineering and Surveying and referenced by the MAPPS and WIGICC, if adopted in Wisconsin, would require firms like Aero-Metric and Continental Mapping Consultants to obtain licensure as professional land surveyors. As MAPPS notes, that model law includes a "grandfather" clause that would not exempt photogrammetrists from licensure, but would permit currently practicing photogrammetrists who demonstrate their qualifications to be licensed as a special class of photogrammetric surveyors, without meeting education, experience or testing requirements that would otherwise apply. This bill goes well beyond that special treatment, by exempting current

and future photogrammetrists and other cartographic survey practitioners from licensure altogether. By the way, the NCEES model law has not been amended to incorporate the recommendations of the 1999-2000 GIS/LIS Task Force as reported in WIGICC's letter to this Committee.

Finally, some have expressed concern that the bill's language could be construed to require that maps that include boundaries used in connection with timber harvests and other natural resource management activities be prepared by professional land surveyors. Although we do not believe that the bill language can be reasonably read to require licensure for folks involved in these activities, WSLS would not oppose an appropriate amendment to clarify that point.

The purchase of land, whether it's a city lot, a farm or a tract of forest land represents a major investment for most citizens. For decades the state has licensed land surveyors to protect these investments. Only those who have proven their knowledge and expertise are permitted to establish new property boundaries, set boundary or corner monuments in the ground or prepare subdivision plats, certified surveys and other maps that depict the location of property boundaries. This bill narrows the scope of licensed survey practice, focusing state regulation on these critical activities that affect all property owners in the state. This legislation, as amended by the Assembly will give Wisconsin consumers confidence in the integrity of property boundaries without unduly burdening the work of state agencies and without interfering with the work of other land information professionals.

On behalf of the Wisconsin Society of Land Surveyors, thank you for your time and your support for Assembly Bill 271.

Wisconsin Society of Land Surveyors

Affiliated with the National Society of Professional Surveyors

To: Senate Economic Development Committee

From: Francis Thousand

CC: Board of Directors

Date: January 6, 2010

Re: AB 271

Public Hearing

Thank you Senator Lassa and Committee Members for holding this hearing and giving me an opportunity to speak in support of Substitute Amendment 1 to AB 271.

My name is Francis Thousand. I'm the Executive Director of the Wisconsin Society of Land Surveyors and most importantly I am a land surveyor. I have been licensed by the state to serve the public since 1976.

As a practicing land surveyor I am familiar with the current definition in the statutes and the reality of what the public needs from Professional Land Surveyors. This bill is basically a licensing bill. The definition of the practice includes areas that the public is currently demanding from Professional Land Surveyors. The bill refines and narrows the legal definition of land surveying. It is not an expansion. When the current definition was created, condominiums like the Fred Risser Law Center were not being created. Monona Terrace, sitting on a lake bed, with its

Francis R. Thousand, Executive Director
5113 Spaanem Ave. • Madison, WI 53716
Cell (608) 770-9759, Office (608)222-6152
Email: fthousand@charter.net Website: www.wsls.org

state owned parking above a public street and rail corridor with City of Madison utility connections passing through it and topped off with a bridge easement from the Hilton Hotel to the Convention Center, was not the typical development. Block 89 is surrounded by E. Main, Martin Luther King Jr. Blvd, E. Doty and S. Pinckney. There is public parking below ground with above ground entrances and vents. There are air-rights easements to protect views from the adjacent buildings and a service core that serves all the buildings in the block. The glass and stone architectural features project into the public right-of-way. The developer is paying a fee to the City based on the area of the glass and stone encroachment. The Professional Land Surveyor is involved in measuring, mapping and describing the separate interests in all these projects. This not an expansion of the definition but a modernizing of the definition.

We still are a paper document driven society. Professional Land Surveying is no different. From the time of the first government surveys in the 1830s to the present, the most common way to display survey information is a map. A map is a cartographic representation of research, measurements and monuments found or set of any tract of land. It is not something new. You can see the plats from the original surveys at the Bureau of Commissions of Public Lands office. Wisconsin law has statute provisions for a number of types of maps. The statutes are explicit right down to the sheet size and color of the ink. But not every survey falls into one of the documents controlled by statute. The surveys that don't fall

under the specifics of a state statute are as important to people that need them. Aerial mapping works great for flood plain mapping but if you want to know if the water is going to flood your basement you need someone a little closer to the ground. You can map transportation corridors using photogrammetry but if you want to know the impact of the right-of-way line on your septic system you need to be on the ground. All these types of mapping fall under Cartographic surveying. But with the exemptions in Section 89 of the bill only the maps that also include the items listed under Section 65 must be prepared by a Professional Land Surveyor. The bill clearly states in Section 65 that the maps that you need a license to create are "for the purpose of establishing the boundaries of any interest in real property indentified is sub 1". Google maps, weather maps, highway maps, GIS maps, maps created from areal photography and a variety of other maps all may depict boundaries but do not establish those boundaries and are not included in the definition and are further exempted in Section 89. The Professional Land Surveyor have the education and experience in map making or Cartographic Survey if he is ever going to explain the results of his survey to the public. None of these other map makers owe a duty to the public except for the Professional Land Surveyor by virtue of licensing.

To sum up, this bill does not expand the definition but includes those services that the public needs. This bill will not prevent anyone who is doing mapping from continuing to do mapping. This bill does protect the

public and the public's interest in orderly boundaries. Sloppy boundaries just fills up the court calendars.

Professional Land Surveyors sign, seal and certify all their maps. This bill talks about placing disclaimers on some other map products. The Wisconsin Society of Land Surveyors thinks it is a good idea to alert the public as to the quality of the map but would not be opposed to some modifications to that part of the bill.

I support this bill and ask you to do the same. I would be happy to answer any questions you may have.

ACEC
American Council of Engineering Companies
of Wisconsin

The American Council of Engineering Companies of Wisconsin
3 S Pinckney Street, Suite 800 Madison, WI 53703
Tel: 608-257-9223 Fax: 608-257-0009 www.acecwi.org

the business voice of the Wisconsin consulting engineering industry

November 23, 2009

Ms Libby Gerds
Appointments Secretary
Governor's Office
P O Box 7863
Madison, WI 53707

RE: Examining Board Appointment – Architects, Landscape Architects, Professional Engineers, Designers, and Land Surveyors

Dear Ms Gerds:

The American Council of Engineering Companies of Wisconsin respectfully submits this letter of recommendation for the appointment of Joseph W Eberle, PE to the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Land Surveyors. This organization serves as the business voice of the consulting engineering industry and we understand the critical importance of appointing the most qualified design professionals to this board.

Joe is a professional engineer with extensive civil engineering experience. In addition to his employment by the firm of Ruekert/Mielke, he has been an active member of ACEC and other professional societies. He also represents the industry on the Engineers Joint Contract Document Committee, a broad coalition of stakeholders in the project delivery process that continues to develop quality contract documents and encourages their use through education and promotion.

Joe Eberle would represent the design profession with integrity. His commitment to this profession would benefit the examining board's mission. Please give careful consideration to his appointment. Thank you.

Sincerely,

Carol Godiksen
Executive Director

Cc: Joe Eberle, Ruekert/Mielke
Susie Schooff, Essie Kammer Group

State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

January 6, 2010

The Honorable Julie Lassa, Chair
Committee on Economic Development

Re: AB271 relating to the practice of professional land surveying.

Dear Senator Lassa:

Thank you for allowing the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) the opportunity to submit written testimony on AB271 for information purposes.

We would like to thank the bill authors, particularly Representative Clark, for providing several opportunities for stakeholders to meet and discuss issues associated with AB271. These meetings resulted in significant progress toward the development of amended language that addresses many of our concerns.

With that said, we still have a few concerns about some mapping and spatial data activities described in the bill. DATCP has approximately 40 employees who collect spatial data, perform analysis, and produce maps. Ambiguous language in AB271, especially in subsections defining the practice of professional land surveying, makes it difficult to differentiate mapping activities that require a surveying license from those that do not.

For example, DATCP employees have produced thousands of maps "that depict areas and physical features" to support a wide range of program and public information needs. Some of these mapping activities would now be included in AB271's proposed definition of "cartographic surveying." This overlap creates confusion, especially when "cartographic surveying" must be considered in conjunction with an activity like "determination of the location of the boundaries of one or more tracts of land" (defined in the practice of professional land surveying) for one of the proposed mapping exemptions.

DATCP supported AB271 amendments that require disclaimers on filed/recorded maps. However, it is still unclear which other department maps would require a disclaimer. "Tracts of land" and "interests in real property" are ambiguous, and depending on interpretation, could refer to maps depicting one parcel or the entire state. Clarification about the scale, data content and/or intended use of maps requiring the disclaimer would be helpful. This is especially critical because under some provisions in AB271 it appears that a person who omits a map disclaimer could be considered practicing professional land surveying without a license.

Thank you for this opportunity to comment on AB271.

Respectfully,

Lisa Morrison
DATCP Agency GIS Coordinator

Wisconsin County Forests Association

518 W. Somo Ave. Tomahawk, WI 54487

715-453-6741 wcfa@mac.com

www.wisconsincountyforests.com

Wisconsin County Forests Association
Testimony on AB271
January, 7, 2010
Hearing of the Senate Committee on Economic Development

Chair Lassa and members of the Senate Committee on Economic Development,
Thank you for the opportunity to provide comment on AB 271.

My name is Jane Severt and I currently serve as the Executive Director for Wisconsin County Forests Association.

Wisconsin County Forests Association represents the 29 counties in Wisconsin with county forests established under state statutes §28.10 and 28.11. Collectively these counties manage nearly 2.4 million acres of forests, the largest public land base in Wisconsin.

We fully realize the importance of using professional land surveyors in a variety of situations and appreciate the efforts of the proposed legislation to identify instances where state residents are required to do so in order to ensure more fully protected property rights. However, we are concerned with the potential consequences some provisions of AB271 may have on professional foresters. We believe the legislation as currently proposed could result in hardship for public and private lands foresters and landowners. Others at the hearing will speak to the hardships that could affect private landowners so we will speak more specifically to those related to county forestry.

Each county forest has adjacency to private lands. When a timber sale or county forest management activity is scheduled to occur adjacent to private lands, professional county foresters work to "determine" the boundary for management purposes only. These boundaries are usually marked with flagging or paint. Forestry departments typically notify adjoining landowners regarding the timber sale or management activity and ask those landowners to inspect the established line. Forestry departments work

to ensure that adjoining landowners do not interpret these boundaries as a survey line but rather as a "line by agreement" for management activities. It is unclear at this time if our daily forest management activities would be exempt from requiring the services of a professional land surveyor as outlined and defined in 443.01(6s) (a) 1. Further clarification regarding "service", "determination" and "property rights" would be appreciated. If indeed we were required to hire a professional surveyor to establish these lines for forest management purposes it would impose a hardship and hinder revenue generating activities on our county forests. Please keep in mind, county forest timber sale revenue is used as a direct offset to local property tax levies.

In addition, we are somewhat unsure of the effects the proposed legislation could have on recreational trail management. Employees of several county forestry departments serve as trail coordinators for snowmobile and ATV trails in their respective counties and many departments develop and maintain recreational trails for bicycling, horseback riding, hiking and other recreational pursuits. It appears as though trail locations/depictions on recorded documents would require the service of a professional surveyor. Even though the majority of "easements" for recreational trails crossing private lands are more of a gentleman's agreement than a recorded document there are instances where the hiring of a surveyor to depict the trail corridor would have the potential to inflict additional hardship on county forestry departments.

Private landowners occasionally require access to their land across county forests. Actual "easements" across county forest are rare, rather individuals may be granted an access permit across county forests. These access permits typically apply to the current landowner and are non-transferable. Most of them are not recorded with the Register of Deeds. It is our understanding that if a county would be recording these access agreements then the proposed legislation would require the county to use the services of a professional land surveyor. We would also view this as a hardship to the county.

Again, we are somewhat unclear as to whether the above listed examples are included under 443.01(6s) (a) 1. "Any service comprising the determination of the location of the boundaries of one or more tracts of land or the boundaries of any of the following interests in real property...." and therefore require the services of a professional land surveyor. Due to the illustrated examples presented here and because county foresters and county forest administrators are resource professionals we believe there should be an exemption in the proposed legislation for county forestry departments. It is noted that exemptions from licensure have been included for cooperative utilities, DATCP employees, state agencies and local governments operating land information systems or geographic information systems, persons preparing maps used in connection with a regulatory program established by, or "in connection with the exercise of police powers by, or in connection with the enforcement of the public trust doctrine or any other constitutional authority by, the state or al local unit of government", for persons who prepare a map depicting Managed Forest Law land administered by the WDNR, and for an employee of a video service provider, a provider of broadcast service, provider of cable service, public utility or telecommunications provider . Therefore, we believe an exemption from licensure for county forest management on lands established under Wisconsin statutes §28.10 and 28.11 is warranted and we ask for your consideration in including this additional exemption.

Please note: A licensure exemption for county forest management would not preclude using professional land surveyors for legal surveying as each county forest is managed according to its 15-year County Forest Comprehensive Management Plan and section 425 of those plans entitled "Land Surveying" stipulates the importance of using registered surveyors for establishing forest boundaries and property lines in common with other owners under 425.1 – Legal Surveying. Section 425.2 – Location of Lines by Other Than Legal Survey allows forestry personnel who are not registered surveyors to with all possible prudence, establish lines for forest management purposes including those necessary for ordinary management activities such as timber sales and road/trail locations. Some forest plans go on to stipulate the types of equipment that may be used for establishing these lines including, but not limited to, air photos, quadrangles, county surveyor's records, GPS equipment and known corners. In the absence of known corners, lines abutting other ownership may be established by mutual agreement. These County Forest Management Plans are approved by the county board in each respective county and by the WDNR.

In the event we would not be exempt under AB271 we would ask that governmental agencies, such as county forestry departments, would be allowed some discretion in the use of the disclaimer language contained in the bill. We feel it is not necessary to have the language on timber sale maps that will in large part be used by foresters and loggers.

Again, thank you for the opportunity to provide input on AB271.

WASHBURN COUNTY FOREST

FOREST ADMINISTRATOR

850 W. Beaver Brook Ave., Suite #4
SPOONER, WISCONSIN 54801
(715) 635-4490 Fax (715) 635-4493

January 7, 2010
Hearing of the Senate Committee on Economic Development
Written Testimony Regarding AB 271
Mike Peterson – Washburn County Forest Administrator

I appreciate the opportunity to address the Committee regarding the practice of professional land surveying. I am testifying for informational purposes only, on behalf of the Washburn County Forestry Department, and also as the chair of the Legislative Committee of the Wisconsin County Forests Association.

In my position as the Washburn County Forest Administrator, one of my primary work duties is the management of the timber sale program on 150,000 acres of County Forest Lands. This land base shares hundreds of miles of common property boundaries with other private and government ownerships.

In northern Wisconsin, modern survey monuments are often lacking and the cost of surveying individual lines is often very prohibitive. Timber management boundaries (not property boundaries) are often established using the best available information along with the adjoining landowner's consultation. These lines are typically agreed upon between the adjoining owners as a management boundary until better survey information and newer monuments are available. It is also important to note that it is common for resource managers to work very closely with surveyors, especially county surveyors, to assure that the best possible boundary representations are portrayed in the most cost effective manner. This is especially important during this time of ever increasing budget woes.

This Bill would seem to restrict our ability to establish common management boundaries in a cost effective manner. The proposed creation of 443.01(6s)(a) would seem to define the practice of professional land surveying to include the determination of the boundaries of all property rights. I assume that timber interests are considered a property right.

To illustrate the potential hardship this could create, I would like to point out that Washburn County sells, on average, 50 timber sales per year. These sales usually include a total of approximately 17 miles of shared property boundaries. I am reluctant to even guess on the costs of surveying 17 miles of boundary per year. As an aside, I would also like to note that we have had only minor case of timber trespass against an adjoining parcel in my 12 years as a County Forest Administrator.

It is my hope that language requiring a surveyor to establish boundaries of property *interests* is unintentional. A requirement that all timber sale boundaries be established in such a manner could cripple the forest industry in Wisconsin. I cannot imagine there are enough surveyors in Wisconsin to even begin to accomplish the workload of surveying all timber sale boundaries. I would also like to point out to the Committee that land managers accept civil liability for damages caused by erroneous line establishment under 26.09 of Wis. Stats.

I support the efforts put forth by the surveying community in this bill, but ask the Committee to consider some type of exemption that excludes the establishment of timber sale boundaries or natural resources management boundaries from the definition of the "practice of professional land surveying". In addition, it would be extremely helpful to natural resource managers if exemptions for forestry and natural resources management could be added to bill language that allows only professional land surveyors to depict real property interests on maps.

The existing statutes restrict persons, other than surveyors, from establishing property lines or corners. As a land manager, I do not allow our agency to establish any boundaries that are construed as property lines; set any materials in the ground as corners; or portray any boundary as anything other than a management boundary for forestry purposes. When we need surveys conducted we contract with a professional surveyor. This practice will not change should this bill be adopted as law with the suggested changes.

I appreciate your time and consideration.

Mike Peterson

Washburn County Forest Administrator

CONTINENTAL MAPPING CONSULTANTS, Inc.

January 7, 2009

Senate Economic Development Committee
Chairperson Julie Lassa
Sen. John Lehman
Sen. Kathleen Vinehout
Sen. Pat Kreitlow
Sen. Ted Kanavas
Sen. Alberta Darling
Sen. Joseph Leibham

Re: Testimony regarding SB 194 and AB 271

Dear Chairperson Lassa and Members of the Committee:

Thank you for this opportunity to speak to you. My name is David Hart, President and owner of Continental Mapping Consultants, located in Sun Prairie, Wisconsin. From two business partners in 1999, with a lot of hard work we have built our firm to a staff of 28 today and we are still growing. We have worked very hard over the last 10 years to provide professional photogrammetric (digital mapping) services to a wide range of clients. We provide these services to federal agencies such as US Army Corps of Engineers, National Geospatial Intelligence Agency, US Geological Survey, US Fish and Wildlife Service, US Department of the Interior and others. State and local government agencies including the Wisconsin Department of Transportation (under our 5th consecutive Master Contract); energy, rail, and private companies. The mapping we provide ranges from regional scale satellite derived products to very high accuracy engineering scale mapping from fixed wing and helicopter based platforms.

I am here to express my grave concern regarding Senate Bill 194 (AB 271). I have previously emailed you a letter outlining my concern, and how this bill, if enacted into law, could, quite literally, legislate our firm out of business. I can spend some time outlining the specific sections of the bill that are troubling if that is required, but much of that concern is covered in my previous letter, and I would refer you to that for the details.

Instead I would like to address what I view as the real intent of this legislation: expansion of what is defined as surveying to include other mapping disciplines. The bill goes into great detail defining and describing what a "professional land surveyor" does. The definition put forth greatly *expands* the services for which this newly defined profession has jurisdiction over in this state. Furthermore, the bill details the structure and process for the examining board that will have oversight over this newly defined profession. Requirements will include examination and licensure. The definitions for what constitutes "professional land surveying" broaden the scope of what may be considered professional surveying to include many geography-centric (location-based) professions such as photogrammetry,

remote sensing, geodetic surveying, cartography, and many other sub-disciplines that include the use of static, mobile, and airborne survey and mapping technology and knowledge.

Typically, mapping projects contracted by government agencies require expertise in many areas, including land survey, photogrammetry, GIS (geographic information systems), and other geography based sub-disciplines. The future I see if this bill passes is an emboldened oversight board, that uses their power as granted by this legislation to further "clarify," and broaden, what constitutes "professional surveying" to include disciplines that they do not now control. The defined make-up of this examining board does not include cartographers, photogrammetrists, GIS professionals, or professional remote sensing specialists (to name a few), but does include three professional land surveyors (along with three architects, three landscape architects, three designers, and three professional engineers). They will determine what knowledge base will be used to determine who is qualified to perform the expanded definition of surveying.

I too am a professional, certified and recognized as such by my peers nationally. My profession is photogrammetry, and I am a professional photogrammetrist, certified by the American Society of Photogrammetry and Remote Sensing (ASPRS), the oldest geospatial professional organization in the United States. Older, I might add, than any other professional association engaged in a geospatial profession.

My goal is to continue to offer the professional photogrammetric services we have been providing in this state for the last 10 years and to continue to grow our company without fear of being hindered by a government appointed oversight board that really has nothing to do with our profession or business. Halting this legislation now hurts no one. Land surveyors will continue to practice as they have for years. Enacting this legislation changes the game for a wide range of individuals, businesses, and even government practitioners and could have devastating and long-lasting effects on small businesses like mine.

Thank you for your time.

Sincerely,

David M. Hart
President
dhart@continentalmapping.com
Continental Mapping Consultants, Inc.
121 S. Bristol St., Suite 201
Sun Prairie, WI 53590
608.834.9823

AERO-METRIC

Aero-Metric, Incorporated
4020 Technology Parkway - Sheboygan, WI 53083
P.O. Box 449 - Sheboygan, WI 53082-0449
Tel: 920.457.3631 Fax: 920.457.0410
www.aerometric.com

January 7, 2010

STATEMENT IN OPPOSITION TO ASSEMBLY BILL 271 AND SENATE BILL 194

Senate Economic Development Committee
Chairperson Julie Lassa
Sen. John Lehman
Sen. Kathleen Vinehout
Sen. Pat Kreitlow
Sen. Ted Kanavas
Sen. Alberta Darling
Sen. Joseph Leibham

Dear Chairperson Lassa and Members of the Committee:

Good afternoon. My name is Patrick Olson and I am the President and CEO of Aero-Metric, Inc., located in Sheboygan, Wisconsin with offices across the United States. I am a licensed professional engineer in Wisconsin (E-15114) and a certified photogrammetrist with the American Society for Photogrammetry and Remote Sensing (ASPRS). Aero-Metric provides comprehensive aerial mapping and photogrammetry services. We have a long working history with local and state agencies here in Wisconsin, and federal U.S. Government clients including the U.S. Geological Survey, USDA-NRCS, USDA-APFO, NOAA, U.S. Bureau of Reclamation, and the U.S. Army Corps of Engineers. I appear before you today as a concerned business owner regarding Assembly Bill 271 (and its companion Senate Bill 194), which is currently under consideration in your committee. This bill, if enacted into law, will have devastating effects on our business. As such, I am here to indicate my opposition to Assembly Bill 271 and Senate Bill 194.

AB 271 as currently written would add new services to the definition of the practice of land surveying subject to the requirement that such services be performed by a licensed surveyor. Specifically:

- Section 60 would add cartographic surveying which includes topographic, aerial and mining data of features on, below or above the surface of the earth;
- Section 61 would add construction surveying which includes any mapping in support of infrastructure design or the establishing of construction documentation;
- Section 63 would add geodetic surveying which includes mapping the size or shape of the earth or the precise location of points on the earth's surface.

However, today, these services are not required to be performed by a licensed individual. The practical effect of AB 271 will be to regulate photogrammetry, and several applications of GIS technology, as the practice of surveying. Any individual who today is providing photogrammetric or GIS services in the State of Wisconsin,

and is not a licensed surveyor, would therefore be prohibited from continuing their practice .This would legislate out of business any individual who, while highly experienced, qualified and competent to perform photogrammetric mapping or GIS services, does not meet the requirements for becoming licensed as a surveyor under Chapter 443.

Land surveying and other geospatial services, including photogrammetry and GIS, are very different sub-disciplines in the broad field of surveying and engineering. They require different techniques, equipment, training, methodologies, experience and examination. An individual educated, trained and experienced in surveying is not typically qualified or competent to practice photogrammetry or provide non-boundary related GIS mapping services, nor are photogrammetrists or GIS specialists typically educated, trained and experienced to perform boundary surveys. Simply stated as photogrammetrist's we do not provide boundary surveying and a land surveyor does not provide photogrammetric services. They are two distinctly different disciplines.

It is important to note that AB 271 is quite clear that per Section 65 (a) (6) the practice of land surveying means the performance of cartographic, construction or geodetic surveying. The definitions within the bill of these three new categories include services typical defined as or contain elements that are photogrammetric in nature; aerial, topographic, mining, mapping in support of infrastructure design, and geodetic surveying. Additionally Section 67 specifically states that no person may engage in or offer to engage in the practice of professional land surveying unless the person has been granted a license to engage in the practice of professional land surveying.

Therefore, if AB 271 is enacted in its present form, qualified photogrammetry, geospatial and GIS practitioners who do not meet the State Board's boundary survey requirements would be legally prohibited from continuing to practice in the State of Wisconsin. That will create an immediate shortage of photogrammetrists and GIS practitioners, perhaps causing severe economic disruption in the State. Activities such as flood plain mapping; highway corridor mapping; infrastructure mapping for pipelines, airports, water supply systems and other critical public works projects; private commercial and residential land development; and natural resource management would all come to a virtual standstill without an adequate supply of photogrammetric and geospatial practitioners.

I appreciate this opportunity to meet with you, as a concerned citizen and business owner, to present my opposition to AB 271.

Sincerely,

Patrick M. Olson, CP, PE
President and CEO
polson@aerometric.com
Aero-Metric, Inc.
4020 Technology Parkway

Sheboygan, WI 53083
920.457.3631

DNR Testimony before the Senate Committee on Economic Development on January 7, 2010, related to Assembly Substitute Amendment 1 to AB 271, regarding the Practice of Professional Land Surveying.

Position: **For Information Only**

Good afternoon Chairman Lassa. My name is Quinn Williams, and I am a staff attorney with the Department of Natural Resources. I would like to thank Representative Clark, Senator Risser, and the Committee on Economic Development for giving the Department the opportunity to provide comments on AB 271. Both Representative Clark and Senator Risser, as well as the Wisconsin Society of Land Surveyors (WSLS), have been willing to work with the Department to address our specific concerns on this important piece of legislation.

The challenges involved in the drafting of this bill only serve to highlight the need for this legislation to bring the definition of the practice of professional land surveying into the 21st century. The Department supports the intent of the bill, and over the course of the past 7 months, has worked with the bill drafters, WSLS and other stakeholders to address the Department's concerns. The Department believes that the bill, in its current form as the adopted "Assembly Substitute Amendment 1 to AB 271" (AB 271), provides a number of beneficial clarifications and definitions to the current definition of the practice of professional land surveying.

For example, the bill contains two new provisions related to natural resource law and identification of Ordinary High-Water Marks on plats and survey maps. Application of these two provisions will improve understanding for property owners, municipalities, and others regarding the location of the OHWM at a given property, as well as the ownership and legal rights associated with the OHWM elevation and boundary. Staff from DNR, the Department of Justice and the Board of Commissioners of Public Lands have worked with representatives of the land surveyors on the proposed changes to chapters 30 and 236, Stats., and are in support of these changes.

AB 271 also clearly exempts from licensure persons who prepare maps used in connection with a regulatory program established by or used in connection with the exercise of the state's police powers or in connection with the enforcement of the public trust doctrine or any other constitutional authority by the state or maps showing the shape and area of land designated as forest cropland or managed forest lands.

However, as with any complex piece of legislation, there are still a number of remaining issues that should be addressed to ensure efficient and effective administration of the state's natural resources. The following is a brief summary of the remaining concerns that the Department believes need to be addressed:

1) Maps (including GIS/digital maps).

Problem:

The current language included under Wis. Stat. s. 16.967(3)(f) found on page 6, line 9 of AB 271, is overly broad, and would unintentionally include a host of maps that the bill drafter likely did not intend to include (such as maps of the state, of state forests, state parks, etc) that would not be mistaken to represent on the ground property boundaries for the purposes of determining where to locate a fence, house, etc.

DNR Testimony before the Senate Committee on Economic Development on January 7, 2010, related to Assembly Substitute Amendment 1 to AB 271, regarding the Practice of Professional Land Surveying.

Solution:

Representative Clark, along with WSLS has suggested that a provision that would allow the various state agencies and local units of government to have discretion as to when a disclaimer would be required on a map or online GIS tool. This would be an acceptable solution for the Department. In many instances, the Department will end up using a substantially similar disclaimer for those maps the Department produces where there may be confusion, but requiring it on all maps would lead to some obviously unintended results (disclaimers on state-wide scale maps, etc.).

2) Cooperating foresters, loggers and other natural resource managers determining and establishing timber sale boundaries or the boundaries of other forestry practices, wildlife management, or other ecosystem management boundaries.

Problem:

Additional clarification is needed to ensure that the determination and establishment of timber sale boundaries, other forestry practices, wildlife management, or other ecosystem management boundaries does not require the services of a professional land surveyor. The use of the term "service" under the proposed Wis. Stat. s. 443.01(6s)(a)1 (pages 24 through 26 of AB 271), could sweep in cooperating foresters, loggers, or other natural resource managers that determine and establish a variety of forestry, wildlife management or ecosystem management boundaries. If determining the boundaries of a timber sale by cooperating foresters or DNR foresters for private landowners is a "service comprising the determination of the location of the boundaries of . . . property rights" (timber rights or the right to access and harvest timber being a property right), then the current language would likely sweep them in. This is a critical issue for the timber industry in Wisconsin, as well as other public and private natural resource managers, and was not intended by Representative Clark., or identified during the ongoing revisions of the bill with all of the various stakeholders. Current statutory (with respect to timber sale establishment) and civil remedies exist to appropriately protect citizens from any errors done in the course of the work of these natural resource managers.

Solution:

Include the following exemption under the proposed 443.14 list of exemptions:

"443.14(19) A person engaged in determining the location of the boundaries of one or more tracts of land or the boundaries of any of the interests in real property described in 443.01(6s)(a)1. for the purpose of establishing the boundary for the purpose of natural resource management."

Create the following definition:

"443.01(4r) "Natural resource management" includes the practice of forestry and forest management, wildlife management, or other ecosystem management services."

Eliminate "or property rights" from the proposed 443.01(6s)(a)1.b.

The term "property rights" is not defined in AB 271, nor could it likely be easily defined. Property rights, under a common usage interpretation, include any of the entire "bundle of sticks"

which again defeats the purpose of an exemption under the proposed Wis. Stat. s. 443.135 (pages 32 and 33 of AB 271), and would add this cost to any landowner entering the MFL program.

Solution:

A similar exemption as what is granted to DATCP under 59.43(8)(d) on page 9, lines 19 to 21 of AB 271, but instead targeted at MFL and FCL maps with a valid MFL order or FCL contract.

4) Determining and establishing temporary recreational trails.

Problem:

Arguably, the current AB 271 language would require that professional surveyors be used to determine snowmobile and other temporary recreational trail boundaries, either on the ground or via maps, which would prove to be a very difficult burden for many recreational user groups and land managers to overcome, and could preclude many of these trails from being established.

Solution:

Eliminate "or property rights" from the proposed 443.01(6s)(a)1.b. As noted in the Department's concerns related to the boundaries of forestry practices, wildlife and ecosystem management practices, the term "property rights" is overly broad, and sweeps in a host of potential rights that have not historically fallen under the auspices of the practice of professional land surveying. Further clarification of the term "rights of way" found under 443.01(6s)(a)1.a. would also help to alleviate this concern.

Conclusion

Both Senator Risser and Representative Clark have indicated a willingness to continue to work with the Department to address these remaining concerns as part of this important legislation. The Department recognizes the difficulties in updating current law to reflect the modern practice of professional land surveying, and appreciates all of the good work that has gone into the bill up to this point.

which again defeats the purpose of an exemption under the proposed Wis. Stat. s. 443.135 (pages 32 and 33 of AB 271), and would add this cost to any landowner entering the MFL program.

Solution:

A similar exemption as what is granted to DATCP under 59.43(8)(d) on page 9, lines 19 to 21 of AB 271, but instead targeted at MFL and FCL maps with a valid MFL order or FCL contract.

4) Determining and establishing temporary recreational trails.

Problem:

Arguably, the current AB 271 language would require that professional surveyors be used to determine snowmobile and other temporary recreational trail boundaries, either on the ground or via maps, which would prove to be a very difficult burden for many recreational user groups and land managers to overcome, and could preclude many of these trails from being established.

Solution:

Eliminate "or property rights" from the proposed 443.01(6s)(a)1.b. As noted in the Department's concerns related to the boundaries of forestry practices, wildlife and ecosystem management practices, the term "property rights" is overly broad, and sweeps in a host of potential rights that have not historically fallen under the auspices of the practice of professional land surveying. Further clarification of the term "rights of way" found under 443.01(6s)(a)1.a. would also help to alleviate this concern.

Conclusion

Both Senator Risser and Representative Clark have indicated a willingness to continue to work with the Department to address these remaining concerns as part of this important legislation. The Department recognizes the difficulties in updating current law to reflect the modern practice of professional land surveying, and appreciates all of the good work that has gone into the bill up to this point.

VOL 1313 PAGE 304

ORDER NUMBER
60 001 1994
Co. Code/Seq. No./Yr. of Entry

MANAGED FOREST LAW MAP
Form 2450-133 Rev. 4-87

MADISON OFFICE USE ONLY
Acreage Entered 36.00

Owner's Name	Town or Village Name	County
Wittkopp, ETAL : Vern	Greenbush	Sheboygan

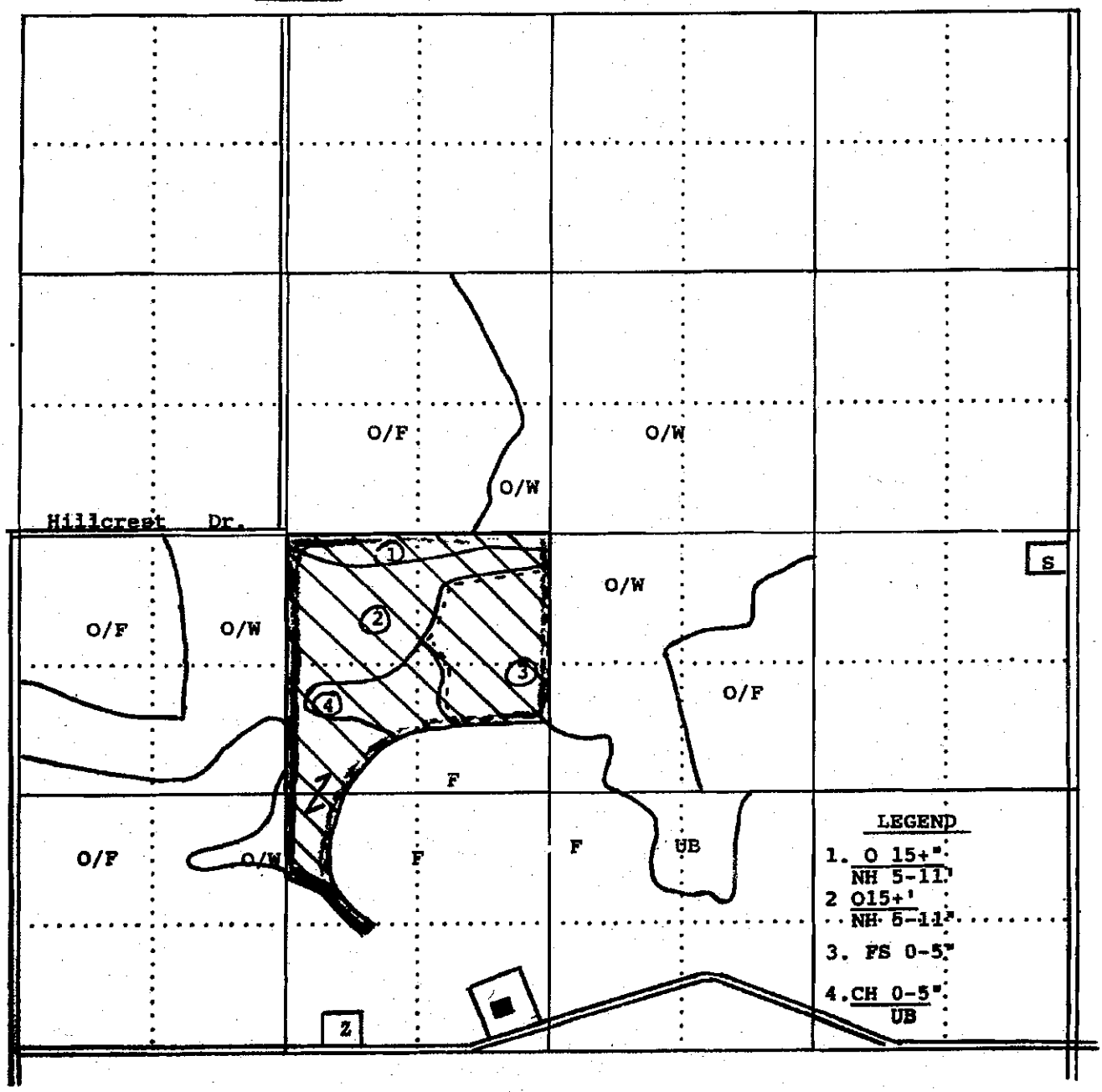
Street or Route	Township No.	Range	E / W	Section
W7134 Hwy Z	15N	20E		24

City, State, Zip Code	Closed Acres	Open Acres
Plymouth, WI. 53073	36.00	

LEGEND: Closed Area / Open Area

Section Diagram 8" = 1 Mile

Prepared By Larry Baer Date May 1993



1389711 STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
P O BOX 7921, MADISON, WI 53707

VOL 1313 PAGE 302

IN THE MATTER OF THE DESIGNATION OF LAND LOCATED IN SHEBOYGAN COUNTY, AS MANAGED FOREST LAND ON PETITION OF WITTKOPP, ETAL VERN FOR A PERIOD OF 25 YEARS.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF DESIGNATION

ORDER NO. 60 001 1994
EFFECTIVE DATE JAN. 1, 1994

PARTIES:
Petitioner WITTKOPP, ETAL VERN
W7134 HIGHWAY Z
PLYMOUTH WI 53073

TOWN OF GREENBUSH

001E#8234	0002	JTR	$8.00
001E#8234	0002	LRIB	$2.00
001E#8234	0002	CO LRM	$4.00

Department of Natural Resources, Forest Tax Unit, Box 7921, Madison, WI 53707

FINDINGS OF FACT

1. The Petitioner has filed a timely petition under Chapter 77, Subchapter VI, Stats., to enter the lands as Managed Forest Land.
2. The lands described in the petition meet the eligibility requirements of Sec. 77.82(1), stats.
3. The facts in the petition are correct.
4. A merchantable stand of timber will be developed on the land.
5. The use of the land as Managed Forest Land is not incompatible with the existing uses of land in the municipality.
6. There are no delinquent taxes on the land.

CONCLUSIONS OF LAW

The Department of Natural Resources, pursuant to Section 77.82(8), Stats., based upon the foregoing Findings of Fact is required to approve the petitioners' petition and designate the land described in the petition as Managed Forest Land.

ORDER

IT IS HEREBY ORDERED that the following lands be designated Managed Forest Land:

	OPEN ACRES	CLOSED ACRES	TOTAL ACRES
TOWNSHIP 15 NORTH RANGE 20 EAST			
SECTION 24 NESW, PT OF	.00	33.00	33.00
SESW, PT OF	.00	3.00	3.00
TOTAL ACREAGE FOR ORDER	.00	36.00	36.00

RECORDED
SHEBOYGAN COUNTY, WI
Darlene J Harvey Registrar
In Vol. 1313 of Record on page 302/4

'93 NOV 19 P12:24

NOTICE OF APPEAL RIGHTS ON THE REVERSE SIDE OF THIS SHEET

Date of Order: NOVEMBER 9, 1993

Pursuant to s. 77.91(6), Wis. Stats., the authentication requirements of s. 706.05(2)(b), stats., do not apply to this order.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
FOR THE SECRETARY

BY Kenneth R Hoyanes
SUPERVISOR
FOREST TAX UNIT - PH (608)266-3545

THIS INSTRUMENT DRAFTED BY STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

Form 2450-161
9-91

24
15-20

DNR Testimony before the Senate Committee on Economic Development on January 7, 2010, related to Assembly Substitute Amendment 1 to AB 271, regarding the Practice of Professional Land Surveying.

Position: **For Information Only**

Good afternoon Chairman Lassa. My name is Quinn Williams, and I am a staff attorney with the Department of Natural Resources. I would like to thank Representative Clark, Senator Risser, and the Committee on Economic Development for giving the Department the opportunity to provide comments on AB 271. Both Representative Clark and Senator Risser, as well as the Wisconsin Society of Land Surveyors (WSLS), have been willing to work with the Department to address our specific concerns on this important piece of legislation.

The challenges involved in the drafting of this bill only serve to highlight the need for this legislation to bring the definition of the practice of professional land surveying into the 21st century. The Department supports the intent of the bill, and over the course of the past 7 months, has worked with the bill drafters, WSLS and other stakeholders to address the Department's concerns. The Department believes that the bill, in its current form as the adopted "Assembly Substitute Amendment 1 to AB 271" (AB 271), provides a number of beneficial clarifications and definitions to the current definition of the practice of professional land surveying.

For example, the bill contains two new provisions related to natural resource law and identification of Ordinary High-Water Marks on plats and survey maps. Application of these two provisions will improve understanding for property owners, municipalities, and others regarding the location of the OHWM at a given property, as well as the ownership and legal rights associated with the OHWM elevation and boundary. Staff from DNR, the Department of Justice and the Board of Commissioners of Public Lands have worked with representatives of the land surveyors on the proposed changes to chapters 30 and 236, Stats., and are in support of these changes.

AB 271 also clearly exempts from licensure persons who prepare maps used in connection with a regulatory program established by or used in connection with the exercise of the state's police powers or in connection with the enforcement of the public trust doctrine or any other constitutional authority by the state or maps showing the shape and area of land designated as forest cropland or managed forest lands.

However, as with any complex piece of legislation, there are still a number of remaining issues that should be addressed to ensure efficient and effective administration of the state's natural resources. The following is a brief summary of the remaining concerns that the Department believes need to be addressed:

1) Maps (including GIS/digital maps).

Problem:

The current language included under Wis. Stat. s. 16.967(3)(f) found on page 6, line 9 of AB 271, is overly broad, and would unintentionally include a host of maps that the bill drafter likely did not intend to include (such as maps of the state, of state forests, state parks, etc) that would not be mistaken to represent on the ground property boundaries for the purposes of determining where to locate a fence, house, etc.

DNR Testimony before the Senate Committee on Economic Development on January 7, 2010, related to Assembly Substitute Amendment 1 to AB 271, regarding the Practice of Professional Land Surveying.

Solution:

Representative Clark, along with WSLS has suggested that a provision that would allow the various state agencies and local units of government to have discretion as to when a disclaimer would be required on a map or online GIS tool. This would be an acceptable solution for the Department. In many instances, the Department will end up using a substantially similar disclaimer for those maps the Department produces where there may be confusion, but requiring it on all maps would lead to some obviously unintended results (disclaimers on state-wide scale maps, etc.).

2) Cooperating foresters, loggers and other natural resource managers determining and establishing timber sale boundaries or the boundaries of other forestry practices, wildlife management, or other ecosystem management boundaries.

Problem:

Additional clarification is needed to ensure that the determination and establishment of timber sale boundaries, other forestry practices, wildlife management, or other ecosystem management boundaries does not require the services of a professional land surveyor. The use of the term "service" under the proposed Wis. Stat. s. 443.01(6s)(a)1 (pages 24 through 26 of AB 271), could sweep in cooperating foresters, loggers, or other natural resource managers that determine and establish a variety of forestry, wildlife management or ecosystem management boundaries. If determining the boundaries of a timber sale by cooperating foresters or DNR foresters for private landowners is a "service comprising the determination of the location of the boundaries of . . . property rights" (timber rights or the right to access and harvest timber being a property right), then the current language would likely sweep them in. This is a critical issue for the timber industry in Wisconsin, as well as other public and private natural resource managers, and was not intended by Representative Clark., or identified during the ongoing revisions of the bill with all of the various stakeholders. Current statutory (with respect to timber sale establishment) and civil remedies exist to appropriately protect citizens from any errors done in the course of the work of these natural resource managers.

Solution:

Include the following exemption under the proposed 443.14 list of exemptions:

"443.14(19) A person engaged in determining the location of the boundaries of one or more tracts of land or the boundaries of any of the interests in real property described in 443.01(6s)(a)1. for the purpose of establishing the boundary for the purpose of natural resource management."

Create the following definition:

"443.01(4r) "Natural resource management" includes the practice of forestry and forest management, wildlife management, or other ecosystem management services."

Eliminate "or property rights" from the proposed 443.01(6s)(a)1.b.

The term "property rights" is not defined in AB 271, nor could it likely be easily defined. Property rights, under a common usage interpretation, include any of the entire "bundle of sticks"

that property owners have control over or own. Many regulatory programs for which the Department is responsible, as well as many of the third party services provided by foresters, loggers and other natural resource managers, could be interpreted to be determining or establishing the boundary of interests in a landowner's property rights.

This language, or something substantially similar, would protect cooperating foresters, loggers, and a variety of other private natural resource managers from being required to obtain licensure as professional land surveyors to determine and establish timber sale boundaries.

3) Managed Forest Law and Forest Crop Law Maps.

Managed Forest Law (MFL) maps are recorded with orders at the register of deeds. Since the inception of the MFL program in 1985, maps have been recorded with the MFL orders to note stand type, boundaries, and other irregular features, usually through using aerial photo overlays. While these maps are not survey quality, the enforcement and administration of the MFL program allows for significant flexibility.

Problem:

The problem is that the legal description of the "specific . . . [i]nterest or interests in real property shown more generally on the map described in par. (b) (intro.)" (page 9, lines 5, 6, 9 an of AB 271) on MFL orders and maps recorded at the register of deeds would not allow for current MFL maps to be recorded. Since there is no exemption for the recording of MFL maps similar to the exemption from licensure under the proposed Wis. Stat. s. 443.135(2)(b) (pages 32 and 33 of AB 271), this would prohibit the filing of MFL maps which have been filed for the past 24 years under the MFL program with no substantial issues resulting in the administration of the MFL program or interests of MFL enrollees. The language prior to "Assembly amendment 2 to Assembly substitute amendment 1" was arguably vague enough to allow for a more specific MFL map attached to a less specific legal description.

For example, the legal description on an order would be "Township 15 North, Range 20 East Section 24, NESW, part of 33 acres, and SESW, part of 3 acres" but would not describe where the line excluding the 6 acres would fall. As the following map and order illustrate, this would indicate the edge of the interest in real property subject to an MFL order.

60-001-1994.pdf (280 KB) 2009121709044547 3.pdf (67 KB)

The "Assembly Amendment 2 to Assembly Substitute Amendment 1" to AB 271 was not included in the proposed bill language for review by the Department prior to its passage in the Assembly, or the Department would have raised this issue prior to final introduction to the Assembly. Requiring surveys on all MFL maps (as the floor amendment on this bill did, noted above), defeats the purpose of the exemption included under the proposed Wis. Stat. s. 443.135 (pages 32 and 33 of AB 271), which exempts those persons who make MFL or Forest Crop Law (FCL) maps from licensure requirements. Requiring written legal descriptions beyond what is currently used in MFL orders or FCL contracts to describe the "squiggly lines" of forest boundaries on landowner's properties would likely not be any better than the current orders with the attached maps, unless the description is made working with a professional land surveyor,

which again defeats the purpose of an exemption under the proposed Wis. Stat. s. 443.135 (pages 32 and 33 of AB 271), and would add this cost to any landowner entering the MFL program.

Solution:

A similar exemption as what is granted to DATCP under 59.43(8)(d) on page 9, lines 19 to 21 of AB 271, but instead targeted at MFL and FCL maps with a valid MFL order or FCL contract.

4) Determining and establishing temporary recreational trails.

Problem:

Arguably, the current AB 271 language would require that professional surveyors be used to determine snowmobile and other temporary recreational trail boundaries, either on the ground or via maps, which would prove to be a very difficult burden for many recreational user groups and land managers to overcome, and could preclude many of these trails from being established.

Solution:

Eliminate "or property rights" from the proposed 443.01(6s)(a)1.b. As noted in the Department's concerns related to the boundaries of forestry practices, wildlife and ecosystem management practices, the term "property rights" is overly broad, and sweeps in a host of potential rights that have not historically fallen under the auspices of the practice of professional land surveying. Further clarification of the term "rights of way" found under 443.01(6s)(a)1.a. would also help to alleviate this concern.

Conclusion

Both Senator Risser and Representative Clark have indicated a willingness to continue to work with the Department to address these remaining concerns as part of this important legislation. The Department recognizes the difficulties in updating current law to reflect the modern practice of professional land surveying, and appreciates all of the good work that has gone into the bill up to this point.

VOL 1313 PAGE 304

ORDER NUMBER
60 001 1994
Co. Code/Seq. No./Yr. of Entry

MANAGED FOREST LAW MAP
Form 2450-133 Rev. 4-87

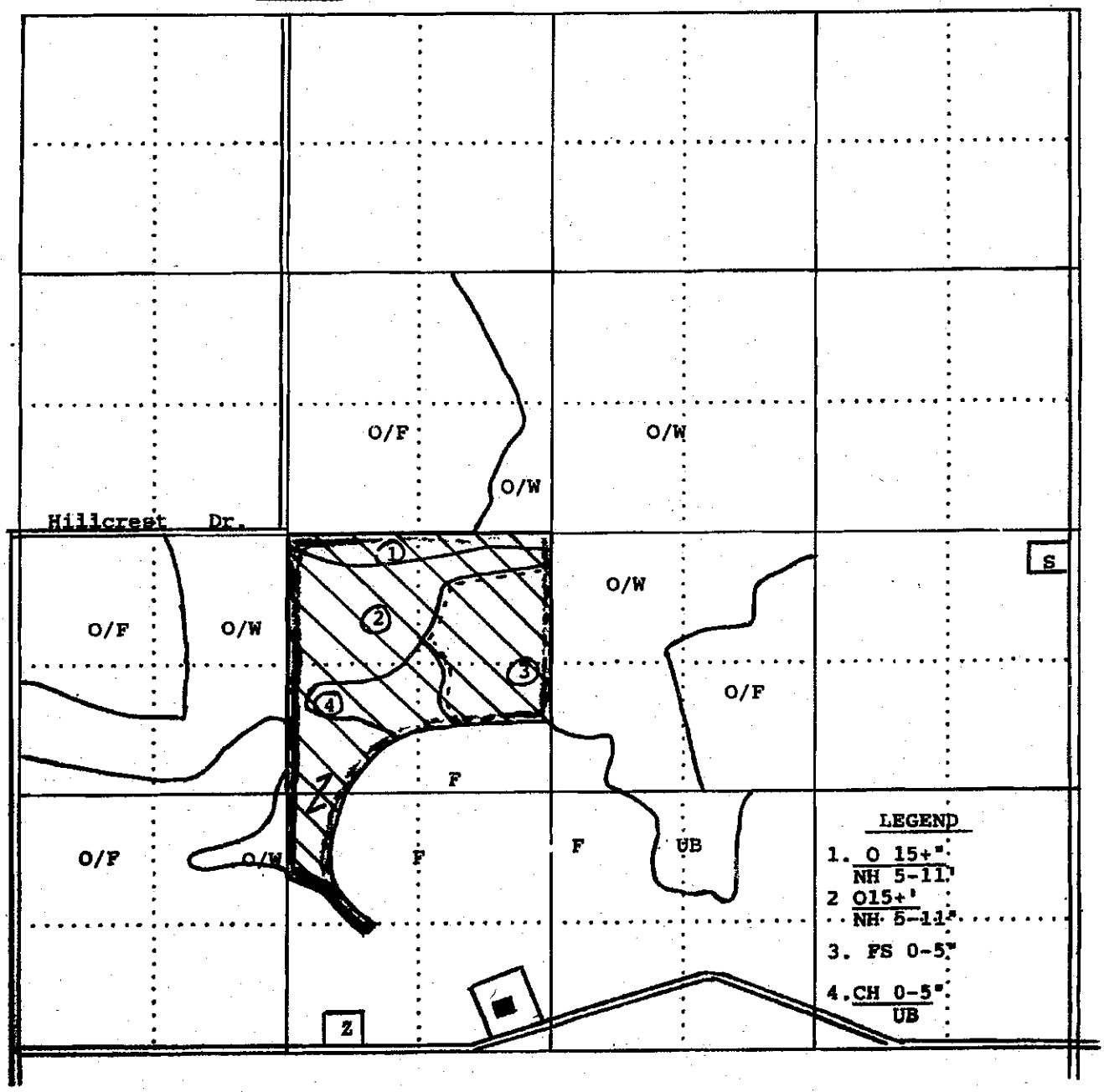
MADISON OFFICE USE ONLY
Acreage Entered 36.00

Owner's Name: Wittkopp, ETAL : Vern	Town or Village Name: Greenbush		County: Sheboygan
Street or Route: W7134 Hwy Z	Township No.: 15N	Range: 20E ☐ E ☐ W	Section: 24
City, State, Zip Code: Plymouth, WI. 53073	Closed Acres: 36.00		Open Acres:

LEGEND: Closed Area ▨ Open Area ☐

Section Diagram 8" = 1 Mile

Prepared By Larry Baer Date May 1993



1389711 STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
P O BOX 7921, MADISON, WI 53707

VOL 1313 PAGE 302

IN THE MATTER OF THE DESIGNATION OF LAND LOCATED IN SHEBOYGAN COUNTY, AS MANAGED FOREST LAND ON PETITION OF WITTKOPP, ETAL VERN FOR A PERIOD OF 25 YEARS.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF DESIGNATION

ORDER NO. 60 001 1994
EFFECTIVE DATE JAN. 1, 1994

PARTIES:
Petitioner WITTKOPP, ETAL VERN
W7134 HIGHWAY Z
PLYMOUTH WI 53073

TOWN OF GREENBUSH

001E#8234	0002	JTR	$8.00
001E#8234	0002	LRIB	$2.00
001E#8234	0002	CO LRM	$4.00

Department of Natural Resources, Forest Tax Unit, Box 7921, Madison, WI 53707

FINDINGS OF FACT

1. The Petitioner has filed a timely petition under Chapter 77, Subchapter VI, Stats., to enter the lands as Managed Forest Land.
2. The lands described in the petition meet the eligibility requirements of Sec. 77.82(1), stats.
3. The facts in the petition are correct.
4. A merchantable stand of timber will be developed on the land.
5. The use of the land as Managed Forest Land is not incompatible with the existing uses of land in the municipality.
6. There are no delinquent taxes on the land.

CONCLUSIONS OF LAW

The Department of Natural Resources, pursuant to Section 77.82(8), Stats., based upon the foregoing Findings of Fact is required to approve the petitioners' petition and designate the land described in the petition as Managed Forest Land.

ORDER

IT IS HEREBY ORDERED that the following lands be designated Managed Forest Land:

	OPEN ACRES	CLOSED ACRES	TOTAL ACRES
TOWNSHIP 15 NORTH RANGE 20 EAST			
SECTION 24 NESW, PT OF	.00	33.00	33.00
SESW, PT OF	.00	3.00	3.00
TOTAL ACREAGE FOR ORDER	.00	36.00	36.00

RECORDED
SHEBOYGAN COUNTY, WI
Darlene J Harris Registrar
in Vol. 1313 of Record on page 302/4

'93 NOV 19 P12:24

NOTICE OF APPEAL RIGHTS ON THE REVERSE SIDE OF THIS SHEET

Date of Order: NOVEMBER 9, 1993

Pursuant to s. 77.91(6), Wis. Stats., the authentication requirements of s. 706.05(2)(b), stats., do not apply to this order.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
FOR THE SECRETARY

BY Kenneth R Hoyanes
SUPERVISOR
FOREST TAX UNIT - PH (608)266-3545

THIS INSTRUMENT DRAFTED BY STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

24
15-20

Form 2450-181
9-91

WI GICC
GEOGRAPHIC INFORMATION COORDINATION COUNCIL

The Wisconsin State Legislature
Senate Committee on Economic Development
Wisconsin State Capitol Building
Madison, WI 53707

January 6, 2010

Dear Senate Committee Members:

The Wisconsin Geographic Information Coordination Council (WIGICC) represents a broad-based mapping sciences and geographic information systems (GIS) community throughout the State of Wisconsin. The WIGICC community consists of public local, regional, state and federal partners, and private and non-profit organizations that employ professional staff in the geographic information, cartographic, land surveying, photogrammetric and other related disciplines.

WIGICC commends the Committee's support for the geospatial profession, as evidenced by your interest and deliberation of Assembly Bill 271. However, WIGICC has concerns that the passing of AB 271 with the current language will impact a variety of GIS and other related professionals. The WIGICC Council has heard from our constituent groups that this bill could have significant negative impacts including, increased costs and lost jobs. WIGICC would like the Committee to consider several important issues written within the bill, which if revised could clarify and enhance the understanding of the proposed legislative bill's intent. Of greatest concern are the proposed requirements of incorporating map disclaimer information to maps, and the definition of the practice of land surveying as it relates to other mapping sciences professional activities.

We have prepared a supporting document to assist you in understanding the effects of this bill on the professionals WIGICC represents. This attached document includes the following information:

1. An explanation of what WIGICC is and who we represent.
2. Bill information that affects our constituents and yours.
3. Information relating to map disclaimer use and the definition of land surveying activities.
4. Suggested solutions and changes to the bill.

WIGICC appreciates the efforts taken to prepare and deliberate upon AB 271. We hope that the Senate Committee will address WIGICC's concerns and amend the bill to include provisions to protect the efforts and economic viability of all involved in these very directly connected professions.

Thank you for considering WIGICC's concerns related to Assembly Bill 271.

Respectfully,

Gregg Moore, Chairperson
Wisconsin Geographic Information Coordination Council

Eau Claire County Board Chairperson
721 Oxford Avenue, Room 2570
Eau Claire, WI 54703

Cc: WIGICC Council Members
WIGICC Stakeholder Network Members
Curtis Pulford, Wisconsin State Geographic Information Officer
Howard Veregin, Wisconsin State Cartographer

Written Testimony Regarding Wisconsin Assembly Bill 271

WI GICC
GEOGRAPHIC INFORMATION COORDINATION COUNCIL

http://www.wigicc.org

Prepared by the Wisconsin Geographic Information Coordination Council (WIGICC)
Gregg Moore, Chairperson

January 7, 2010

Senate Committee on Economic Development

The Wisconsin Geographic Information Coordination Council (WIGICC) is an organization that serves as the primary forum and coordinating body for the geographic information and technology community in the State of Wisconsin. Its role is to:

- Provide statewide leadership, guidance, and strategic planning;
- Facilitate the equitable creation, access and sharing of geographic information;
- Evaluate and promote geographic information standards, best practices, and policies;
- Identify funding to support and maintain geographic information; and
- Advise and consult with decision makers on the appropriate use of geographic information to address critical societal issues.

WIGICC has important concerns related to AB271 because the proposed legislation may impact a variety of Geographic Information Systems (GIS) professionals' ability to legally perform their work. We whole-heartedly support the Wisconsin Society of Land Surveyors in their efforts to clarify their profession so that legal documents and maps, which are filed at the County Register of Deeds, are prepared with the utmost accuracy by qualified professionals. It is our understanding that the legislative intent is to clarify the responsibilities of practicing professional surveyors and to assist them in the clarification and enforcement of surveying activities that are currently being completed by non-licensed individuals.

The following portions of the most current version (substitute amendment) of the wording of the bill as interpreted by the Legislative Reference Bureau are of interest to WIGICC and its stakeholders:

Under current law, with certain exceptions, a person may not practice land surveying or represent that he or she is a land surveyor unless the land surveyor section (section) of the examining board of architects, landscape architects, professional engineers, designers and land surveyors (board) has issued a certificate of registration or permit to the person. "Land surveying" is defined as determining the location of land boundaries and boundary corners; preparing maps that show the shape and area of tracts of land or subdivisions or the layout of roads, streets, or rights-of-way; or preparing official plats or maps of land in this state.

This substitute amendment replaces "land surveying" with the term "practice of professional land surveying" and defines the term as any of the following:

1. Any service comprising the determination of the location of the boundaries of one or more tracts of land or the boundaries of any of the following interests in real property: a) the layout and rights-of-way of roads or streets; b) air or property rights; or c) public or private easements.
2. Designing or coordinating designs for the purpose of platting or subdividing land into smaller tracts.
3. Placing, replacing, restoring, or perpetuating monuments in or on the ground to evidence the location of a point that is necessary to describe the shape, area, and boundaries of one or more tracts of land or the subdivision or consolidation of one or more tracts of land or that is necessary to describe the boundaries of any interest in real property identified in item 1.
4. Preparing maps that depict any interest in real property identified in item 1. for the purpose of establishing the boundaries of any such interest in real property.
5. Preparing any of the following:
   a) an official map established or amended by a city, established or amended by a village, or adopted by a town;
   b) an assessor's plat;
   c) a map or plat of cemetery lands;

d) a subdivision plat, certified survey map, or correction instrument;
e) a condominium plat or correction instrument; or
f) a project and time-share plat.

6. Performing cartographic, construction, or geodetic surveying in connection with any of the practices specified in items 1. to 5.

After July 1, 2018, the substitute amendment requires employees of this state and public utilities to obtain a license or permit to engage in the practice of professional land surveying. Such employees are exempt from the certificate of registration and permit requirements under current law. The substitute amendment creates a new exemption from licensure for employees of a cooperative association organized under the laws of this state for the purpose of producing or furnishing heat, light, power, or water for its members while the employees are engaged in the practice of professional land surveying. This exemption from licensure does not apply after July 1, 2018. The substitute amendment creates an exemption from licensure for employees of the Department of Agriculture, Trade and Consumer Protection (DATCP) who are engaged in establishing the boundaries of easements acquired by DATCP under the Conservation Reserve Enhancement Program (CREP), if the DATCP employees include on any map prepared in connection with a CREP easement a written disclaimer indicating that the map has not been prepared by a professional land surveyor licensed under chapter 443 of the statutes, and has been prepared using protocols established by the Federal Department of Agriculture under the Wetlands Reserve Program, 16 USC 3837 to 3837f.

The substitute amendment also exempts from licensure employees of state agencies and local units of government who operate a land information system or geographic information system and who prepare maps on that system if the maps show approximate property boundaries and if the maps contain the following or a substantially similar disclaimer:

"This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes."

The substitute amendment also exempts from licensure persons who prepare any of the following maps:

a) a map used in connection with a regulatory program established by, or in connection with the exercise of police powers by, or in connection with the enforcement of the public trust doctrine or any other constitutional authority by, the state or a local unit of government or
b) a map showing the boundaries or the shape and area of land designated as forest cropland or as managed forest land by the Department of Natural Resources (DNR), if the map includes a disclaimer substantially similar to the disclaimer required under the substitute amendment on certain maps prepared by employees of state agencies and local units of government who operate land information systems and geographic information systems.

Under current law, with limited exceptions, a county register of deeds may not record a map, plat, survey, or other document within the definition of land surveying unless the map, plat, survey, or other document contains the signature and seal of the land surveyor under whose charge the document was prepared. This limitation on recording does not apply to a deed, contract, or other recordable document prepared by an attorney, or to a transportation project plat prepared by a state agency if the plat conforms to the requirements established for transportation project plats under current law. This substitute amendment requires that a map, plat, survey, or other document within the definition of the practice of professional land surveying bear the signature and seal of the professional land surveyor in order for the map, plat,

survey, or other document to be recorded with the county register of deeds, and creates two additional exceptions to the signature and seal requirements.

Under the substitute amendment, the signature and seal of a professional land surveyor is not required on any of the following documents:

a) a map that depicts the approximate boundaries or the shape and area of one or more tracts of land or one or more interests in real property if either a legal description of the tract or tracts of land or interest or interests in real property, or a map, survey, plat, or other document that depicts the tract or tracts of land or interest or interests in real property and that bears the signature and seal of the professional land surveyor who prepared the map, plat, survey, or other document is incorporated into or attached to and submitted for recording with the map; and b) a map that depicts the boundaries of CREP easement acquired by DATCP if the map is prepared in accordance with the requirements established in this substitute amendment.

Assembly Bill 271 – WIGICC Constituency Concerns

WIGICC has two general concerns.

1. Map Disclaimers (including GIS hard copy and web mapping/digital maps) ***Issue:***

The Map Disclaimer requirements in AB271 could require additional staffing resources and may hinder public and private sector organizations in carrying out professional responsibilities that involve mapping.

The Map Disclaimer requirements of concern appear on page 6 of AB-271 (Section 2. s. 16.967), and on page 35 (Section 101 s. 443.14). In particular, Section 2 states:

"Ensure that state agencies and local governmental units with land information responsibilities include on any map that depicts the boundary of one or more tracts of land, or of one or more interests in real property, the following or a substantially similar disclaimer if the map was prepared using the land information system, but was not prepared by a professional land surveyor...:

"This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes".

In common usage, the word "map" is defined as: "A representation, usually on a plane surface, or a region, such as the surface of the earth". It follows that, "any map" may reasonably be interpreted to include a broad range of representations of areas on the earth's surface drawn to scale.

As with the portion of Section 65 cited on page 2 of this document, here the term "tract of land" may be defined as encompassing any large area or expanse of land. It follows that the phrase "...any map that depicts the boundary of one or more tracts of land, or of one or more interests in real property", when taken literally, could be interpreted to mean any type of map including a representation of an expanse of land. For example, that could include any map of all or any portion of the state of Wisconsin, on fixed media or on a computer screen, depicted at any scale. Public and Private sector organizations create and/or use a multitude of such maps in the course of their daily responsibilities, which are intended for general reference or to convey other geographically-related information, and which are

clearly not intended as survey products or representations of legal property boundaries. Here are a few examples:

- DNR Watershed Management Map: http://dnr.wi.gov/org/gmu/sidebar/whatis.htm#watersheds
- DNR WebView Interactive Map: http://dnrmaps.wisconsin.gov/imf/imf.jsp?site=webview
- DATCP Livestock Siting Interactive Map: https://datcpgis.wi.gov/livestock/
- Continental Mapping Services http://www.continentalmapping.com/services.html
- Mapping Specialists Mapping Services http://www.mappingspecialists.com/products/catalog
- Various maps linked from the Wisconsin State Cartographer's Office "Wisconsin State Maps" web page: http://www.sco.wisc.edu/maps/state.php
- University of Wisconsin – Milwaukee Cartographic & GIS Laboratory http://www4.uwm.edu/cgis/

Potential Solutions:

A. If disclaimers must be part of the bill, they should be limited to maps where dimensions and/or a graphic measurement scale of 1"=100' or greater, if the map was not prepared and stamped by a licensed professional land surveyor. In practice, a property line on a non-survey grade map, at a scale of more than 1"=100', is not intended to determine the exact positional boundary of a tract of land. This could eliminate the need for the exemptions in the bill language.

B. Include new wording stating that state agencies could comply with the Map Disclaimer requirement by using a reasonable interpretation of the existing language. For example: "State agencies may use discretion in determining whether the Map Disclaimer requirement applies to a particular map." This alternative would address the concerns of agencies, but does not address the many private sector mapping operations in Wisconsin, or consider the ever- widening use of national and international GIS web-based mapping services provided by firms such as the Google, Microsoft and Garmin services firms. Those services are now used within many aspects of personal and business use, often integrated for tasks related to finding locations, directions to, and depiction of 'tracts of land'.

2. Definition of the "Practice of Professional Land Surveying"

Many professionals, who are not land surveyors, may be cited as infringing on the practice of Land Surveying without a license. The expansion of the definition of land surveying will have great potential for increased costs and lost jobs.

AB271 significantly expands the requirement for a surveying license. The bill as currently read, replaces "land surveying" with the term "practice of professional land surveying" and defines the term as any of the following:

1. Any service comprising the determination of the location of the boundaries of one or more tracts of land or the boundaries of any of the following interests in real property: a) the layout and rights–of–way of roads or streets; b) air or property rights; or c) public or private easements.
2. Designing or coordinating designs for the purpose of platting or subdividing land into smaller tracts.
3. Placing, replacing, restoring, or perpetuating monuments in or on the

ground to evidence the location of a point that is necessary to describe the shape, area, and boundaries of one or more tracts of land or the subdivision or consolidation of one or more tracts of land or that is necessary to describe the boundaries of any interest in real property identified in item 1.

4. Preparing maps that depict any interest in real property identified in item 1. for the purpose of establishing the boundaries of any such interest in real property.
5. Preparing any of the following deliverables:
   a) an official map established or amended by a city, established or amended by a village, or adopted by a town;
   b) an assessor's plat;
   c) a map or plat of cemetery lands;
   d) a subdivision plat, certified survey map, or correction instrument;
   e) a condominium plat or correction instrument; or
   f) a project and time–share plat.

6. Performing cartographic, construction, or geodetic surveying in connection with any of the practices specified in items 1. to 5.

In common usage, the term "tract of land" has a broad definition encompassing any large area or expanse of land (e.g., "tract" defined as: "An expanse of land"[1], or "tract of land" defined as "A very large area of land[2]). It follows that "Any service comprising the determination of the location of the boundaries of one or more tracts of land" could be reasonably interpreted to include a wide variety of GIS activities that do not currently require a surveying license. As now worded, AB271 partially addresses this concern by creating several new exemptions from Land Surveying licensure for state employees (often GIS professionals) engaged in certain mapping activities required to carry out regulatory or other responsibilities established by the state legislature; for example, determining the boundaries of easements acquired by DATCP under the Conservation Reserve Enhancement Program (CREP).

On the one hand, inclusion of the various exemptions is an important improvement in the bill, since without the exemptions state agency employees currently carrying out those tasks would likely need to be become licensed Professional Land Surveyors to be in compliance with the bill. Unfortunately, the need for these exemptions serves to point out potential problems in the bill resulting from the overly broad and vague definition of Professional Land Surveying.

The GIS community's concerns about the effects of AB271 also include the requirements discussed under "Cartographic Surveying", (a term not in common use among cartographers, surveyors or GIS professionals). The vague definition of Cartographic Surveying, together with a lack of clarity about the need for identifying such a practice in defining Professional Land Surveying creates the appearance that some mapping activities carried out by GIS professionals may require a surveying license in the future. Cartographic surveying as defined in the bill would include photogrammetry, topographic aerial mapping and many other widely used imagery processes to map areas on and above the earth. This may require much of the GIS, photogrammetry and geospatial community who collect and process such data to become licensed surveyors.

Non-GIS professionals could also be affected by the construction survey requirement. Construction inspectors who utilize survey techniques to verify construction activities, could be required to become a licensed surveyor. This may impact the construction industry in a manner that WIGICC considers unnecessary.

Potential Solutions:

WIGICC recommends clarification of surveying practices using language adopted by the National Council of Examiners for Engineering and Surveying (NCEES), the organization which seeks to establish consistent laws for Land Surveying and Engineering across the country. In 1999 and 2000, a Task Force comprised of representatives from five Surveyor professional associations and two GIS professional associations issued recommendations for clarifying respective GIS roles and responsibilities. These recommendations, described in the "GIS/LIS Addendum to the Report of the Task Force on the NCEES Model Law for Surveying": http://www.oregon.gov/DAS/EISPD/GEO/coordination/docs/GIS_LIS_report.pdf , were adopted by the NCEES in August, 2000.

Specifically, Section C ("Inclusions and Exclusions of GIS-related Practice") of the NCEES Model Law, provides a complete list of "Activities Included within Surveying Practice" and "Activities Excluded from Surveying Practice" from Appendix D of the "GIS/LIS Addendum to the Report of the Task Force on the NCEES Model Law for Surveying". The NCEES listing of Activities Included within Surveying Practice uses the terms "authoritative location" and "survey product" several times to describe and help clarify "activities that must be accomplished under the responsible charge of a Professional Surveyor or Land Surveyor".

The "cartographic surveying" portion of the bill is particularly problematic because of its vague definition. WIGICC believes that additional specificity in this language is needed, (e.g. exempting aerial survey photogrammetry and LIDAR imagery). Additional specificity is also needed for parcel mapping activities that are performed at a county level. Parcel mapping is based on the current deeds and other official map documents filed at the county by licensed surveyors. Clarification that utilizing filed documents to create maps that "depict" boundaries, is not a violation of activities as defined in the bill is requested.

Relating to construction survey, WIGICC requests that the wording be clarified and that construction activities, such as verification of locations, quantities and general locating for determination of project specificity while doing construction inspection activities be exempted from the requirement.

WIGICC also recommends that a concise differentiation between a map and an official map filed at the County Register of Deeds for the purpose of depicting boundaries be developed. As stated several times throughout the bill, but specifically above, (c) a map or plat of cemetery lands;), a map could be simply a map that a community needs to have printed to write names on the plots for their cemetery. A plat is actually laid out as plots with dimensions and directions for "use in determining boundaries", not for "depiction of boundaries". Determining boundaries is what a surveyor should do, depicting boundaries is what a general map is used for. The two are completely separate functions and do not have the same value. The word *"depicting"* should be removed from the language in the bill. The wording should be specific that "maps depict" and "plats determine" location of such things as boundaries.

Conclusions:

GIS, mapping and cartography are very complex and highly encompassing fields of profession, spanning out over several disciplines. There are many overlapping elements between surveying, GIS, photogrammetry, engineering and many other mapping sciences disciplines. WIGICC is concerned that the language currently in the bill unintentionally separates these overlapping elements which can create uncertainty for those working in these professional disciplines.

WIGICC is also concerned that the use of disclaimers may present map makers and map users with additional burdens and challenges.

In closing, WIGICC requests that the Senate Committee on Economic Development closely review the wording intentions of the bill and address these concerns in the best interests of the professionals working for public, private and non-profit organizations operating within the State of Wisconsin.

Thank you for your consideration.

January 7, 2010

Wisconsin Consulting Foresters(WCF) Position Statement on 2009 Assembly Bill 271, including Amendments 1 and 2

Wisconsin Consulting Foresters (WCF) is a 501.c.6 non-profit trade association whose members provide professional forestry services to clients throughout Wisconsin. WCF provides a voice for forestry professions that serve the small woodland owners of Wisconsin. Members of WCF contribute greatly to the continued growth and development of forest management practices and policies throughout the State. We thank the Senate Committee on Economic Development for the opportunity to comment on 2009 Assembly Bill 271 and its amendments.

Wisconsin Consulting Foresters (WCF), following review of 2009 Assembly Bill 271 and its Amendments, find potential for the Bill to have significant negative impacts on forest management and all wood dependent industries. The broad language utilized in 443.01 (6s) (page 24, line 22 through page 26, line 4) will cause significant conflict with the natural resource management professions that conduct field delineations as well as mapping of those delineations. Professional foresters, as well as other natural resources professions, have historically utilized mapping as the most effective method to portray natural resource features present on land ownerships. Mapping of these resources is used for inventory, planting, site preparation and timber harvesting purposes. These maps have never been construed or misinterpreted as representing work or mapping performed by professional land surveyors. While forest mapping technology has improved significantly through the use of Global Positioning Systems (GPS) and Geographical Information Systems GIS), these tools have not been suggested as replacing the precision work of professional land surveyors. Professional foresters, as well as other natural resources fields, must be allowed to continue the mapping of natural resources features on private lands free of potential inclusion under 443.01 (6s).

The broad language in 443 (6s) also threatens significant financial hardship for private forestry providers as well as small woodland owners seeking to manage their forest. The inclusion of "Any service comprising the determination of the location of the boundaries of one or more tracts of land..." (page 25, lines 1 and 2) would require all forestry field work to be conducted by a professional land surveyor. This requirement would significantly raise the cost of rural woodland management and significantly delay the delivery of forestry services by professional foresters. Forest management on the largest acreage of woodland in Wisconsin would be significantly reduced due to the burdensome requirement and significant cost to survey all boundary lines. Forest management on small woodland ownerships would become uneconomical and thus significantly reduce the wood supply for Wisconsin's forest products industry. Professional foresters must be permitted to continue to deliver woodland management services free from inclusion under 443.01 (6s).

Wisconsin is home to approximately 130 private forestry firms employing over 200 professional forestry providers that have signed cooperating agreements with the Wisconsin Department of Natural Resources (WDNR). Nearly 100 of these private professional foresters are also Certified Plan Writers (CPW) under an agreement with the WDNR. This base of private forestry professionals provides significant services to small woodland owners throughout Wisconsin. Approximately 1364 forestry plans covering 87,565 acres were prepared by Cooperating forestry professionals in 2009 alone. An additional 103,000 acres were examined by professional foresters on small private woodlands during 2009. This work all required the use and production of resource mapping for the Managed Forest Law (MFL), the Stewardship Program, and other State and Federal grant programs available to small woodland owners. This level of forestry service to Wisconsin's small woodland owners would not be possible with the delays and significant costs potentially created by 2009 Assembly Bill 271 and its amendments.

Private professional foresters provide substantial services to small woodland owners through the preparation and administration of timber harvesting projects. In 2009, over 1600 timber sales were conducted by professional foresters on small woodland ownerships covering 55,570 acres. These timber sales produced over 26.5 million board feet of timber and over a half million cords of pulpwood for Wisconsin's forest products industry. This significant contribution to the State's economy by small woodland owners is generated by timber sales that average less than 35 acres in size! Economic viability of these small timber sale projects would be significantly reduced through the requirement that all mapping and field layout be conducted by a professional land surveyor. The additional surveying costs required under this Bill would result in a significant reduction in sound forest management and production of raw forest products from small woodland owners in Wisconsin.

Wisconsin Consulting Foresters (WCF) recognizes the positive efforts of professional land surveyors in advancing the standards of their profession through 2009 Assembly Bill 271 and its amendments. Seeking to improve and police one's profession is an honorable and desirable process and goal. We support the profession of surveying in Wisconsin and its desire to realize higher standards in both personnel and product, but not at the inclusion of other professions that have historically been close partners with professional surveyors. Professional foresters and professional surveyors have historically worked closely to provide the public with the level of service dictated by the client and need. We anticipate a continued close working relationship between foresters and surveyors through the mutual respect of the role each plays in fulfilling land management needs in Wisconsin.

Wisconsin Consulting Foresters (WCF) respectfully requests that the Committee consider clarifying language that **excludes** Professional Foresters and other Natural Resource Management Professionals from inclusion in the scope of 2009 Assembly Bill 271 and its amendments.

Sincerely,

Kimberly K. Quast, Chair
Wisconsin Consulting Foresters (WCF)