

Report

NSPS Meetings, April 20-25, 2006

Caribe Royal Hotel,

Orlando, Florida.

By the CCLS International Committee,

Wayne Brubacher, Chair, Dick Wright, Member

Pre-meeting Developments

On April 17, 2006, I finally received a copy of the Mexican MRD written in Spanish. Both Dick Wright and I tried to get a quick general interpretation of the MRD but had no replies even though we checked our emails daily. However, I was able to get a machine translation from the internet that was, for the most part, readable. Unfortunately it was not clear enough to determine if cadastral surveying was included or exempt. It was learned that ACSM Executive Director Curt Sumner also received a copy.

On April 18 I received an e-mail from Curt Sumner that included an e-mail from defunct NAFTA Review Committee Chair Carl deBaca. Attached was a letter from Executive Director Mark Jones from the Ohio Society that asked for immediate scuttling of the MRD. See Appendix 'B', Ohio letter. This letter was approved for circulation to all the NSPS State Governors by past president Jerry Goodson.

The approval indicated strange behavior because:

1. Ten years ago, Mark Jones and Jerry Goodson worked together to stop the engineers' MRD.
2. Jerry had sent out a letter (copied to CCLS President Bert Hol and the CCLS International Committee) announcing a plan in progress. A white paper was being prepared, containing all the relevant facts and a copy of draft MRD8-2. Allowing this Ohio letter and the white paper from the past president to circulate at the same time seemed counterproductive.
3. Jerry is not the president and did not appear to have permission from the president or the executive committee to allow the letter to scuttle and a white paper to study and comment to circulate at the same time.

Great lakes Regional Council meeting

At the meeting Mark Jones presented his letter emotionally but not convincingly, orally reiterating the inaccuracies of his letter.

Dick Wright gave an inspiring speech in support of proceeding with free trade and the MRD process. See Appendix 'A'. Wayne Brubacher's comments made there and at the main meeting and can be found in Appendix 'C'.

The meeting held by the Western Federation of Surveyors (WESTFED) that was going on at the same time produced a motion intended to offset the Ohio plan to scuttle. Basically, the motion would endorse and continue the process started by past president Jerry Goodson. Although this would mean that Canada and Mexico could not officially proceed bilaterally for the time being, it was a good plan to inform all the stakeholders

and get their response. This should have been done in 1996 when I presented the document to the Board of Governors in Denver.

After the Board of Governors meeting Dick and I still had jitters;

1. It appeared that the NSPS Governor from Ohio could still push the Mark Jones motion through to the Board of Directors.
2. The Board of Governors agreed that the WESTFED motion to endorse Jerry Goodson's intention to circulate a white paper was redundant since the action was already in progress and so, voted it down instead of withdrawing it. **To have presented the motion for a vote when it was declared redundant (instead of simply pulling the motion with the consent of the mover) and to then vote it down, leaves us in the position of having a defeated motion that, in effect, states that the Mark Jones motion prevailed.** In other words, to read the minutes as bare text without fully understanding the reason why the motion was made and then voted down will appear that the Board of Governors is not supportive of the MRD, notwithstanding that the Board on two occasions gave it 100% support.
3. The Ohio letter is in circulation and there will be many that will see it while not being at the meeting and have no understanding of the situation.

As it happened, the Ohio representative did not bring the motion to the floor of the Board of Governors and that alleviated one of our concerns. However the current NSPS executive and eventually NCEES can use this propaganda to their advantage when reporting to the USTR.

As usual, I was invited to speak to the Board of Governors and my address is attached as Appendix 'C'.

Board of Directors meeting April 24, 2006

The agenda had only one place to discuss NAFTA so I asked to speak at that time. Here are my comments;

- I advised the meeting that Mexico had sent us a draft version of their MRD, which they call MRD8-3 and that Curt had also received a copy.
- NAFTA would have its fifteenth anniversary in 2007. All the exemptions or reservations maintained by any of the Parties will expire in that year. There will be "cleanup" language coming forward at that time. It is my opinion that it is preferable to proceed on the language we know than to wait for what we don't know will be in the NAFTA after 2007.
- Referring to the WTO "Services: Negotiations" with respect to the Doha mandate (**See Appendix 'D'**), I advised the board and that both Canada and the United States along with more than twenty other countries had made initial offers in 2002 and 2003. NSPS would be advised to keep current with these events.
- The CCLS will ask the DFAIT to translate the Mexican MRD and send a copy to NSPS. Meanwhile CCLS would continue to deal on an informal basis with Mexico.
- For clarification and in contrast to the letter sent out by Jerry Goodson, MRD8-2 has not been officially studied by Canada or Mexico. There is no value in perpetuating that myth. Without the U.S. and Mexico putting forward their

positions, obviously their positions are in flux. When the U.S. has a position, Canada and Mexico will consider it.

- There were some words in Carl deBaca's e-mail and the Ohio Governor's letter that need clarification.
- I would be happy to send some documents and clarifications to Curt to do with as he pleases if I had the NSPS President Joe Dolan's permission.

President Joe Dolan gave a very circuitous answer and in the end did not say that I could send anything to anyone preparing the white paper. I took that as a "no", considering the changing colour of his complexion while he answered.

Rita Lumos asked for the source of my comment above respecting the NAFTA anniversary. I offered to send details to Rita. Joe Dolan said that a copy should be sent to him also, changing his tune slightly.

Other Business (non-NAFTA)

Martin Pederson, the president of NCEES addressed the group during which he promoted a statement in favour of licensure in their "statement of purpose". This further confirms US licensure creep about which I have reported for several years.

Although Robert's Rules of Procedure are favored by most of the NSPS executive, nothing in the Bylaws indicates that Robert's Rules or any other rules should be used at the meetings. After much discussion it was decided that they preferred not to have any rules.

There was a discussion about 'lawsuit of liability' that was both interesting and frightening. It seems that in at least twenty states a 'certificate of merit' must be obtained before a professional can be sued. Sometimes this is provided by a competitor and sometimes by the Association. Dick and I observed silently that this may be inconsistent with the Canadian constitution and probably with theirs.

Public Awareness committees in Canada should take note that the California Land Surveyors and Engineers Association have prepared an excellent film targeting high school students in an attempt to bring them into the profession. NSPS is investigating the possibility of buying rights to that film. Canadian provincial associations might be interested.

Appendix A

Address prepared and delivered by Dick Wright to the Great Lakes Regional Council

RE Mark Jones Memo of April 14, 2006 (Note: Dick's address should be read with the Jones' memo attached as Appendix 'B')

Paragraph 1

"Granting a limited license":

Firstly, no license *per se* is granted. Land surveyors from other jurisdictions already have a license. As to "limited" it is not, there is a prohibition *vis-a-vis* boundary certification.

Paragraph 2

“Treated better than the U.S. land surveyors”:

Assuming there is “labor mobility” between the States, as there is in Canada, then Canadian and Mexican surveyors would not be treated “better” than U.S. land surveyors.

If there isn’t labor mobility in the U.S. at this time then it is only a matter of time and an MRA(D) would likely accelerate this.

Is labor mobility of good idea?

1. It fosters healthy competition;
2. It promotes better business practices;
3. It encourages professional development, continuing education and growth;
4. It mandates marketing, not only of one’s services but the profession at large;
5. It breeds collaboration and cooperation; and
6. It eliminates stagnation, insular thinking, and, in the long run, the potential for adsorption of the profession by others e.g. professional engineers.

It exemplifies the “car lot” syndrome: “the more dealerships in one area the more customers will come”.

Why must we say “because the professional engineers tried and failed we must fail also”?

Why can’t land surveyors show some initiative and take the lead? Leadership is not a bad thing, it is a good thing. If we demonstrate leadership by negotiating a MRA(D) then perhaps the professional engineers will take at page out of our book for a change.

“There is no requirement in NAFTA for ‘mutual recognition documents’”:

There may not be a requirement in the NAFTA for mutual recognition documents but it certainly encourages and recommends the negotiating of one.

There is an old saying that goes something like this “if you pull up the drawbridge you will the eventually perish as you will have cut yourself off from all that is necessary to sustain life”.

Dick Wright

Member, CCLS International Committee

April 22, 2006

Appendix B

Mark Jones Memo of April 14, 2006

MEMORANDUM

Date: April 14, 2006

From: Mark T. Jones PS, PLSO Executive Director

To: NSPS Great Lakes Regional Council
cc: Jerry M. Goodson PLS, NSPS President
Betsy Browne, NCEES Executive Director
Re: NAFTA Mutual Recognition Document (MRD) Version 8-2

After receiving NSPS President Jerry Goodson's letter dated March 18, 2006, I obtained and reviewed MRD Version 8-2 (copy attached) proposed by a committee of NSPS, and I believe that it should **not** be carried forward (NCEES shares this opinion and so advised NSPS in early 2005). In general, the MRD would grant "a limited license" (see pages 4,7,8) to individuals who are licensed in Canada or Mexico. This "limited license" would allow **all** types of surveying activities (except boundary) in the US by Canadian and Mexican surveyors.

Having previously been the Executive Director of the Ohio PE/PS Board for over 11 years, I can assure you that US Boards will not (and cannot) allow such "limited practice" by PSs from other states (e.g. Ohio licensure is required to do **any** type of surveying in Ohio, and virtually all other states require the same). Therefore, those states that would "sign onto" the proposed MRD would be treating Canadian and Mexican surveyors better than US licensed PSs! A very similar "MRD" was proposed for PEs about 10 years ago (Jerry Goodson and I were both very involved in the debates), and that MRD was defeated for the same reasons (disparate treatment). Also, NAFTA only requires that states do not have a residency restrictions in order to become licensed (see "citizenship requirements" beginning on the bottom of page 3). There is **no** requirement in NAFTA for "Mutual Recognition Documents".

Ohio's NSPS Governor Mike Besch and the other officers of PLSO have also reviewed the MRD and came to the same conclusions listed above. PLSO, at its Executive Committee meeting on April 7, 2006 passed a motion directing Ohio's NSPS Governor Mike Besch to submit a resolution or motion to the Great Lakes Regional Council and/or NSPS Board of Directors in Orlando next week. The resolution or motion will, in general terms, move that NSPS cease all efforts on achieving a MRD. We solicit support from all other states so that this issue can be "put to rest".

Thanks for your consideration of this important issue. If you have any questions or comments, please contact me at 614-761-2313 or mjonesplso@ohiosurveyor.org
(*Emphasis exists in original document – Ed*)

Appendix C.

Wayne Brubacher address to the Joint NSPS Board of Governors and Board of Directors meeting, April 23, 2006

(Greetings from CCLS and President Bert Hol – introduction of CCLS International Committee Member, Dick Wright – *ad lib.*)

I will reserve my usual comments about NAFTA until a more appropriate time during this meeting. I will, however, relate to you some events that have occurred in Canada since January of this year that relate to NAFTA, are not in my submitted report and

would not otherwise come to light in the normal course of the Governors and Directors Meetings.

First, I want to commend John Hohol, a previous presenter today for his positive reporting to you about significant foreign opportunities that exist for the US surveyor. It helps you understand why pursuing NAFTA is important.

You will hear a lot of discussion here and in the forthcoming “white paper” about what is actually mandated and what is encouraged with respect to the NAFTA. I think what I have to tell you will put some real everyday meaning to those two words.

In January of this year Canada held a federal election. The new Prime Minister, Steven Harper made six election promises before the upset victory of the conservatives. Canada was receiving foreign trained immigrant professionals from abroad who could not practice as professionals even though there exist shortages in all professional fields. He would guarantee that the new conservative (republican) government will work with (read that as apply pressure to) Professional Associations to make them grant licenses on the basis of mutual recognition of qualifications, the same as the WTO, the same as FIG, and the same as MRD7 and MRD8-2. Then, in March, Premier McGuinty from Ontario of the opposite political stripes promised cooperation because professions fall within provincial jurisdiction. For the two highest level politicians, this accomplished four things. It will;

- help the immigrant professional to practice in his/her own field with commensurate income and prestige,
- help the professions who welcome more members and therefore more operating revenue,
- alleviate shortages in the professions and therefore help the public, and
- capture the immigrant vote and that will help – well you get the idea!

Finally, along came PROMPT (Policy Roundtable for Mobilizing Professions and Trades), demanding licenses for foreign-trained professionals and approaching the issue from a human rights standpoint.

Since January, these three political events have passed the professions by like a speeding train:

- Pressure from Canadian Prime Minister Harper,
- Pressure from Ontario Premier McGuinty,
- Pressure from the political action group PROMPT.

All of these are going to “encourage” us to accept foreign licenses while watching our reaction with national television cameras rolling.

The word “mandate” in this case is redundant.

It couldn't happen in the U.S.! Foreign observers of recent events in the U.S. predict that it could.

The role of the professional in national and international affairs.

A quick Google search shows me that the US has agreements with:

Costa Rica

Dominican Republic

Singapore

In each of these the word “land surveyor “appears.

What input did you have into these trade agreements? Who spoke for you? Is the reference significant? Probably not, but how do you know unless you are involved? Sometime, someone will speak for you on the world stage and commit you to things you may not want.

Does it affect you? About fifteen years ago, CCLS was asked by the Department of Foreign Affairs and International Trade in Canada if it would let surveying be a trading chip. We agreed. Six years ago CCLS was contacted by DFAIT for comment on the wording for the Agreement for the Accountancy Discipline. We declined to comment thinking that it didn’t concern us. During discussions with DFAIT about NAFTA, we learned that it had inadvertently misrepresented the surveying profession to the world. For 6 years we were exposed to lawsuits from any applicant coming from any foreign country, who had relied upon the misrepresentation and as a result suffered financial and emotional injury. Exposure does not always come from international agreements or treaties. It can come from omission or unintentional misrepresentation at the international level and you are penalized by the courts.

You have an obligation to be involved at the international level if only for your own protection. Involvement has other rewards: national and international recognition by governments and prestige by being held in the same esteem as other professions.

Appendix ‘D’ SERVICES: NEGOTIATIONS

The new negotiations

Written into the General Agreement on Trade in Services is a commitment by WTO member governments to progressively liberalize trade in services. Article XIX (paragraph1) commits them to start a new round in 2000. These negotiations are now underway.

- > The Doha mandate
- > The Doha mandate explained
- > Hong Kong Ministerial Declaration

Developments in the Services negotiations back to top

Negotiations on specific commitments

The Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93) refer to the request-offer approach (Word format, 4 pages, 46 KB) as the main method of negotiation. Within the timeframe of the overall negotiating deadline of 1 January 2005, paragraph 15 of the Doha Development Agenda establishes that “participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003”.

Pursuant to the Doha mandate, participants in the services negotiations have been exchanging bilateral initial requests since 30 June 2002.

Initial offers

Between 31 March 2003 and 14 March 2006, Members have submitted 69 initial offers:

Albania; Argentina; Australia; Bahrain; Barbados; Brazil; Brunei Darussalam; Bulgaria; **Canada**; Chile; China; Chinese, Taipei; Colombia; Costa Rica; Croatia; Cuba; Czech Rep ; Dominica; Dominican Republic; El Salvador; Egypt; European Communities and its member states; Fiji; Former Yugoslav Republic of Macedonia (FYROM); Gabon; Grenada; Guatemala; Guyana; Honduras; Hong Kong, China; Iceland; India; Indonesia; Israel; Jamaica; Japan; Jordan; Kenya; Korea; Liechtenstein; Macao, China; Malaysia; Mauritius; Mexico; Morocco; New Zealand; Nicaragua; Norway; Oman; Pakistan; Panama ; Paraguay; Peru; Philippines; Poland; Qatar; Saint Kitts and Nevis; Saint Lucia; Saint Vincent & the Grenadines; South Africa; Senegal; Singapore; Slovak Republic; Slovenia; Sri Lanka; Suriname; Switzerland; Thailand; Trinidad and Tobago; Tunisia; Turkey; United Arab Emirates; **United States**; Uruguay.

Several initial offers have been derestricted by the Member concerned and are publicly available in the TN/S/O document series. In addition, some Members have made their initial offers, or summaries thereof, publicly available on their internet sites.

Revised offers

Since 19 May 2005 to 31 January 2006, Members have submitted 29 revised offers:

Australia; Bahrain; Brazil; Chile; China; Chinese, Taipei; Colombia; Egypt; European Communities and its member states; Honduras; Hong Kong, China; Iceland; India; Japan; Korea; Liechtenstein; Macao, China; Malaysia; Mexico; New Zealand; Norway; Peru; Singapore; Suriname; Switzerland; Thailand; Turkey; **United States**; Uruguay.

Several revised offers have been derestricted by the Member concerned and are publicly available in the TN/S/O rev.1 document series.

Proposals for the new negotiations

WTO Members are currently tabling proposals regarding both the structure and the contents of the new negotiations which started beginning of 2000.

http://www.wto.org/English/tratop_e/serv_e/s_negs_e.htm