

# *SURVEY NOTES*

Volume 16 Issue 05

May 2010

CALIFORNIA LAND SURVEYORS ASSOCIATION, SAN DIEGO CHAPTER  
5519 Clairemont Mesa Blvd, Mail Box 261, San Diego, California 92117  
[www.sd-surveyors.org](http://www.sd-surveyors.org)

## *Chapter Meeting*

### LS REVIEW

### Decompression Meeting, May 19<sup>th</sup>, 2010

The San Diego Chapter would like to invite everyone for great food and drinks at Boll Weevil's, to support those who attended the LS review classes and those who sat for the 2010 LS Exam. All candidates are welcome to come decompress from their LS Exam Preparation.

In an effort to make the LS review class the best it can be, we are welcoming feedback from the candidates regarding the review class. David Johnson, the program coordinator, and other instructors will be available to listen to your input on how to keep our successful program current and progressive.

### *Location*



Boll Weevil  
9330 Clairemont Mesa Boulevard  
San Diego, CA 92123  
858-571-6225  
6 p.m. Social/Networking  
6:30 p.m. Dinner  
6:45 p.m. Program

Please RSVP through our CLSA San Diego Chapter website no later than  
Thursday, May 13th

The website address is <http://www.sd-surveyors.org>.

Please click on the "Dinner Reservations" button and fill in all of your reservation information there.

**If paying with a credit card, please remember to bring in a copy of your receipt  
for check in.**

*Those who do not make a reservation cannot be guaranteed a meal.*

***LS Review Test Taker – "FREE"***

***Dinner for non-examinees - \$13***

## **Board Meeting Minutes**

The April Board Meeting Minutes when approved by the Executive Board at the May meeting, will be shown in the June newsletter. The approved May Board Meeting Minutes will be in the July newsletter. This change going forward will be in agreement with when the Board Meeting Minutes are actually approved.

### **General Meeting**

April 21, 2010

Robert Reese spoke about the various agencies lack of understanding of the laws that protect the survey monuments. The discussion was well accepted with many private and public employees present at the meeting. He is looking for support and will keep working with our local PPC for future discussions and educational material for those directly, or indirectly involved with existing monument preservation.

The updated bylaws was called to vote during general meeting, and it passed unanimously with 29 votes. Bylaws will be updated immediately. Thank you everyone for your time in reviewing these important bylaws and voting.

Casey Lynch congratulated our past chapter president Sean Englert, whom recently witnessed the birth of his 2nd child. Casey shared a photo of Gunnar Englert. Congratulations to both Carrie and Sean Englert.

Justin

### **Education**

**A Primer on Right-of-Way** teleconf May 10. **Best Practices in Technical Writing and User-Centered Documentation** teleconf May 13. **Construction Lien Law** May 19 San Diego, June 25 Las Vegas. **Understanding the Development Approval Process** teleconf May 19. **Current Issues in Storm Water Regulation** Pasadena May 20. **Documentation and Proof of Construction Delay** teleconf May 21. **Restrictive Covenants** teleconf May 25. **A Primer on Land Surveys** teleconf June 9. **ALTA Policy, Endorsements and Transaction Strategies with Title Insurance** teleconf June 14. **Managing Construction Projects** Pasadena June 22. **Advanced CEQA: An Update of the Regulatory and Legal Aspects of the California Environmental Quality Act** San Diego July 9. **Current Issues in Development Impact Fees** teleconf July 15. **Public Contracts and Procurement** Santa Ana July 16. **Regulations Zoning Variances: Nonconforming Uses and Structures** webinar. **Infill Development Fundamentals** webinar. Discounts for multiple registrations. [www.lorman.com](http://www.lorman.com) (866) 352-9539.

**Improving Road & Highway Design Workflows** webinar May 13  
<http://usa.autodesk.com/adsk/servlet/oc/offer/form?siteID=123112&id=14506358>

**Leica Viva Work Flow Seminar** May 13 Winterhaven. Contact Cori Vernam , Surveyors Service Company [coriv@servco1.com](mailto:coriv@servco1.com), or 714 546-0606

**ESRI Conference** July 12-16 San Diego. <http://www.esri.com/events/uc/>

**AZ/CA Easements: Rights of Way and Other Encumbrances** Sept 10. [www.pesilaw.com/search/detail/index.asp?eventid=11421](http://www.pesilaw.com/search/detail/index.asp?eventid=11421)

**Cuyamaca College** - Cuyamaca College offers an Associate of Science in Surveying that includes courses in Plane Surveying and Advanced Surveying, using equipment used in the field today, Survey Drafting Technology, and Boundary Control and Legal Principles. Other requirements for the degree include Engineering Graphics, Trigonometry, Introductory Physics, and courses to fulfill general education. Instructors are all practicing and licensed professionals.

For additional information please contact Dr. Cyrus Saghafi at [cyrus.saghafi@gcccd.edu](mailto:cyrus.saghafi@gcccd.edu) or 619-660-4243..

**College of the Canyons** - Associate in Science Degree and Certificate of Achievement: Land Surveying. Contact [www.canyons.edu](http://www.canyons.edu) or 661-362-3300.

**Geospatial Analysis and Technology** – Seminars, courses and software training. [www.UCRExtension.net/geo](http://www.UCRExtension.net/geo) 951-827-4105.

**CSU Fresno Geomatics Engineering Dept.** Contact [www.csufresno.edu/geomatics/](http://www.csufresno.edu/geomatics/) for program and on-line courses.

**CSU Pomona Surveying Program** [http://www.csupomona.edu/%7Ece\\_surv/surveng/index.html](http://www.csupomona.edu/%7Ece_surv/surveng/index.html)

**Santiago Canyon College Surveying and Mapping Program** Associate degree and LSIT review certificate.  
<http://www.sccollege.edu/Departments/CareerEd/Survey/Pages/SurveyDegreePrograms.aspx>

**Rio Hondo College Surveying Mapping & Drawing** Certificate of Achievement. Also offers a GIS program.  
<http://www.riohondo.edu/>

GIS Certification – thru URISA <http://www.gisci.org/>

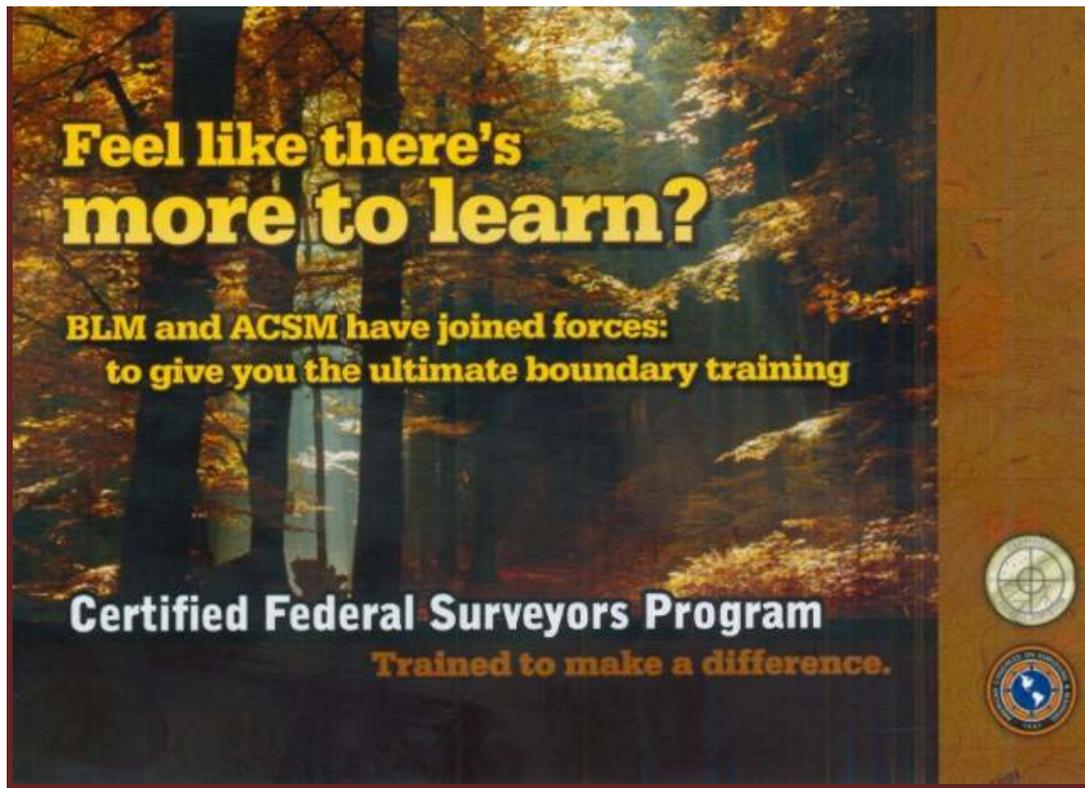
### ***CLSA San Diego Survey Student Stipends***

The Stipend program's goals are to: provide funding for local students taking college level survey related classes. They will receive \$100 for an A, \$75 for a B, \$50 for a C. It will be limited to one survey class per student per semester. The Class must have been completed within the last 6 months. Applicants must be current members of the San Diego Chapter of CLSA. Licensed Land Surveyors are ineligible. All applications are subject to approval by the executive board. Applicants need to mail in a copy of their grade (of a surveying class) to: CLSA San Diego, 5519 Clairemont Mesa Blvd. Mail Box 261, San Diego, California 92117.

### **California Land Surveyors Association CLSA Education Foundation**

P.O. Box 9098, Santa Rosa, CA 95405  
Telephone: (707)578-6016 FAX: (707)578-4406

The Scholarship application is available at  
<http://www.californiasurveyors.org/files/scholarsh.html>



## Announcements

### Follow up *UDC v. CH2M Hill* (Request for Assistance Re: Letter Campaign to CA Supreme Court)

Greetings Members,

I hope that this email finds you all in good spirits. As you may recall back in March a letter campaign was started regarding a Court of Appeal case that could unfavorably affect design professionals practicing in the State of California. To refresh your memory I have attached the original letter titled "**letter request CaSC duty to defend**".

Below is a follow-up email I received from Jean A. Weil, Attorney at law, recapping the final decision made by the Supreme Court. I thought I would forward this email to our members, since I know many of you were following this case and were involved in the letter writing campaign as well.

Until next time, be safe and healthy.

Sincerely, **Richard J. Lopez** - *L.S.I.T.* Newsletter Editor, CLSA Orange County Chapter

- see attached PDF files

Dear Design Professional:

I am sorry to inform you that the Supreme Court posted a brief notice on its website today that it denied the petition for review and also denied the request to decertify the UDC opinion. The Court gave no explanation for its decision. Thus, this is the end of the road, at least through the court system, to challenge this decision. Thank you all for your assistance and support, especially to those of you who took the time to write personal letters to the Supreme Court. I think we can all safely say we did everything in our power to turn around this very unfavorable decision. We encourage you to alert all members of your firm to carefully review all pending and future contracts to ensure that you do not unwittingly assume the defense obligation of your clients. Such a misstep, particularly in this economy, could lead to disaster. Please feel free to contact me if you would like to discuss this matter further.

Regards, Jean Weil

P.S. I am attaching a copy of an article I recently wrote at the request of AIA California Council (one of the amici that joined in the petition for review or in the alternative to depublish the opinion). The article discusses the duty to defend in light of the UDC decision. It also offers a few pointers at the end about how to deal with the defense obligation in design professional contracts. Please feel free to use (or reuse) as you deem fit.

*Jean A. Weil*

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March 23, 2010

To: Chapter Presidents & Board Representatives

From: Aaron R. Smith, CLSA President

**Re: Recent request to support a petition in the matter of CH2M Hill**

On Tuesday, March 16<sup>th</sup> CLSA received a request to join ACEC, ASFE/The Geoprofessional Business Association, National Society of Professional Engineers (NSPE), Design Professionals Coalition as well as 172 A&Es in support of a petition to the California Supreme Court to hear the case involving UDC-Universal Development, L.P. v. CH2M Hill. A recent decision on this matter by the Court of Appeals of the State of California held that a design professional's contractual duty to defend a developer against a homeowner association's negligence action arises despite a finding that the design professional was not negligent.

The CLSA Executive Committee spent many hours reviewing this matter to decide whether CLSA should support the petition to the Supreme Court. There has been some communication through emails, and discussion boards, to suggest that CH2M Hill signed a "bad" contract, however, this matter delves into a much deeper issue and, without a complete understanding of the facts, is almost impossible to render an opinion.

The contract signed by CH2M Hill, has an indemnity clause that speaks directly to negligence, and within that clause states, **"Consultant agrees, at his own expense and upon written request by Developer or Owner of the Subject Property, to defend any suit, action or demand brought against Developer or Owner on any claim or demand covered herein"**. When the claim or demand has a clause that also specifies "herein," it is recognized that the clause should be read and interpreted to be inclusive of the whole clause, which refers back to negligence, and not to just a portion of the clause to let it stand alone. As we are taught as Land Surveyors, you need to read the four corners of the document, and not just the one sentence that fits your needs. It is also important to understand that in this case, CH2M Hill was not found negligent by a jury, but is still expected to pay the cost to defend the developer, *"the duty to defend"*, regardless of no wrong doing. In some or most cases, the insurer does not cover a contractual defense obligation, so this may come directly out of your own pocket, even more reason to support this petition. More to the point, if design professionals are held to defend the developers and owners, even when negligence wasn't found, it would expose us to unbearable consequences.

This case was discussed with Jean Weil, Weil & Drage, representing CH2M Hill, as well as CLSA's legislative advocate, Ralph Simoni. During a telephone conference call with the Executive Committee, Ralph was clear that this decision could have severe ramifications to Land Surveyors, and our community, if upheld. To meet the deadline of the firm representing CH2M Hill, Weil & Drage, a decision to support the petition to review was required by March 22, 2010. Based upon communications with both Jean Weil and Ralph Simoni, and Executive Committee research into the matter, including referenced court cases (e.g., Appellate Decision against CH2M Hill and Crawford v. Weather Shield Mfg. Inc.), the Executive Committee voted to support this petition to the California Supreme Court on behalf of the membership in the hope of overturning this decision.

This matter will be discussed in more detail at our May 8th Board of Directors meeting in Oakland. If you have any concerns or questions, please voice them to your chapter representative, so he/she may bring them to Oakland in May.

Thank you for your continued support.

Sincerely,

Aaron R. Smith, President

### **Copyright Protection of Subdivision Maps**

This is a very fascinating case about copyright protection of subdivision maps. I think it is very good law. I have been in touch with the attorney who prosecuted this case and he told me he worked this case for two years.

This is quite fascinating. – see attached PDF files sent in by Mike Pallamary

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**Chuck Neely**  
Director Business Development

655 Deep Valley Drive, Suite 340  
Rolling Hills Estates, CA 90274  
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## Newsletter

Members are encouraged to receive email newsletters. Request an email copy only: [48wake@cox.net](mailto:48wake@cox.net)

Notices, original articles and other relevant information are encouraged for publication in the newsletter. There are many interesting and pertinent articles in other publications. Mention of articles is encouraged, but please provide your remarks, summary in a Word or WordPerfect format and a link to the article, rather than copying the whole article. JPEG format sized to approx 300 KB or less is best for graphics. Large PDF files may have to be reduced in byte size. Newsletter is distributed by the first Wed of the month. Send items to Allan Wake [48wake@cox.net](mailto:48wake@cox.net) by the last Saturday of the month.

*Information in this newsletter is not necessarily the opinion of or supported by CLSA or CLSA San Diego.*

### **\* New Lower Advertising Rates \***

**Advertising policy approved by the Board:**

The **new lower rates** are: 1) full page one time in newsletter \$50.00. One year paid in advance \$450.00. 2.) ½ page one time in newsletter \$35.00. One year paid in advance \$325.00. 3) Business card size ad one year in newsletter \$50.00. 4) Employment offers by a member free for 1 month, extended if needed. Contact Newsletter Editor Allan K. Wake [48wake@cox.net](mailto:48wake@cox.net) for newsletter advertising. 5) Web-site banner \$100.00. Other Web-site advertising charges to be determined. For web-site advertising contact Web-site Coordinator Anne Hoppe, [ahoppe@sandiego.gov](mailto:ahoppe@sandiego.gov)

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## **CALIFORNIA LAND SURVEYORS ASSOCIATION**

### **SAN DIEGO CHAPTER**

**5519 Clairemont Mesa Blvd, Mail Box 261, San Diego, California 92117**

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