

IELSEB

Signature, Executive Officer

**BEFORE THE IOWA ENGINEERING AND LAND SURVEYING
EXAMINING BOARD**

IN THE MATTER OF:

**A LEO PELDS
04640**

RESPONDENT

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CASE NO. 05-05

**COMBINED STATEMENT OF CHARGES
AND CONSENT ORDER**

A. Statement of Charges

1. The Iowa Engineering and Land Surveying Examining Board ("Board") has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 542B (2005).

2. Respondent is a licensed professional land surveyor in Iowa. He was issued license number 04640 on June 5, 1963. The respondent's professional land surveying license is currently in active status and is scheduled to expire on December 31, 2007.

3. On January 12, 2005, the Board received a complaint alleging that the Respondent had failed to meet the minimum standards for Property Surveys and PLSS Corner Certificates.

4. In September 2005, the Board established a Peer Review Committee to investigate the allegations of the complaint.

5. Following the investigation by the Peer Review Committee, the Board charges Respondent with careless acts and omissions and practice harmful or detrimental to the public in the practice of land surveying in violation of Iowa Code sections 272C.3(2)(b), 272C.4(6), 272C.10(2), 272C.10(3), 542B.21(2) & (3), and 193C IAC 9.3, when he prepared a plat of survey for Section 14 T88N R18W Grundy County that did not comply with the minimum standards for land surveying and corner certificates as set forth in Iowa Code chapters 354 and 355 (2003, 2005) and 193C IAC Chapters 11 and 12.

6. The Board and Respondent have agreed to fully resolve these charges through the following Consent Order, rather than proceed to contested case hearing.

B. Settlement Agreement and Consent Order

7. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order. This Consent Order constitutes discipline against the Respondent, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.4.

8. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.

9. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations.

10. This Combined Statement of Charges and Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2005).

11. Failure to comply with the provisions of this Order shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2005). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

12. This Order is subject to approval of the Board:

(a) If the Board fails to approve this Order, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter.

(b) If the Board approves this Order, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Reprimand. Respondent is reprimanded for failure to adhere to the minimum land surveying standards in Iowa Code chapters 354 and 355 and 193C IAC Chapters 11 and for failure to record U.S. Public Land Survey Corner Certificates per Iowa Code chapter 355 and 193C IAC Chapter 12.

B. Remedial Action.

1. **By May 1, 2006**, Respondent shall submit to the Peer Review Committee a

corrected plat of survey and associated corner certificate as more fully described in the Peer Review Report dated January 13, 2006.

(a) These documents shall be in final form, although not signed, when submitted to the Peer Review Committee. The documents shall not be signed or recorded until the Peer Review Committee determines the corrections identified in the attached Report have been addressed in conformance with Iowa Code chapters 354 and 355 (2005).

(b) Respondent shall provide the Peer Review Committee field notes, calculations, and such other documents as the Committee may reasonably request.

(c) The Peer Review Committee will not duplicate field work or determine the accuracy of Respondent's work product, but will review the documents for facial compliance with relevant surveying standards. Respondent shall be solely responsible for his work product and shall take such steps as are necessary to correct and finish field work, locate and set monuments, prepare corrected documents, and record the corrected plats of survey, corner certificates and affidavits.

2. Before filing the corrected plat of survey, Respondent shall apprise the Professional Land Surveyor as identified in the Peer Review Report dated January 13, 2006, whose surveys in the area have been put in question by the Respondent's survey. This notification shall be verified in writing to the Board.

C. Desk Review.

Respondent shall develop a desk review consultation agreement with an Iowa licensed land surveyor in good standing and pre-approved by the Board on the following terms and conditions:

1. An executed copy of the agreement shall be submitted to the Board prior to implementation of the agreement. The desk review agreement may be in letterform, but shall attach a copy of the Consent Order.
2. Respondent shall submit for pre-release review all plats of survey and corner certificates he prepares after the date this agreement is accepted by the Board for the time period described below. Respondent shall provide the Desk Reviewer field notes, calculations, and such other documents as the Reviewer may reasonably request.
3. The reviewing land surveyor shall perform a desk review of each corner certificate before the final documents are signed and recorded. The review

shall be for facial compliance with minimum land surveying standards. The reviewer will not perform field work or warrant the accuracy of Respondent's work product, but will review field notes, calculations and any other documents reasonably needed. The reviewer shall prepare written comments on each corner certificate's compliance with the minimum land surveying standards set forth in Iowa Code chapter 355 and 193 IAC Chapter 2.

4. The reviewer's recommended revisions or corrections, if any, shall be incorporated into each plat of survey and corner certificate prior recording the documents with county officials. A copy of the reviewer's comments shall be submitted directly to the Board from the reviewer. The comments do not need to be received by the Board prior to the completion of the plat. Respondent shall submit to the Board within ten days of written request copies of draft and final plats of survey and corner certificates which were issued subject to desk review.
5. Once **fifteen plats of survey and related corner certificates** have been reviewed, Respondent may petition the Board for release from this requirement. The Board shall release Respondent from desk review of plats of survey and related corner certificates if the draft documents (i.e., those prepared prior to receiving the reviewer's comments) and review comments do not reveal serious deviations from minimum surveying standards. If the draft documents or review comments do reveal serious deviations from minimum surveying standards, the review process shall continue until further order of the Board. Respondent may petition the Board for release from the desk review process after **an additional ten plats** of survey and related corner certificates have been reviewed.
6. This settlement shall not preclude the Board from filing additional charges if one or more of the documents subject to desk review demonstrate probable cause to take such an action. Respondent agrees Board review of desk review reports or plats of survey and related corner certificates subject to desk review shall not constitute "personal investigation" or otherwise disqualify a Board member from acting as a presiding officer in any subsequent contested case.
7. Given Respondent's need to secure an approved reviewer to stay in business once the Board accepts this agreement, the effective date of the desk review portion of the agreement shall be **May 1, 2006**.

D. Future Compliance.

Respondent shall in the future adhere to all statutes and administrative rules in the practice of land surveying.

AGREED AND ACCEPTED:



Respondent

Date 3-11-06

The Iowa Engineering and Land Surveying Examining Board

By: Susan M Long, Chair



Susan M Long

Date 3/23/06