



NDSPLS ADMINISTRATIVE OFFICE  
 1811 East Thayer Avenue  
 Bismarck, ND 58501  
 Phone: 701-222-3499  
 Fax: 701-222-0103  
 E-mail: [info@ndspls.org](mailto:info@ndspls.org)  
 Website: [www.ndspls.org](http://www.ndspls.org)

Testimony from the North Dakota Society for Professional Land Surveyors (NDSPLS)  
 Industry Committee September 23, 2016

**Testimony for House Bill 1095 with regard to Section 4. Legislative Management Study**

We are an organization of Licensed and Registered Professional Land Surveyors. We have represented the profession of Land Surveying in North Dakota since 1979. We have a membership of over 300 individuals of which about 190 live, and are licensed to practice, in North Dakota. The mission statement and objective of NDSPLS is: to unite all of the Professional Land Surveyors in the State of North Dakota; to elevate the standards of the surveying profession; to establish basic minimum standards and requirements for surveys; to assist in promoting legislative and educational programs to improve the professional status of the Land Surveyor; to work in cooperation with local, county, state, federal and tribal governments in our field of endeavor; to uphold a rigid code of ethics; to strive to improve our relations with our clients and the public; and to maintain a good relationship between Land Surveyors and Engineers.

As licensed professionals, we are regulated by the North Dakota State Board of Registration for Professional Engineers and Professional Land Surveyors. Also, as licensed professionals, we are charged with the ethical obligation of holding the public health, safety, and welfare paramount in the discharge of our services. It is from this perspective, protecting the welfare of the citizens of North Dakota (especially as it pertains to private lands) that we approach the committee with our concerns regarding easements on private lands.

The NDSPLS would want the Water Topics Overview Committee to know and understand that we as a Professional Society do understand the importance of water issues in this state, and fully stand behind proper legal conditions to improve water resources and districts for the good of the general public by due process and fair payments for damages. We also understand that Land Owners have certain legal rights to their lands and a right to determine to a great extent what happens to their lands now and in the future, especially to limit the damages of the easements, servitudes or nonappurtenant restrictions on their properties. Properly described easements has a definite benefit to the owner of the utility as well as the land owner so that both parties know exactly where the easement is located and reduces the chance of overlap on existing easements or rights of way.

Land Surveyors have been determining legal boundaries in North Dakota, prior to statehood. It is the work of the land surveyor to establish land boundary lines by the rectangular system of land surveying and in some cases homestead surveys before the land was originally patented for transfer to individuals. Some of these lands can be described by aliquot parts of a section or by government lots and other irregular tracts that are described by metes and bounds descriptions. Land Surveyors have been trained to analyze and resolve issues as they arise and know the technical ramifications of Land Laws.

Lately we have seen our state woven in with many overhead and underground utilities easements, such as oil and gas pipelines, power lines, telephone, fiber optics, water lines, etc., with many of these easements not being retracable as required in North Dakota Century Code (NDCC). Many of these easements are done properly and legally surveyed and integrated into the Public Land System (PLS) for future location and recovery. When the easements are correctly surveyed, this restricts the construction within a designated strip of land. The widths of the easements vary, depending on the requirements of the respective utility. Examples of correctly prepared easement documents can be found on the North Dakota Department of Trust Lands, and the Federal USDA, BLM, or Corps of Engineers lands.

Yet when it comes to Private Lands, A “blanket easement” has typically been used. A primary concern with a blanket easement is that it encumbers the entire respective parcel of ownership, which could be a quarter section of land or more. Many land owners see an “Exhibit A” attached to their blanket easement. These exhibits are generally a GIS based graphics or map showing some sort of easement route across a parcel of land, which does not accurately represent the actual easement document. In these situations, the entire parcel would be encumbered to place a 2” waterline, for example, which may only need a 10 to 50 feet wide strip of land for the actual installation and maintenance.

THESE exhibits “A” are often not connected by survey to the PLS and are not recoverable in the field by any dimensions or directions and do not follow the requirements of NDCC 47-05-02.1 Requirements of Easements. These rules are also stated in North Dakota administrative code (NDAC) Chapter 28-02.1-13. Blanket easements encumber the entire parcel and restrict the use of the entire parcel.

We are asking the Water Topics Overview Committee to ask for the same standards of care for easements on private lands as used on easements described on the ND State Trust Lands, and other State and Federal Lands. We are willing to share and work with the Committee if asked to help adopt a minimum uniform standard for these works, or simply adopt the standards already in place used for state Board of University and School Lands or ND State Trust Lands. Many landowners would not object to rural water districts installing water lines if they were defined and not just blanketed across their properties.

The examples following shows a NDSWC pipeline easement document #192955 in Section 17, T144N. R88W in Mercer County, ND. This easement is not recoverable in the field and has no exhibit for PLS reference and the use of this property is not properly described. The easement document #5427 to the NDSWC from the Board of University and School Lands in the Section 16 just adjacent and to the East of Section 17 shows a proper and very explicit example of what is required for an easement on State School Lands. This easement is properly connected by survey to the PLS and its impact is restricted to the areas shown on the Exhibits A1-A2 & B. Any properly trained Surveyor can recover and locate this easement. The Grantor and the Grantee both have a clear vision and notice of the location, and the entire Section 16 is not encumbered with a blanket easement. This is a clear example of the differences on how Private Lands are handled, compared to State, or Federal lands. Private land owners should receive the same considerations for their lands as other lands are handled, and to keep the restrictions on their lands to handle only what is needed to accomplish the mission of the water line route.

The Society thanks you for your time and our opportunity to comment on this issue.