

Meeting Minutes

**MEETING OF THE PROFESSIONAL SURVEYING
COMMITTEE of the Board Licensure of Professional
Engineers and Professional Surveyors held at
9:00 a.m., Thursday, January 13, 2022,
Virtual/Telephonic Meeting**

Members Present- David Cooper, PS, Committee Chair
Karl Tonander, PE
Maxine McReynolds, Esq., Public Member

Others Present- Perry Valdez, BLPEPS, Executive Director
Crystal Herrera, BLPEPS Administrative Operations Manager
Miranda Gonzales, BLPEPS, Administrative Manager
Isaac Maes, BLPEPS, Executive Assistant
Angelica Urioste, BLPEPS, Compliance Officer
Dominique Trujillo, BLPEPS, Licensing Administrator
Valerie Joe, Legal Counsel
Donna Bevacqua-Young, Board's Legal Counsel
Chuck Cala, PS Board Investigator
Robert Watt, PS
Dennis Romero, Esq.
Robin Brazil, Court Reporter
Martin Anya, Guest
Allen Grace, PS
Caroline W
Nick Cova

1. Convene, Roll Call and Introduction of Audience

Mr. Cooper read the meeting script regarding the virtual meeting protocols. He convened the meeting at 9:09 a.m. Roll call was taken and a quorum noted. Audience introductions were made at this time.

2. Meeting Notification

Mr. Valdez informed the Committee the meeting was noticed on the Board's website and at the Board Office.

3. Approval of Agenda

MOTION by Ms. McReynolds to approve the agenda as presented, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting 'Aye': Mr. Cooper, Mr. Tonander, Ms. McReynolds

The motion **PASSED unanimously.**

4. Approval of Minutes

a. Minutes of November 4, 2021

Ms. McReynolds noted that the Minutes of November 4, 2021 had a minor typographical error under item 10 subsection 1A 'Enrollment'.

MOTION by Ms. McReynolds to approve the Minutes of November 4, 2021 where the correction is noted, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting Aye: Mr. Cooper, Ms. Mc, Reynolds

Abstain: Mr. Tonander

The motion **PASSED**.

5. Public Comment/Correspondence

a. 5-PS-09-23-2014 Order to Show Cause

****Refer to Court Reporter transcription.****

6. Old Business

a. CFED and Drone Courses as PDH hours

Mr. Cooper indicated he placed this item on the agenda to reevaluate the necessity of having to pass the exams on these courses. He stated that he did not disagree with making someone pass the exam when he first voted on this. However, Mr. Cooper, stated that after further consideration the Committee should not make someone pass the exam to earn the PDHs.

Mr. Tonander asked Mr. Cooper if the 10 PDH limit would be retained.

Mr. Cooper said this was correct.

Mr. Tonander asked Mr. Cooper what his suggestion was because according to the Minutes of August 8, 2013 item 6a. Using CFED Training for PDHs states "To allow surveyors to use the CFED training as PDHs and broken down as a one-time use for fifteen (15) hours during the training portion and fifteen (15) hours upon completion of the certification."

Mr. Tonander said that based off this, it would seem the requirement is 15 hours for the training period and 15 hours after the completion of certification. Mr. Cala said that one thing that the PSC may want to consider is that the maximum number of CFEDS was perhaps made when CFEDS were relative new and maybe didn't anticipate the continuing education requirements for CFEDS certification.

Mr. Tonander asked Mr. Cooper if it would be appropriate to leave the first sentence "To allow surveyors to use the CFED training as PDHs..." and not put a limit on it.

Mr. Copper stated he concurred with this idea because education is needed to keep CFED certification.

Mr. Cooper asked Mr. Cala if this is correct.

Mr. Cala stated this is correct.

Mr. Tonander informed Mr. Cooper that within the meeting packets that were sent out, there was a PDF of 3 excerpts from past board meetings about the 3 sets of PDH's which would be easier to modify than the minutes.

Mr. Tonander would go onto to say that with regard to the Certified Federal (CFED) requirement he suggested that the second sentence "The CFED training may be used as a one-time use for fifteen (15) hours during the training portion and fifteen (15) hours upon completion of the certification." be removed entirely and just leave the first sentence "Surveyor training is allowed as a PDH activity."

Mr. Tonander added that under the FAA Drone Part 107 requirement to keep the first sentence "FFA Drone Part 107 is considered as a qualifying PDH activity." And then continue this sentence and also keep the final section of the second sentence, "10 PDH credits may be reported."

Mr. Valdez asked Mr. Cooper the following for clarification, if the number of hours for CFED is removed, how many hours would be received? Or would this fall under the normal hours that are granted under PDH course work seminars and professional technical presentations which is one PDH?

Mr. Cooper said the reporting of hours is dependent on the individual and doesn't believe that the board should be limiting or putting some number on the hours related to PDH's.

Mr. Cooper would go on to say that he recommends surveyors need to report hours accurately and honestly.

Mr. Tonander said that he suggested on the drone program to keep the 10 PDH requirement because if someone doesn't understand the content being taught in the FFA Drone Part 107 course and takes it twice, they might report it twice for a total of 20 hours. With respect of this he understands why the 10 hour limit is in place.

Mr. Tonander added that in regard to the CFEDS however, there is a lot more than one can learn that applies as it is a very broad topic and suggested removing this limit.

Mr. Cooper stated that he thinks further discussion of this item should be discontinued.

7. **New Business**

Mr. Valdez informed the Professional Surveyor Committee that there was no new business.

8. **Application Review – Recommended Approval**

a. **Recommended for Approval List (Exhibit A)**

MOTION by Ms. McReynolds to approve Exhibit A, dated January 13, 2022, the recommended for approval applications, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting ‘Aye’: Mr. Cooper, Mr. Tonander, Ms. McReynolds

The motion **PASSED unanimously.**

b. **Retired Status Request(s)**

MOTION by Ms. McReynolds to approve the retired application(s), **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting ‘Aye’: Mr. Cooper, Mr. Tonander, Ms. McReynolds

The motion **PASSED unanimously.**

9. **Executive Session**

MOTION by Mr. Cooper that the Committee enter into closed Executive Session to discuss the items listed on the agenda pursuant to NMSA 1978, Section 10-15-1 (H) (1) and (3) to discuss matters pertaining to the issuance, suspension, renewal or revocation of a license and to deliberate on pending cases. **SECONDED** by Ms. McReynolds,

Roll call vote taken,

Voting ‘Yes’: Mr. Cooper, Mr. Tonander, Ms. McReynolds,

10. Action on Items Discussed During Executive Session

Mr. Cooper brought the Committee back into open session and affirmed that while in closed session it discussed only those matters specified in the motion to close the meeting and listed on the agenda under executive session, in accordance with NMSA 1978 Section 10-15-1 (H) (1) and (3).

a. Disciplinary Cases

1) Case 5-PS-09-23-2014 – Order to Show Cause

Mr. Cooper stated he would allow the board members an opportunity to review the testimony that was given, and a decision regarding this item would be made at the next Professional Surveyors Committee meeting.

2) Case 3-PS-03-04-2020 – Complaint Manager’s Report

MOTION by Ms. McReynolds to close this case with no action taken due to insufficient evidence of a violation, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting ‘Aye’: Mr. Cooper, Mr. Tonander, Ms. McReynolds

The motion **PASSED unanimously.**

3) Case 6-PS-09-08-2020

MOTION by Mr. Tonander to extend the period of Pre-NCA resolution to the next PSC meeting scheduled on April 7, 2022, **SECONDED** by Ms. McReynolds,

Roll Call Vote:

Voting ‘Aye’: Mr. Cooper, Mr. Tonander, Ms. McReynolds

The motion **PASSED unanimously.**

4) Case 7-PS-10-05-2020

MOTION by Ms. McReynolds the previous motion for a cease and desist order was premature and to refer to the AG’s office for issuance of an NCA referral, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting ‘Aye’: Mr. Cooper, Mr. Tonander, Ms. McReynolds

The motion **PASSED unanimously.**

5) **Case 2-PS-01-25-2019**

MOTION by Mr. Tonander to close this case as the terms have been fulfilled,
SECONDED by Ms. McReynolds,

Roll Call Vote:

Voting 'Aye': Mr. Cooper, Mr. Tonander, Ms. McReynolds

The motion **PASSED unanimously.**

6) **Case 5-PS-10-18-2017(B)**

MOTION by Mr. Tonander to close this case as the terms have been fulfilled,
SECONDED by Ms. McReynolds,

Roll Call Vote:

Voting 'Aye': Mr. Cooper, Mr. Tonander, Ms. McReynolds

The motion **PASSED unanimously.**

Status Review of Complaints and NCA Referrals

A report was reviewed on the status of pending cases and referrals for Notice of Contemplated Actions.

b. **Applications for Review**

1) **PS Exam**

a) **Baca, D.**

MOTION by Ms. McReynolds to accept the application for the NM State Specific and PS exam, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting 'Aye': Mr. Cooper, Mr. Tonander, Ms. McReynolds

The motion **PASSED unanimously.**

b) **Seely, T**

MOTION by Mr. Tonander to not approve based on experience not occurring after SI certification which is required with an alternative degree, **SECONDED** by Ms. McReynolds,

Roll Call Vote:

Voting 'Aye': Mr. Cooper, Mr. Tonander, Ms. McReynolds

The motion **PASSED unanimously.**

11. **Next Scheduled Meeting Date:** April 7, 2022 – Ruidoso/Virtual

12. **Adjourn**

Meeting adjourned at 12:12 p.m.

Submitted by:

s/ Isaac Maes

Isaac Maes, Executive Assistant

Approved by:

s/ David Cooper

David Cooper, Committee Chair

February 11, 2022 **Approved Date**

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BEFORE THE ENGINEERING AND SURVEYING
PRACTICES BOARD
FOR THE STATE OF NEW MEXICO

VIDEOCONFERENCE ORDER TO SHOW CAUSE
January 13, 2022
9:19 a.m.

REPORTED BY: Robin A. Brazil, RPR, NM CCR #154
Bean & Associates, Inc.
Professional Court Reporting Service
201 Third Street, NW, Suite 1630
Albuquerque, New Mexico 87102

(6156N) RAB

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A P P E A R A N C E S

BOARD MEMBERS:

David Cooper, Chairperson
Maxine McReynolds
Karl Tonander

For the State:

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Also Present:

Dominique Trujillo
Charles Cala
Martin Anaya
Nick Cova
Angelica Urioste
Robert Watt

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I N D E X

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EXAMINATION OF ROBERT WATT

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By Chairperson Cooper 45

REPORTER'S CERTIFICATE 57

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1 MS. JOE: Chair, members of the board, I
2 believe the court reporter should start taking her
3 notes now.

4 This is Valerie Joe the administrative
5 prosecutor on the order to show cause. Thank you
6 very much.

7 CHAIRPERSON COOPER: Thank you, Valerie.
8 Can I get the court reporter's name before
9 we continue, please?

10 THE COURT REPORTER: My name is Robin
11 Brazil, B-r-a-z-i-l.

12 CHAIRPERSON COOPER: Anything else before
13 we get started?

14 MS. JOE: This is Valerie. Just so you
15 know and so everyone knows, the attorney who was
16 supposed to assist the committee with this and the
17 hearing officer with this, the order to show cause
18 hearing, was supposed to be Greg Smithkier.
19 Unfortunately, he has since left the AG's office.
20 The person that will be assisting is Donna
21 Bevacqua-Young. You might need to update your
22 script, as a tip, when you get there.

23 As I stated, Valerie Joe, I will be
24 assisting the board as the administrative
25 prosecutor, and after the order to show cause will

1 be going back in my position as the board attorney.
2 And when there is executive session, and this matter
3 is discussed, I will not be participating in the
4 closed-session portion with the professional
5 surveying committee, as I'm acting as the
6 administrative prosecutor. It is Donna
7 Bevacqua-Young who will be assisting the board.
8 Thank you very much.

9 CHAIRPERSON COOPER: Thank you. I hope I
10 don't destroy your name when I -- when we get there.
11 Bevacqua-Young. How's that?

12 MS. BEVACQUA-YOUNG: You can call me Donna
13 Young. It's so much easier.

14 CHAIRPERSON COOPER: Okay. Okay this is
15 an order to show cause hearing of the New Mexico
16 Board of Licensure for Engineers and Professional
17 Surveyors. This hearing will come to order at 9:20
18 a.m. on January 13th, 2022.

19 The purpose of this hearing is to take
20 evidence related to the noncompliance agreed upon
21 February 1st, 2019, settlement agreement by the
22 Respondent Robert Watt, PS License Number 117700,
23 Case Number 5-PS-09-23-2014. Due to the public
24 health state of emergency, this hearing is being
25 held via the Zoom platform. Let the record reflect

1 that Zoom includes both audio and video functions,
2 which all have parts -- which all participants can
3 be observed audibly and visually.

4 I'm the committee chair, David Cooper. I
5 will preside over this order to show cause hearing.
6 The members of the board present hearing are --
7 Mr. Perry, if you could make a roll-call vote for
8 this, please.

9 MR. VALDEZ: David Cooper?

10 CHAIRPERSON COOPER: We already have the
11 roll-call list. The board member absent is -- we
12 have one vacancy, so we do have a quorum for this
13 meeting.

14 I will make all evidentiary and procedural
15 rulings. Assistant Attorney General Donna Young
16 will be advising the board in this proceeding. This
17 hearing is conducted under the authority vested by
18 the Engineering and Surveying Practices Act, NMSA
19 1978, section 61-23-1 through 61-23-36 and the
20 board's regulations.

21 This hearing is being transcribed by Robin
22 Brazil of Bean & Associates, Inc. Anyone that would
23 like a transcript of today's hearing, please contact
24 the court reporter after this hearing.

25 Will the parties enter their appearance

1 for the public records? I have Assistant Attorney
2 General Valerie Joe, who's present. Respondent's
3 attorney, Dennis Romero, who is present.

4 Hearing procedures. To begin, I want to
5 advise all participants in this hearing that they
6 must only speak at -- one at a time. In other
7 words, no person may interrupt another person who is
8 speaking. It's not a suggestion, and I will enforce
9 this rule throughout the hearing so as to not
10 confuse anyone. This rule of only one person
11 speaking at a time applies to the attorneys, the
12 parties, the witnesses, the board members, and this
13 hearing officer.

14 Witnesses will wait for questions to be
15 asked in its entirety before they answer. Attorneys
16 will wait for the witnesses to answer the questions
17 in its entirety before they ask another question.
18 There is no exceptions to this rule. If I fail to
19 enforce this rule, the court reporter will do it
20 herself. Again, please, no exceptions. Only one
21 person may speak at a time.

22 One more rule. Board members will refrain
23 from talking to each other during this hearing, and
24 particularly when a witness is testifying or an
25 attorney is speaking.

1 Now I will continue. This hearing will be
2 conducted in accordance with the Uniform Licensing
3 Act, NMSA 1978, section 61-1-1 through 61-1-36.

4 Hearings before this board do not follow
5 the Rules of Evidence. As the presiding officer, I
6 may admit any evidence I deem relevant. I may limit
7 testimony that is incompetent, irrelevant,
8 immaterial, or unduly repetitious. The decision to
9 exclude or limit such evidence will be made by me,
10 the presiding officer. The rules of privilege
11 applies in this hearing to the same extent as
12 proceedings before New Mexico courts.

13 The board may take notice both of judicial
14 cognizant facts and of general technical and
15 scientific facts which are within our specialized
16 knowledge.

17 Both parties may present opening
18 statements and closing arguments. The attorney for
19 the board will present her case and evidence first.
20 Then the Respondent may present his or her case
21 and/or evidence in defense of the allegations
22 alleged in the order to show cause. The attorney
23 for the board will have an opportunity to present a
24 rebuttal.

25 All testimony presented at this hearing

1 will be under oath. The witnesses will be sworn in
2 by the court reporter.

3 Exhibits that are admitted into evidence
4 will be marked into the record by the parties or the
5 court reporter and then given to me for the board's
6 use during this hearing. Any witness offering
7 testimony will be questioned first by the party
8 offering the testimony and then by the opposing
9 parties. I will permit direct examination,
10 cross-examination, redirect examination, and
11 recross-examination of all witnesses.

12 Counsel is instructed to limit their
13 cross-examination of any witness to only those
14 issues presented in the direct examination.

15 When both parties have finished their
16 examination, any board member and the board's
17 attorney may, in their discretion, also have
18 questions. No other questioning will be permitted
19 after the board members have ended their
20 questioning.

21 Unless any of the parties have anything
22 further, we're all ready to begin.

23 MS. JOE: Yes, this is Valerie Joe.
24 Sorry, Hearing Officer Cooper, I would like to
25 submit to the court the prefiled exhibits that were

1 transmitted to Mr. Romero and his client. At the
2 current time, the list includes 15 exhibits,
3 including number 15, which was the statement of
4 facts. Thank you.

5 CHAIRPERSON COOPER: Okay. I have that in
6 my possession. It's the State list of exhibits; is
7 that correct?

8 MS. JOE: Yes, we are offering them. We
9 would like to see if the Respondent's attorney
10 agrees or wants to have a discussion with respect to
11 that, and if they are moved in, then we could
12 proceed after that. Thank you.

13 MR. ROMERO: May I respond?

14 CHAIRPERSON COOPER: Yes.

15 MR. ROMERO: Yes, I have no objection
16 whatsoever to the admission of the exhibits Ms. Joe
17 has offered.

18 CHAIRPERSON COOPER: Okay. So we're good
19 there. And the administration of the oath, please.

20 MS. JOE: Before we get there, Hearing
21 Officer Cooper, I would just like to state, since my
22 Exhibits 1 through 15 have been accepted, I am no
23 longer calling Ms. Angelica Urioste and Ms. Baca.
24 They were for the sole purpose for getting those in.
25 I am not calling those witnesses at this time.

1 CHAIRPERSON COOPER: Thank you.

2 Valerie, who are we swearing in here?

3 MS. JOE: I just want to ask, did the
4 court accept those exhibits, and are they marked now
5 as Exhibits 1 through 15?

6 CHAIRPERSON COOPER: I've accepted them,
7 sure.

8 MS. JOE: I want to make sure. I want it
9 on the record. I believe if Mr. Romero is planning
10 on calling witnesses, they would need to be sworn
11 in. You would have to ask him.

12 CHAIRPERSON COOPER: Mr. Romero?

13 MR. ROMERO: Yes, my sole witness is
14 Respondent Robert Watt, who is present, and he's
15 available to be sworn in.

16 CHAIRPERSON COOPER: Is he your only
17 witness?

18 MR. ROMERO: Yes, Your Honor.

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1 ROBERT WATT,
2 after having been first duly sworn under oath,
3 was questioned and testified as follows:

4 CHAIRPERSON COOPER: Going on to the
5 witness exclusion rule. Does either party wish to
6 invoke the rule excluding any witnesses during this
7 hearing?

8 MS. JOE: No, Your Honor. Thank you.

9 MR. ROMERO: No, Your Honor.

10 CHAIRPERSON COOPER: Moving on. Are we --
11 we're ready for opening statements, please. From
12 Valerie Joe, please.

13 MS. JOE: Yes. I would just ask that
14 in -- there's one more exhibit. I'd like to submit
15 it as the -- the order that it was submitted this
16 morning, exhibit 16 for the continuance order.

17 Mr. Romero, do you have any objection to
18 my entering that one before I give my opening
19 statement?

20 MR. ROMERO: I have no objection.

21 MS. JOE: Hearing Officer Cooper, is that
22 accepted by the court?

23 CHAIRPERSON COOPER: You just submitted it
24 this morning?

25 MS. JOE: It was the email sent both to

1 Mr. Romero and myself signed by you, the order
2 continuing this case to today.

3 CHAIRPERSON COOPER: That's correct. Yes.
4 Accepted.

5 MS. JOE: Thank you. Then I will continue
6 to my opening statement.

7 This order to show cause hearing is to
8 determine whether the Respondent complied with the
9 February 1st, 2019, settlement agreement to correct
10 the survey plat that Respondent affixed his seal and
11 recorded with the Taos County Clerk, which did not
12 meet the minimum standards for surveying in New
13 Mexico.

14 The evidence and testimony will show that
15 Respondent did not provide the committee with proof
16 that he attempted or completed the first option,
17 identified as option A in the settlement agreement,
18 nor was Respondent successful in fulfilling the
19 obligations of option B, the second choice in the
20 settlement agreement, due to the lack of cooperation
21 of the property owners of the land depicted in the
22 survey plat. And what I'm referring to is the
23 February 1st, 2019, settlement agreement that has
24 been marked as Exhibit A -- as Exhibit 1.

25 Okay. There's no dispute that the

1 circumstances that prevented Respondent from
2 recording any amended plat of survey are not within
3 his control. However, we will show that Respondent
4 has not been able to satisfy the terms of the
5 settlement agreement. And let me just read those
6 terms very quickly into the record just so it'll be
7 present in the -- in everyone's mind as Mr. Romero
8 continues.

9 MS. BEVACQUA-YOUNG: Chairman Cooper,
10 sorry to interrupt. This is from the attorney
11 general's office. Did you admit all of the exhibits
12 Ms. Joe submitted into evidence?

13 CHAIRPERSON COOPER: I believe that's
14 true. That's correct.

15 MS. BEVACQUA-YOUNG: Okay. I just wanted
16 to verify that.

17 MS. JOE: So in the settlement agreement
18 that's been marked as Exhibit 1 under the numbered
19 paragraph two, it says: The board shall take no
20 further action against Respondent with respect to
21 the matters in the subject case provided that
22 Respondent corrects the survey plat as follows. A,
23 which I referred to before, is option one, to create
24 a new plat via a claim of exemption plat or
25 subdivision plat that corrects the deficiencies,

1 easements, legal access, and the proper depiction of
2 the division of property; or B, which I reference as
3 option two, amend the existing plat that reports
4 easements that do not exist and record that in the
5 same manner as the initial recordation, i.e. plat of
6 survey, to include a clear statement of purpose and
7 correct deficiencies.

8 And there are just -- it states, if
9 Respondent chooses option A to correct the survey
10 plat, he must report to the board within 90-days of
11 this settlement agreement the settlement agreement
12 is signed by the board with proposed remedy. If
13 Respondent chooses option B, he has 90-days of the
14 date the settlement agreement is signed by the board
15 to complete option B.

16 And then I did detail in the statement of
17 facts how the board and the Respondent did try to
18 extend this deadline numerous times, and
19 unfortunately, here we are today to -- for the board
20 to consider if Respondent Watt had, in fact,
21 complied with these terms. Thank you very much.

22 CHAIRPERSON COOPER: Thank you, Valerie.
23 That concludes your opening statements?

24 MR. ROMERO: Shall I proceed, Your Honor?

25 CHAIRPERSON COOPER: I was -- I asked --

1 Ms. Joe, does that conclude your opening statements?

2 MS. JOE: Yes, it does. Thank you,
3 Hearing Officer Cooper.

4 CHAIRPERSON COOPER: Mr. Romero.

5 MR. ROMERO: Thank you, Mr. Hearing
6 Officer. First, regarding the exhibits that I
7 submitted to Ms. Joe and to the board, these would
8 be Exhibits 1 through 5. I'd like to ask to move
9 admission of those exhibits at this point and see
10 whether Ms. Joe has any objection to them.

11 MS. JOE: I have no objection. I don't
12 know if the hearing officer wants to mark them with
13 a suffix or something since they're both 1 through,
14 you know, the number.

15 MR. ROMERO: Yeah, just -- I did label
16 them as Respondent's exhibits in my labeling process
17 when I submitted, so maybe that'll help.

18 CHAIRPERSON COOPER: Whatever's
19 appropriate. I'm okay with that.

20 MS. BEVACQUA-YOUNG: Chairman Cooper,
21 sorry to interrupt. This is Donna Young from the
22 attorney general's office. Typically, the
23 administrative prosecutor's exhibits would be
24 numerical, and then the Respondent's exhibits would
25 be alphabetical. So it would be Respondent's

1 Exhibits A through E, I believe.

2 MR. ROMERO: If I may offer, what we can
3 do is just -- let's just convert those accordingly.
4 1 will be A, 2 is B, et cetera. If that -- if that
5 works.

6 CHAIRPERSON COOPER: That's acceptable by
7 me. Ms. Young, is that okay?

8 MS. BEVACQUA-YOUNG: Yes, that's fine,
9 just so it's clear, particularly for the court
10 reporter as well. Thank you.

11 CHAIRPERSON COOPER: Okay.

12 MR. ROMERO: Let me proceed and summarize
13 my position of this matter on behalf of Mr. Watt.
14 As the board knows, there were a list of findings
15 that had been -- basically served as the basis for
16 this complaint, the findings by the -- the findings
17 that have been made by the board. That would be
18 within the show-cause matter that there is an issue
19 regarding the basis of bearings. There is an issue
20 regarding the record bearings and distances, the
21 creation of the tracts of land as divided per the
22 1993 deeds, issues concerning the access, public
23 access -- whether or not these properties are served
24 by public access, and then finally a -- just a --
25 you know, an additional dangling easement onto an

1 adjoining -- an adjoining parcel. Those, you know,
2 by my reading, anyway, are the points in this
3 matter.

4 What has occurred since the initiation of
5 this proceeding is that the settlement agreement as
6 Ms. Joe recited was, in fact, entered. Mr. Watt
7 then chose -- he was -- he was offered two options,
8 option A, option B. Mr. Watt chose option A. This
9 would be to provide an exemption plan. And should
10 we continue to -- into live testimony, Mr. Watt can
11 explain in better detail why he chose option A, but
12 essentially he will testify that this is the only
13 viable option.

14 In doing so, then, he prepared and has
15 submitted this preliminary plat that is the
16 Respondent's Exhibit C, and I believe that's also
17 the same as the State's Exhibit 4.

18 We also submitted an affidavit, that is
19 Respondent's Exhibit D, prior to finding of the
20 preliminary plat. All these for the purpose of
21 responding directly and thoroughly to the
22 requirements within the settlement agreement that a
23 preliminary plat be prepared for the purpose of
24 correcting the errors in the original 2012 plat. So
25 he's done this.

1 Mr. Watt has taken this matter absolutely
2 as far as he can possibly go, and the main reason
3 that it is stalled at this point is because of the
4 existing and some -- let me use -- I can choose a
5 number of words, but I'll choose the word bitter.
6 There's bitter litigation that was initiated by
7 Mr. Cova against his uncle, Ray Romero, that was the
8 initial configuration of that district court case in
9 Taos County. Those issues are multiple, but they
10 basically involve, if one wants to reduce the 465
11 paragraphs of that complaint into a singular
12 concept, the issue in that case is whether or not
13 Mr. Cova enjoys an easement over the -- the
14 adjoining property of his uncle, Mr. Ray Romero.

15 Now, that's an issue that is beyond the
16 scope of this board. That's not a surveying board
17 issue. That's a question of whether or not the
18 court, the district court, eventually will decide
19 the viability and legitimacy of that claim. That
20 was the original configuration of the district court
21 case.

22 Subsequent -- now, the case was -- the
23 case that Mr. Cova filed was about, I think, 2018,
24 latter part of 2018 and 2020. Mr. Watt was -- has
25 been -- was third-partied in as another defendant.

1 The matter remains unresolved.

2 I provided to this board the status of the
3 case by virtue of the court docket, showing the
4 status of the case, that essentially we're in the
5 middle of it, ongoing discovery.

6 The -- I've also provided the complaint,
7 which would be the original -- the amended complaint
8 that includes Mr. Watt, and that is going to be
9 Respondent's Exhibit E, not for the purpose of
10 burdening you with all of that, of that long
11 document to read in detail, but to show the scope of
12 the issues and the nature of the case that is --
13 serves as sort of the block at this point that
14 prevents Mr. Watt from being able to make that final
15 step of compliance of submitting the preliminary
16 plat to the county for recording.

17 And to state the obvious, the reason why
18 that remains a challenging aspect of resolution is
19 because it requires the cooperation of the
20 underlying landowners. The underlying landowners
21 are Mr. Ray Romero and Mr. Nick Cova.

22 Mr. Cova has bought out another of -- one
23 or two of his other family members. Those are the
24 two remaining parties on this original parcel that
25 was owned and divided and conveyed out in 1993 by

1 Ray Romero's father and Nick Cova's grandfather.

2 That's where we stand at this point.

3 The bottom line relative to my position on
4 behalf of Mr. Watt is that he has fully complied to
5 the full extent of his abilities. It's the
6 litigation that needs to be resolved. And
7 ultimately, when a decision is rendered, either by
8 judgment or by settlement, a final plat will -- can
9 ultimately be submitted that will reflect the final
10 resolution of all matters in this case.

11 And that's my -- all for the purpose of
12 saying that Mr. Watt has fully complied to the
13 extent of his ability all throughout the course of
14 this proceeding. Thank you.

15 MS. BEVACQUA-YOUNG: This is Donna Young
16 with the attorney general's office. Before we go
17 further, I want to clarify for the record you need
18 to specifically say that you have admitted State's
19 Exhibits 1 through 5 into evidence and Respondent's
20 Exhibits A through E into evidence. I don't think
21 you said those magic words yet.

22 MS. JOE: Ms. Young, this is Valerie.
23 It's Exhibits, for the State, 1 through 16.

24 MS. BEVACQUA-YOUNG: Sorry. Thank you.

25 CHAIRPERSON COOPER: Mr. Romero, did that

1 conclude your opening statement?

2 MR. ROMERO: Yes, Your Honor.

3 CHAIRPERSON COOPER: Okay. Moving on to
4 direct examination --

5 MS. BEVACQUA-YOUNG: Wait. Sorry to
6 interrupt. This is Donna Young from the attorney
7 general's office. You need to say you, as the
8 chair, have admitted State's 1 through 16 into
9 evidence and Respondent's Exhibits A through E into
10 evidence just so we don't have any issues later on.

11 CHAIRPERSON COOPER: Thank you for keeping
12 me on track.

13 MS. BEVACQUA-YOUNG: Thank you.

14 CHAIRPERSON COOPER: A through E. So
15 this -- it's accepted, Exhibits 1 through 16 and
16 Exhibits A through E. Will that suffice?

17 MS. BEVACQUA-YOUNG: You need to
18 specifically say State's Exhibits 1 through 16 into
19 evidence and Respondent's Exhibits A through E into
20 evidence.

21 CHAIRPERSON COOPER: Thank you. So
22 accepted, State's Exhibit 1 through 16 as evidence
23 and Respondent's Exhibit A through E as evidence.

24 MS. BEVACQUA-YOUNG: Into evidence. Yes.
25 Thank you.

1 CHAIRPERSON COOPER: So, Ms. Joe, are we
2 ready for you?

3 MS. JOE: Yes. I submitted the State's
4 view of the events that have occurred in Exhibit 15,
5 the statement of facts. I don't know if you want me
6 to read them in, but it basically summarizes all of
7 the attempts that the professional surveying
8 committee has been ongoing with the Respondent to
9 try to get this matter resolved so that it would be
10 completed and not, you know, have to unfortunately
11 come here today, because the State's position is
12 that the Respondent has not complied with the terms
13 of the settlement agreement that were agreed to on
14 February 1st, 2019. And that's why we're here, for
15 the committee to contemplate whether or not Mr. Watt
16 has complied or not.

17 Other than that, I have nothing further to
18 add. It's all on those two sheets of paper. Thank
19 you very much.

20 CHAIRPERSON COOPER: I think we can move
21 on to the direct examination of the witnesses. We
22 can move forward.

23 MS. JOE: I'll just state for the
24 record -- Valerie Joe for the State -- we are not
25 presenting any witnesses, as our information has

1 been accepted into evidence through Exhibits 1
2 through 16. Thank you.

3 CHAIRPERSON COOPER: Mr. Romero, do you
4 have any --

5 MR. ROMERO: Yes, Your Honor. Yes, I do.
6 I just -- I just have some questions for Mr. Watt.

7 EXAMINATION

8 BY MR. ROMERO:

9 Q. Mr. Watt, would you state your name,
10 please?

11 A. Yes, my name is Robert Watt.

12 Q. Where are you employed?

13 A. I am the owner and employed at Red Tail
14 Surveying, Incorporated, in Taos, New Mexico.

15 Q. How many employees do you have?

16 A. I have seven employees.

17 Q. Are these all -- it's full-time -- seven
18 full-time equivalents, or do you have additional?

19 A. There's basically seven persons working
20 here. Most of them work full-time.

21 Q. How long have you been employed in this --
22 how long has Red Tail Surveying existed as an
23 entity, a business entity?

24 A. Approximately 28 years.

25 Q. Have you done surveying prior to that

1 time?

2 A. Yes, I have.

3 Q. Mr. Watt, relative to this matter, as --
4 as you entered into a settlement agreement to
5 resolve this matter, a settlement agreement with the
6 State -- let me just quickly get to the main point
7 of this. There was an option A and an option B
8 offered for resolution, correct?

9 A. That's correct.

10 Q. Which option did you choose?

11 A. I chose to -- option A, to create a new
12 plat by a claim of exemption.

13 Q. What does an exemption plat involve?

14 A. My understanding of that is it's an
15 exemption from the New Mexico State Subdivision Act.
16 In this case, it also applies to the Taos County
17 Land Use Code, and it's -- the claim of exemption
18 would be claiming this is not a subdivision and
19 falls under one of the 13 exemptions that would
20 cause the landowners to be exempt from the
21 subdivision process.

22 Q. There was an option B offered. Is there a
23 reason you did not choose that?

24 A. My option B, I felt if I -- if I had taken
25 that choice, and if a plat had been filed, it would

1 continue to muddy the record. And at the time of
2 entering into the settlement agreement, I was keenly
3 aware of the district court case between Mr. Romero
4 and Mr. Cova that was initiated subsequent to the
5 preparation of my initial survey plat. I chose -- I
6 felt that any survey plat that I prepared and filed
7 in the Taos County Clerk's office that was prepared
8 without specific instructions from the court or the
9 board or by way of a settlement agreement would only
10 cause to muddy the record in the clerk's office,
11 muddy the public record.

12 Q. Mr. Watt, turning now to the -- to the
13 basic elements of the State's complaint, can you
14 elaborate on your resolution of -- before I ask you
15 to answer that, you prepared a preliminary plat for
16 this purpose, correct?

17 A. That is correct.

18 Q. The preliminary plat was intended -- was
19 directed toward addressing the matters that have
20 been raised. And so let me first bring you to the
21 first. Quoting from the statement of facts, the
22 survey, referring to the -- your original survey,
23 the survey does not specifically demonstrate the
24 basis of bearings.

25 Can you explain how you resolved that with

1 the preliminary plat?

2 A. Specific to the preliminary plat and not
3 the affidavit, which I also made a corrective
4 statement on, I revised the bearing-based note and
5 it's in the lower right-hand corner of sheet one of
6 the preliminary plat. Additionally on sheet one,
7 towards the top right-hand corner of the page in the
8 graphic portion of the plat, I have shown the
9 specific survey monuments that were used to
10 establish the bearing base, and I have depicted the
11 bearing and the specific monumentation at the
12 request of the statements from the board
13 investigator.

14 Q. Mr. Watt, just to clarify, does that
15 address the second point, the plat does not contain
16 record bearings and distances?

17 A. No, that's a separate issue.

18 Q. Got it. If you could clarify that second
19 point.

20 A. The second point -- forgive me -- not
21 showing the record bearings of distances was a
22 mistake on my part. Again, on this corrective plat
23 I have, in the line table in the top center of the
24 page, shown a portion of the record calls -- are
25 associated with line numbers. Line table is

1 intended to simplify the plat and not clutter the
2 drawing up. So portions of those record dimensions
3 are shown in that line table. The remaining
4 dimensions on the longer lines, where it's
5 appropriate, are shown along the property lines of
6 the surveyed properties. All of them, I believe,
7 are shown on sheet one of that survey plat, and
8 they're shown in parentheses.

9 Q. Anything further on those two points on
10 the basis of bearings and the record bearings and
11 distances?

12 A. No, there's nothing else I'd like to see
13 there, I think.

14 Q. Okay. The next point, this -- the
15 original survey creates six succinct tracts of land.
16 Can you explain that?

17 A. Yes. The survey plat shows a tract A-1
18 and A-2, a tract B-1 and B-2, and a tract C-1 and
19 C-2. That sums to six separate tracts of land.

20 Q. What are the origins of those six tracts?

21 A. The origin of those, I created these
22 parcels. I rendered an opinion on where the
23 boundaries of these parcels are based on deeds that
24 were prepared in or around -- or filed in 1993,
25 three separate deeds that were -- the grantor being

1 Jose Miguel Romero and his wife, forgive me, Celia
2 G. Romero.

3 Q. How does three become six?

4 A. The necessary -- the accessory document to
5 those 1993 deeds is a survey plat that was prepared
6 in or around 1986, and that survey plat showed two
7 separate parcels of land. It shows one parcel with
8 one acreage and a second parcel with a separate
9 acreage.

10 Fulfilling my duties, I was on the ground
11 on this property. I found -- observed in my survey
12 duties that one parcel of that land is irrigated
13 farmland that has orchards, pasture areas, arable
14 land. The second portion, it was steep
15 mountainside, forested timberland.

16 I toiled over -- toiled over rendering my
17 opinion of these boundaries, as the 1993 deeds were
18 prepared without the benefit of a survey. The
19 grantor of those deeds did not have a survey
20 prepared at that time. While the deeds were
21 reasonably clear, it stated the specific percentages
22 that each person or each grantee was to receive from
23 the overall parcel. It also stated who each
24 adjoining property owner should be.

25 Further, it stated that each tract shall

1 be parallel. Based on that information, I made the
2 determination that each portion -- each grantee, my
3 opinion, should receive a fair and equitable amount
4 of the farmland and a fair and equitable amount of
5 the timberland. Hence, in those 1993 deeds, in my
6 interpretation of them, I distributed each portion
7 of the farmland, which I believe to be way more
8 valuable than the timberland, more accessible, more
9 beneficial, that I apportioned the percentages of
10 rights of ownership into the farmland separate from
11 the timberland.

12 Q. Mr. Watt, referring to Respondent's
13 Exhibit B, does that depict your interpretation of
14 those deeds being enforced -- being the original
15 survey plat, 2012?

16 A. Pardon me. Can you restate the question?

17 Q. Sure. Referring to Respondent's Exhibit
18 B, which is your original 2012 survey plat, does
19 that -- does that plat reflect your interpretation
20 of those deeds as depicted on that plat?

21 A. Yes, it does. I would further point out
22 on that question that at the time of my -- the
23 preparation of my 2012 survey, one of the early
24 tasks that I did was I communicated with the Taos
25 County Planning Department to clarify if there would

1 be any need for county approval of the division of
2 property in this manner.

3 I had a meeting with the county planning
4 department, and with that meeting, we continued over
5 to talk to the county assessor to confirm that this
6 would not raise any issues for the Taos County
7 Assessor for taxation on the properties. At that
8 time it was determined there was no need to have
9 county approval of that land division as I depicted
10 it.

11 Q. Moving on to the access easements, the
12 finding in that paragraph states that the survey
13 also attempts to create access easements to provide
14 for access to three of those tracts which otherwise
15 would not have access to a public right of way. How
16 was that addressed?

17 A. It became clear to me, based on the method
18 I used to -- to define these tracts of land, that
19 the mountain lands did not have direct access from
20 one parcel to another. Example, A-1 to A-2 --
21 sorry, I should say A-2 -- A-2, B-2, and C-2 all do
22 have direct connection to a public road. A-1,
23 B-1 -- A-1, B-1, and C-1 do not have direct
24 connection to a public road.

25 I, at the time of my survey, diligently

1 communicated with all of the titleholders in here.
2 I want to list those titleholders: Raymond Romero,
3 Leo Michael Romero, Nick Cova, and Melissa Magel.
4 All those were the titleholders at the time of my
5 survey.

6 I have -- I had repeated phone calls with
7 all of these persons, and in the -- additionally,
8 emails. I made every effort possible to get the --
9 get all parties involved to communicate and help
10 resolve the minor issues of how the access would
11 work through on those. I suggested that we put an
12 easement 20 feet -- approximately 16 feet in width.
13 20 feet on one side, on one boundary, and 40 feet on
14 the other side of the other boundary, to, in my
15 opinion, as an easement of necessity, to allow
16 access from one parcel onto the other.

17 This conforms with the long-term use of
18 this land. It always had three connections prior to
19 this division. It was my assumption that the
20 grantor of the 1993 deeds did not intend to landlock
21 the parcels in the back of the property.

22 I communicated that with all the parties
23 involved. Everyone was in agreement except for one
24 person, the complainant in this case. It was my
25 understanding at the completion of my survey plat

1 the deeds would be prepared, and those -- those --
2 that easement of necessity would be documented at
3 that time with the vesting deeds. That did not
4 happen, and we're here today.

5 Q. Mr. Watt, just as an aside, the owners
6 that you mentioned, are they related, to your
7 knowledge?

8 A. To the best of my knowledge, yes.

9 Q. Bad question.

10 A. Best of my knowledge.

11 Q. Yes. So now referring to the final matter
12 of the easement on Celestino Romero, how was that --
13 what is the issue there, and how was it addressed?

14 A. It was a simple drafting error. A line
15 was extended and depicted an easement that did not
16 exist. It's not labeled as an easement. It was an
17 errant line that ran on the plat.

18 Q. Thank you. You also prepared an
19 affidavit; is that correct?

20 A. That's correct.

21 Q. What was the purpose in filing of that
22 affidavit?

23 A. The affidavit I prepared was prepared
24 subsequent to reading and understanding the board
25 investigator's report. While I did not necessarily

1 agree with all the points that were in the board
2 investigator's report, I felt the best action was to
3 take an assertive action to correct anything that
4 was perceived as an issue.

5 Secondly, due to the -- knowing at this
6 point that there was litigation moving into the
7 district court, I was -- wanted to be clear that the
8 plat that ended up being filed in accordance with
9 the minimum standards, even though it was not --
10 there was not deeds prepared to match the easements
11 of the properties that I mapped, that the corrective
12 action needed to be made, as I knew this was moving
13 into district court, and I wanted it to be clear
14 that the easements I showed were proposed, that I
15 had made a mistake relating to the record calls, and
16 that the board investigator felt that the bearing
17 base was inadequate.

18 So I filed -- I filed the affidavits, of
19 course, in hope that that would settle this matter
20 and this could go through the district court process
21 and be resolved in there.

22 I guess what I would point out most
23 importantly here is we're human. We make mistakes.
24 It's how we respond to those mistakes that shows the
25 character that your -- this character of person

1 making that mistake. It's my belief that I did the
2 most honorable and correct thing by making a clear
3 statement, boldly in the public record that I had
4 made a mistake, and I wanted it to be clear how we
5 could remedy that.

6 MR. ROMERO: Your Honor, let the record
7 reflect that regarding the affidavit, we are
8 referring to Respondent's Exhibit D.

9 Q. Anything further regarding your affidavit
10 or the information that you offered in that
11 affidavit, Mr. Watt?

12 A. I don't believe so at this time.

13 Q. Now, having chosen option A, it being a
14 plat of exemption, where does that stand?

15 A. I prepared the -- I prepared the amended
16 plat to conform to the settlement agreement. In or
17 around 2019 it was submitted to the professional
18 surveying committee. It was my opinion that the
19 plat never needed approval or an exemption.
20 However, the state board or the professional
21 surveying committee made that suggestion in this
22 settlement agreement, so I chose to accept that
23 option so that -- to conform to the settlement
24 agreement.

25 But additionally, knowing that this would

1 not get filed in the clerk's office without the
2 required documents, proofs of taxation, supporting
3 deeds of conveyance, and the other fees, et cetera,
4 that would go with that, none of which are specified
5 as a requirement in the settlement agreement.

6 Surveyors prepare the plat. I often walk
7 projects through the planning department. I'm very
8 familiar with that department. I'm there weekly.

9 This plat, I knew, would not be able to
10 filed, and I have a grave concern that any plat I
11 file will be contested until a settlement agreement
12 is made between the parties in the district court
13 case or a judgment is made by the judge in that
14 case.

15 Q. And, Mr. Watt, just to backtrack a little
16 bit, you mentioned -- you referred to these
17 accessory documents. Why are those documents not
18 available at present?

19 A. It's beyond my ability, professional
20 requirements, to mediate between landowners to come
21 to an agreement on those documents, and I -- I
22 can't -- and I made every effort, in fact, in the
23 beginning of my survey to get the -- to get the
24 landowners to come to a reasonable, quick, and
25 expeditious, affordable settlement for everyone

1 involved.

2 And I -- we would need to have someone
3 fill out the application. We would need the deeds
4 prepared and a general agreement that the -- that if
5 the county planning department were to approve this
6 plat that it would be properly documented subsequent
7 to the approval.

8 Q. Mr. Watt, related to that, to your
9 knowledge, do you know whether or not Mr. Romero and
10 Mr. Cova have approved the -- your preliminary plat
11 that you have offered?

12 A. I am working on the assumption that
13 Mr. Cova and Mr. Romero can agree on very little.

14 Q. What is the status of the litigation?

15 A. Boy, that's a hard one. It's -- I have
16 been named -- initially there was a complaint filed
17 in the -- Eighth Judicial District Court between the
18 plaintiff, Nick Cova, and the defendant, Raymond
19 Romero. I was subsequently rolled into that lawsuit
20 as it's been moving at a snail's pace, from what
21 I've seen. I have reviewed the 400-plus paragraph
22 complaint in that.

23 I have -- have received a notice from the
24 court that -- pardon me, an order from the court
25 that Mr. Cova is due to make payment for my

1 attorney's fees relating to initially studying and
2 understanding the complaint and also that I've been
3 compelled to provide any documentation that I have
4 of record, which I've offered to do, opened up to do
5 for our -- for my legal -- for the fees required to
6 make the copying and scanning of those documents.

7 As of yesterday, I received an order from
8 the Court saying that Mr. Cova was -- needed to
9 expeditiously make payment on those attorney's fees
10 and confirming, additionally, that he will pay for
11 any copying, scanning of any documents in my office.
12 They're open. They're available. We just need to
13 work out how he's going to pay me for that. I've
14 not had any response in requesting payment for my
15 efforts there.

16 Q. One final question, Mr. Watt. Is there
17 anything further that you think that you could --
18 you could have done to meet compliance to date --
19 let me restate that. Is there anything further you
20 can do or could have done to meet -- to meet
21 compliance with the State's terms of settlement
22 agreement in this matter?

23 A. I do not believe there's anything else I
24 can do at this point to bring this to -- without
25 receiving specific instructions that the State board

1 could throw at them, the court provides them, or
2 it's provided in a settlement agreement, yes, I
3 could move this ahead. But without those, I
4 could -- there's -- another survey plat is only
5 going to mess -- muddy the waters.

6 MR. ROMERO: Thank you, Mr. Watt. I will
7 pass the witness at this point.

8 MS. JOE: Hearing officer, may I ask the
9 Respondent some questions at this time?

10 CHAIRPERSON COOPER: Yes. Please go
11 ahead.

12 EXAMINATION

13 BY MS. JOE:

14 Q. Mr. Watt, thank you for coming today and
15 explaining to the board your position. May I ask
16 you a few questions?

17 A. Yes.

18 Q. Okay. You entered into the settlement
19 agreement with the board back in early 2019; is that
20 correct?

21 A. That is correct.

22 Q. And at the time that you signed it, did
23 you believe you would be able to fill the terms of
24 the settlement agreement?

25 A. Yes, I did.

1 Q. Okay. And subsequent to signing it,
2 you've -- I believe it is your understanding that no
3 matter what you do, you do not believe you will be
4 able to fill the terms of the settlement agreement;
5 is that correct?

6 A. That is not correct.

7 Q. Can you please explain?

8 A. I believe that until these -- well, I can
9 prepare the plat in terms of the settlement
10 agreement. Any recordation of that plat and the
11 subsequent documentation that would need to be
12 prepared by others and acknowledged by others is out
13 of my ability to deal with that. So yes, my plat
14 conforms. It does match the settlement agreement,
15 and I fulfilled my obligations under the settlement
16 agreement. I provided that documentation. I have
17 done everything that I'm required to do with the
18 settlement agreement, but the settlement agreement,
19 on its face, leaves a hole that I cannot fill, and
20 that is agreement between the landowners to proceed
21 through an exemption process with the county.

22 Q. Okay. And just so I understand, because
23 I'm not a surveyor and not as well-versed in the
24 terms, so if I may ask, when it says, create --
25 under option A: To create a new plat via a claim of

1 exemption plat or subdivision plat that corrects the
2 deficiencies in easements, legal access, and the
3 proper depiction of the division of property, you're
4 stating that you were able to create that document?

5 A. Yes, I was. I have.

6 Q. And as I understand, you're stating --
7 pardon me. You previously testified that you have
8 only tried to pursue option A; is that correct? Is
9 that correct throughout this whole settlement,
10 trying to comply with the settlement agreement?

11 A. That's the only plat I provided to the
12 board, the professional surveying committee. That's
13 correct. I'm just looking at --

14 CHAIRPERSON COOPER: Pardon me. Is there
15 cross-examination?

16 MS. JOE: I'm not done. I just wanted
17 to -- I was just trying to read something, because I
18 thought it said something about option two in the
19 minutes of the professional surveying meeting, so I
20 was just trying to find it to see if I could
21 reference it.

22 Q. (By Ms. Joe) Mr. Watt, do you have in your
23 possession what's been marked as Exhibit Number 15?

24 A. I believe I do.

25 Q. It's on the left-side corner. It's Bates

1 number 77, numbered paragraph seven. And I'll just
2 read it so everyone else can understand what I'm
3 talking about. It states in this document: On
4 November 6th, 2019, Respondent made a public comment
5 at the committee's public meeting informing the
6 committee that he fulfilled item two of the
7 settlement agreement, which was to prepare a new
8 survey plat with a claim of exemption subdivision.
9 In addition, Respondent stated he fulfilled the plat
10 requirements of the settlement agreement and took
11 care of the items before outlined in the notice of
12 contemplated action, parentheses NCA, and hoped the
13 case could be closed. More details were shared by
14 Respondent, detailing his efforts to seek compliance
15 with the settlement agreement. And then it refers
16 to Exhibit 6.

17 Do you have that in front of you,
18 Mr. Watt?

19 A. I apologize, Ms. Joe. I do not.

20 Q. Okay. Do you need me to read that again,
21 and you can tell me if that's an accurate statement
22 or not? I'll read it again.

23 A. Please. Thank you.

24 Q. On November 6th, 2019, Respondent made a
25 public comment at the committee's public meeting

1 informing the committee that he -- and this is
2 quotes -- fulfilled item two of the settlement
3 agreement, which was to prepare a new survey plat
4 with a claim of exemption subdivision. In addition,
5 Respondent stated -- and this is quoted again -- he
6 fulfilled the plat requirements of the settlement
7 agreement and took care of the items which were
8 outlined in the notice of contemplated action,
9 parentheses NCA, closed quotes, and hoped the case
10 could be closed. More details were shared by
11 Respondent, detailing his efforts to seek compliance
12 with the settlement agreement, and then it refers to
13 State's Exhibit 6.

14 Is that a situation that you recall,
15 Mr. Watt?

16 A. I do recall the situation, yes. I think
17 there's an error that it was -- item two was not --
18 was not the correct citation.

19 Q. It should be item one that refers to
20 the --

21 A. Actually, item A.

22 Q. Item A. Okay.

23 MS. JOE: I have no further questions at
24 this time.

25 CHAIRPERSON COOPER: Mr. Romero?

1 MR. ROMERO: I have no redirect, Your
2 Honor.

3 CHAIRPERSON COOPER: I'm going to go on to
4 the board questions. Just to remind everybody, this
5 will be it. We'll have the closing arguments, but
6 that would be the end of this.

7 So if there's nothing else, do we have any
8 questions from the board members?

9 MS. McREYNOLDS: I have no questions,
10 Mr. Chair.

11 MR. TONANDER: Mr. Hearing Officer.

12 CHAIRPERSON COOPER: Mr. Tonander.

13 EXAMINATION

14 BY MR. TONANDER:

15 Q. Thank you. Just to sum up for me here, I
16 think you testified that you believe option A was
17 viable, and you executed the settlement agreement;
18 is that correct?

19 A. Yes, I did.

20 Q. Okay.

21 A. The preparation of the survey plat.

22 Q. Yes, sir. At what time did you become
23 aware that option A was not viable?

24 A. It was clear to me from the beginning
25 that -- let me be extremely clear. Option A says:

1 Prepare a survey plat. I did that. That is viable.
2 The filing of that survey plat is the item that's
3 not viable, and that is not specifically stated in
4 the settlement agreement. It says nothing towards
5 recordation or submitting this for approval from the
6 Taos County Planning Department in this situation.

7 Q. So it was your understanding from the
8 outset that the objective here was simply the
9 creation of something that would not be filed?

10 A. That's correct. That was my
11 understanding.

12 MR. TONANDER: Okay. No further
13 questions.

14 EXAMINATION

15 BY MR. COOPER:

16 Q. Dave Cooper. I have a question for you,
17 Mr. Watt. A few questions, Mr. Watt.

18 A. Yes, sir.

19 Q. Do you have written confirmation from the
20 county that they would not require any approvals, or
21 was that just verbal?

22 A. At this time, it was just verbal. I have
23 made a request for that, and I haven't been able to
24 get a written response. As of about three weeks
25 ago, the planner said he would work on that. It got

1 lost in the holidays. I hoped to have that as an
2 exhibit for today's meeting.

3 Q. And you did state that the litigation is
4 still ongoing?

5 A. Yes, it is.

6 Q. Do you maybe have an idea of how long
7 that's going to be? Are you close to a resolution?

8 A. I have no idea what the timeline for that
9 trial is.

10 Q. You stated that you submitted an
11 affidavit. Could you further clarify for the record
12 what is -- what that -- was on that affidavit?

13 A. I believe that affidavit is one of our
14 exhibits, but I do have a copy of it here in front
15 of me. I could paraphrase. It acknowledges that
16 I'm a professional surveyor. It begins with the
17 citation of the specific survey plat in order to
18 make researching this easy. So if someone is
19 tracing something in this area, this would be easy
20 to find.

21 I acknowledge that I did prepare the
22 survey plat in 2012. I acknowledge that there's
23 a -- how I divided the property, how -- why I made
24 the determination relating to the divisions between
25 the agricultural land and the timberland.

1 I acknowledge that I -- I depict a 20-foot
2 and 40-foot easement that were only proposed, that
3 they were not a matter of record.

4 I acknowledge that there was an errant
5 line that may be construed as an easement that went
6 onto the adjoining property owner's land. Sorry.

7 I acknowledge -- I acknowledge that the
8 record dimensions were not shown on the initial 2012
9 survey plat, and I attach as Exhibit A the record
10 dimensions for that plat, and I make a statement
11 relating to the easement and the fact that certain
12 tracts have direct access to the county road.

13 Q. Thank you. For clarity, the 2012 plat,
14 you did record that; is that correct?

15 A. Affirmative. That is correct.

16 CHAIRPERSON COOPER: I do have a question
17 for our board investigator, Mr. Cala. Are you
18 available?

19 MR. CALA: Yes, I am, Mr. Cooper.

20 CHAIRPERSON COOPER: Mr. Cala, have you
21 had an opportunity to review the preliminary plat
22 submitted by Mr. Watt?

23 MR. CALA: Yes, I reviewed that plat when
24 he submitted -- when the board asked me to review it
25 quite a while back.

1 CHAIRPERSON COOPER: Just for the public
2 record, did that comply with the minimum standards?

3 MR. CALA: The plat, as I understood it,
4 was -- well, it's creating six tracts of land and is
5 granting easements, both of which require consent of
6 the underlying property owners, and so the plat has
7 a space for the approval by Taos County, but the
8 plat does not bear a place for a signature for each
9 of the underlying property owners, indicating
10 consent to the subdivision in the manner shown and
11 indicating consent to the granting of the easements
12 as shown. From that standpoint, it would not
13 comply.

14 CHAIRPERSON COOPER: Mr. Watt, would you
15 like to respond to that?

16 THE WITNESS: Yes, I would. First of all,
17 the amended plat -- the preliminary plat that was
18 submitted in 2019 did not show easements. They were
19 specifically requested to be removed based on the
20 investigator's report.

21 Taos County -- secondly, Taos County does
22 not require the landowners to sign off on a claim of
23 exception plat. I know things are done differently
24 in every county, but that is not required in this
25 county.

1 Again, it's clear to me that I keep
2 getting painted into a corner. I cannot make these
3 landowners sign this, nor am I duty-bound to mediate
4 between these landowners and bring them to that.
5 And in that regard, I had tried everything I could
6 in 2012 to -- to remedy this -- these minor issues,
7 these minor issues that are so blatantly obvious to
8 someone looking at this situation. I attempted to
9 remedy this with good faith between the landowners
10 in 2012. It became clear to me that wasn't even
11 possible.

12 So the notion that I could prepare a plat
13 and have the landowners sign off on it, that's
14 great. The settlement agreement makes no statement
15 that the landowners need to sign off on that plat.
16 The claim of exemption plat in Taos County does not
17 require it; hence, it is not on there.

18 CHAIRPERSON COOPER: Okay. I need to
19 pause here for a minute. I have a question here
20 from the secretary/director that I need to address
21 if we can hold for a few minutes, please.

22 MR. COVA: While we're waiting, is it
23 possible I could make a statement at some point?

24 CHAIRPERSON COOPER: Would you hold for
25 just a moment, sir?

1 MR. COVA: Sure.

2 (Recess was taken from 10:24 to 10:26.)

3 CHAIRPERSON COOPER: Okay. I'm back.

4 Mr. Cova, you are not on the witness list. I'm
5 sorry, but I do need to get approval from both
6 counsels whether they will allow you to enter your
7 testimony into the public record.

8 Mr. Romero, do you have any objections?

9 MR. ROMERO: Yes, I do, Your Honor. I
10 have extensive objection to this. This is not a
11 matter reviewing Mr. Cova's complaint. This is a
12 matter of the framework of the statement of facts.
13 We are addressing the procedure of this matter.
14 All -- having already subsumed every matter that
15 Mr. Cova has directed and continues to direct to the
16 State surveying board. This is not a review of
17 the -- this is not a review of Mr. Cova's complaint.
18 I would vehemently object to involving him.

19 CHAIRPERSON COOPER: Mr. Romero, I'll
20 grant that request.

21 Mr. Cordova, sorry, I cannot allow your
22 testimony at this hearing at this time.

23 As far as I'm concerned, that concludes
24 all of the direct examination, cross-examination,
25 and any board questions.

1 Do we have any closing arguments? I'll
2 let you go first, Mr. Romero.

3 MS. BEVACQUA-YOUNG: I'm sorry, Chairman.
4 I'm sorry, can you hear me? Chairman Cooper, this
5 is Donna Young. I just need to have you correct for
6 the record, you were calling Mr. Cova "Mr. Cordova."
7 Is it Mr. Cova or Cordova? I need to have the court
8 reporter have that correct information.

9 CHAIRPERSON COOPER: I only see "NC" up on
10 the screen. If somebody can assist me.

11 MR. VALDEZ: Mr. Chair, members of the
12 committee, it's Mr. Cova, C-o-v-a. Mr. Cova.

13 CHAIRPERSON COOPER: Thank you,
14 Mr. Valdez.

15 Thank you, Ms. Young.

16 Do we have any closing arguments, Ms. Joe?

17 MS. JOE: I'm sorry. Did you want
18 Mr. Romero to go first or myself to go first? It's
19 your choice.

20 CHAIRPERSON COOPER: In my script here,
21 you come first. Mr. Romero comes second.

22 MS. JOE: Okay. I thought you said
23 Mr. Romero first. That's all. Thank you.

24 So today the State has presented its case
25 and the statement of facts, and with the

1 understanding that the professional surveying
2 committee has reviewed the settlement agreement
3 numerous times since its inception on February 1st
4 of 2019 and found Mr. Watt provided an exemption
5 that he did -- sorry about that. The document that
6 he filed with the surveying committee, the committee
7 has found time and time again as it reviewed it and
8 reviewed the terms of the settlement agreement that
9 he did not comply.

10 Of course, it is up to the hearing
11 officer, along with the committee members, to
12 consider again today whether or not Mr. Watt has
13 complied. He has, of course, claimed that he has.

14 Everyone understands the circumstances
15 around the property owners that are in play in this
16 case, as both the Respondent's attorney and
17 Respondent have spoken to the extensive lawsuit that
18 is -- has been ongoing for some time.

19 And with that, we leave it to the
20 committee to determine whether or not Mr. Watt has
21 complied with this settlement agreement. It is the
22 position of the State that he has not. Thank you
23 very much.

24 CHAIRPERSON COOPER: Thank you, Ms. Joe.
25 Mr. Romero.

1 MR. ROMERO: Thank you, Your Honor. Just
2 very briefly. Yes, it's -- it's Mr. Watt's and my
3 contention that Mr. Watt has complied both with the
4 spirit and the letter of the settlement agreement by
5 production of -- the creation of the production to
6 the board of the preliminary plat. Together with --
7 that together with the affidavit address all of the
8 inadequacies that were -- that have been raised in
9 this matter by this board.

10 Undoubtedly, you know, it begs the
11 question, what do we do with this plat. Well, the
12 point is that it has been -- it is tied up, to state
13 the obvious, in litigation, and the litigation
14 between Mr. Cova and Mr. Romero and now involving
15 Mr. Watt is going to have an endpoint, and at that
16 endpoint, there will be a determination relative to
17 the various issues that Mr. Cova has raised that
18 involve, as I said in my opening, involve issues
19 that are beyond the scope of this -- of this
20 proceeding that involve, principally, Mr. Cova's
21 claims of access to his property.

22 And these are issues between him and
23 Mr. Romero. Once those issues are resolved, it's
24 likely we can see a final product, but today, as
25 this board has brought this matter to -- seeking

1 resolution, I basically want to offer two options
2 here. One is to try to convince the board that yes,
3 Mr. Watt has complied, please drop this matter
4 relative to Mr. Watt.

5 I guess another option is keep it open
6 again -- or continue to keep it open, and once this
7 matter is resolved in the district court, and we get
8 clarity -- and we get clarity as to what this
9 preliminary plat will finally look like, let's deal
10 with it then.

11 I don't -- I don't -- I get the impression
12 that none of the board, and certainly Mr. Watt, want
13 to pursue that second option and keep this open,
14 this -- for so long. But Mr. Watt has acknowledged
15 the errors. He has corrected the errors in full
16 compliance. I would ask this board to basically
17 acknowledge that.

18 If the board seeks to impose some form of
19 a penalty, we would certainly ask that it be minimal
20 based on Mr. Watt's good-faith compliance throughout
21 this proceeding and his grand efforts to try to
22 address all of these issues.

23 And perhaps most -- very importantly,
24 aside from all of this, is that Mr. Watt is a very
25 important component to the Taos community. We need

1 to keep his office open, his employees operating,
2 because our community is very busy with -- well, let
3 me just say, there's a lot of surveying required and
4 in demand right now.

5 I'd ask the board to please proceed to
6 consider this matter as having demonstrated full
7 compliance by Mr. Watt and ask this board to please
8 just drop this matter and close this proceeding.
9 Thank you.

10 CHAIRPERSON COOPER: Thank you,
11 Mr. Romero.

12 Rebuttal, Ms. Joe? Ms. Joe?

13 MS. JOE: Yes, I have nothing further.

14 CHAIRPERSON COOPER: So this is the end of
15 the hearing. The record of this hearing is now
16 closed. I want to thank both parties and counsel
17 and the witnesses for their time and testimony
18 today.

19 The court reporter will prepare a written
20 transcript of today's hearing that will include all
21 exhibits admitted as evidence into this hearing.
22 This board will make and issue its decision in
23 accordance with the Uniform Licensing Act after the
24 board has reviewed and considered all testimony and
25 evidence received at today's hearing.

1 The board will deliberate this case in its
2 executive session today and will reopen its meeting
3 to make its announcement about its decision. All
4 interested parties may be present for that portion
5 of the board meeting when the board takes formal
6 action in this case.

7 This hearing is now adjourned. Thank you
8 for participating.

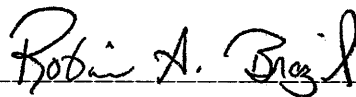
9 (Hearing adjourned at 10:35 a.m.)
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1 STATE OF NEW MEXICO)
 2) ss
 3 COUNTY OF BERNALILLO)
 4

5 REPORTER'S CERTIFICATE

6 I, Robin A. Brazil, New Mexico Certified
 7 Shorthand Reporter, DO HEREBY CERTIFY that I did
 8 administer the oath to the witnesses herein prior to
 9 the taking of their testimony; that I did thereafter
 10 report in stenographic shorthand the testimony set
 11 forth herein, and the foregoing is a true and correct
 12 transcription of the proceedings had upon the taking
 13 of this hearing.

14 I FURTHER CERTIFY that I am neither employed by
 15 nor related to any of the parties or attorneys in
 16 this case, and that I have no interest whatsoever in
 17 the final disposition of this case.

18
 19
 20 

21 Robin A. Brazil, RPR
 22 BEAN & ASSOCIATES, INC.
 23 Certified Court Reporter, NM #154
 License expires: 12.31.22

24 (6156N) RAB
 25 Date taken: January 13, 2022
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