

**BEFORE THE PROFESSIONAL ENGINEERING BOARD OF  
THE NEW MEXICO BOARD OF LICENSURE FOR PROFESSIONAL  
ENGINEERS AND PROFESSIONAL SURVEYORS**

**IN THE MATTER OF:**

**Mitchel K. Noonan  
License No. 6998 (Lapsed)**

**CASE NO.: 2-PS-11-30-2021**

**Respondent.**

**PRE-NOTICE OF CONTEMPLATED  
ACTION SETTLEMENT AGREEMENT**

**WHEREAS**, the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors' Professional Surveying Committee ("Committee") reviewed records and investigation files demonstrating violations of the Engineering and Surveying Practice Act, NMSA 1978, Sections 61-23-1 through 61-23-36 and Board Rules adopted pursuant to that Act, and on June 8, 2023 the Board's Professional Surveying Committee voted to enter into a Pre-Notice of Contemplated Action Settlement Agreement ("Pre-NCA") in this matter to Respondent Mitchel K. Noonan, professional surveyor, license number 6998; and

**WHEREAS**, Respondent and the Board are willing to resolve this matter amicably without the issuance of an NCA as required under the Uniform Licensing Act ("ULA"), NMSA Sections 61-1-1 et seq., and the Engineering and Surveying Practice Act, NMSA 1978, Sections 61-23-1 et seq., without a hearing; and

**WHEREAS**, Respondent and the Board believe that this Pre-NCA Settlement Agreement is appropriate and in the best interests of both the Board and Respondent;

**IT IS AGREED AS FOLLOWS:**

**1. Jurisdiction**

The Board has jurisdiction over Respondent and the subject matter. Respondent is licensed by the Board or otherwise subject to the Engineering and Surveying Practice Act, and falls under the jurisdiction of the Board and its Professional Surveying Committee.

## **2. Violations**

Section 12.8.2.9 G. (1) and (2) Boundary Survey

Section 12.8.2.9 J. (4) Boundary Survey

Section 12.8.2.9 J. (6) a. b. c. d. Boundary Survey

Section 12.8.2.9 J. (9) Boundary Survey

Section 12.8.2.16 B. NMAC Accuracy

## **3. Action**

A. Respondent will remit a total fine of \$1,500 payable to NMBLPEPS to be paid no later than ninety (90) days from the date this Agreement is accepted by the Board.

B. If Respondent were to reinstate his New Mexico Professional Surveyor license 6998, he would have to be in compliance with the New Mexico Minimum Standards and correct the deficient plat named "Boundary Survey of Tracts A-1 & B-1 for Tagawa Greenhouse Inc." Respondent will provide a copy of the amended plat to the Board within sixty (60) days from the date of activation of his NM PS license. Once approved, file the amended plat, and provide a copy to the Board office withing thirty (30) days.

## **4. Waiver**

A. Respondent enters into this Pre-NCA Settlement Agreement voluntarily and waives Respondent's right to a full hearing before the Board and all relevant time limitations pursuant to the provisions of the ULA, including but not limited to NMSA 1978, Sections 61-1-4(F) and 61-1-8.

B. By signing this Pre-NCA Settlement Agreement, Respondent understands and agrees that Respondent waives excusal of any Board member on the grounds of bias or improper motive as a result of Respondent's review of this Pre-NCA Settlement Agreement.

C. Respondent's waiver of any rights herein is made knowingly, intentionally, and voluntarily.

D. Respondent has the right to seek the advice of an attorney regarding this Pre-NCA Settlement Agreement.

E. This Pre-NCA Settlement Agreement constitutes disciplinary action by the Board.

5. Failure to comply with the terms and conditions of this Pre-NCA Settlement Agreement shall be separate and independent grounds for disciplinary action by the Board. In the event the Respondent fails to comply with the provisions hereof, the Board shall have the right to take such action against Respondent as it deems appropriate under the circumstances, including revoking Respondent's license.
6. This Pre-NCA Settlement Agreement is a settlement of Case Number 2-PS-11-30-2021 and only the specific facts therein. No costs have been incurred in this matter. The Board reserves the right to initiate proceedings for any other violation of the Engineering and Surveying Practice Act or the Board Rules adopted pursuant to that Act.
7. **Reportable Discipline**
  - A. This Agreement, if accepted, constitutes formal disciplinary action by the Board and must be reported to the National Council Examiners for Engineering and Surveying (NCEES) Enforcement database. It is noted that other jurisdictions where Respondent possesses a surveyor's license might require Respondent to report this disciplinary action. This statement is a reminder that Respondent may have a duty to report this disciplinary action in another jurisdiction. Respondent acknowledges the following discipline will be reported:
    - B. Respondent failed to meet the New Mexico Minimum Standards of Surveying regarding to Section 12.8.2.16 Accuracy and 12.8.2.9 Boundary Survey.

**8. Non-Compliance**

Respondent agrees that any violation of this Agreement may result in further disciplinary action. A violation will result in the immediate filing of an Order to Show Cause by the Board's Executive Director as to why the Board should not find Respondent in violation of the Agreement and impose lawful sanctions or penalties and/or take any other disciplinary action. Upon filing an Order to Show Cause, the matter shall be set for the next regular meeting of the Board, at which time the Board shall hear from the Executive Director regarding the alleged non-compliance and any evidence offered by Respondent. Any presentation regarding the Order to Show Cause shall be limited to evidence surrounding Respondent's alleged failure to comply with the Agreement or defense

thereof. If the Board finds that a violation has occurred, the Board may impose any discipline against Respondent considered in the Order to Show Cause.

**9. Compliance**

If Respondent fully complies with the terms and conditions of this Agreement the matter will be concluded. Respondent agrees to otherwise comply with the Engineering and Surveying Practice Act, and acknowledges that any separate violation of the Act or Board Rules adopted to that Act, which may result in separate disciplinary charges and action by the Board.

**10. Contact Information**

Respondent shall notify the Board's office within ten (10) calendar days if there is a change in employment or home address while this Agreement is in effect.

11. The Board agrees that nothing in this Pre-NCA Settlement Agreement represents a restriction on the Respondent's license.

12. This Pre-NCA Settlement Agreement is a public record subject to inspection under the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 et seq.

07/24/23

DATE

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RESPONDENT

**BEFORE THE PROFESSIONAL ENGINEERING BOARD OF  
THE NEW MEXICO BOARD OF LICENSURE FOR PROFESSIONAL  
ENGINEERS AND PROFESSIONAL SURVEYORS**

**IN THE MATTER OF:**

**Mitchel K. Noonan  
License No. 6998 (Lapsed)**

**CASE NO.: 2-PS-11-30-2021**

**Respondent.**

**ORDER**

Having reviewed this proposed settlement agreement, the Committee Chair, by and through the authority provided by the Committee, during a public meeting, this Agreement is:

  X   ACCEPTED                             REJECTED

7/26/2023

DATE

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JOHN WAYNE, PS  
CHAIRPERSON  
NEW MEXICO PROFESSIONAL  
SURVEYING COMMITTEE

**CERTIFICATE OF SERVICE**

I, Miranda Gonzales **HEREBY CERTIFY** that a true and correct copy of the foregoing *Pre-NCA Settlement Agreement Case 2-PS-11-30-2021* was mailed to the Respondent on July 26, 2023, via certified mail, return receipt requested, to Respondent's last address of record:

Mitchel K. Noonan  
12 Amigos Lane  
Santa E, NM 87508

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Miranda Gonzales, Administrative Manager  
New Mexico Board of Licensure for  
Professional Engineers and Professional Surveyors  
P.O. Box 1967  
Santa Fe, New Mexico 87504

Certified Mail Number: 9171 9690 0935 0292 8315 70