

ACSM-ASP Government Affairs Program Accomplishments

(January 1982-November 1983)

FORMED IN JANUARY, 1982, the American Congress on Surveying and Mapping/American Society of Photogrammetry (ACSM/ASP) Joint Government Affairs Program has served the profession well, achieving numerous accomplishments in a very short period of time.

ACSM/ASP strategy and policy on legislation in the U.S. Congress and administrative actions of the Federal Government affecting the profession are developed by the Joint Legislative Affairs Committee. This committee is currently in the process of changing its name to the Joint Government Affairs Committee, to better reflect the range of issues within the committee's charge.

The committee is chaired by Paul B. Lapham. Other committee members during 1983-84 are P. Porcher "Shay" Gregg, Tom O. McCullough, Edward J. McKay, R. Anthony Novotny, Jr., all of ACSM, and A. O. Quinn, representing ASP. In addition, the committee has task forces which address specific issues. The Task Force on Federal Land Survey Legislation is headed by Robert E. Myers, Jr., and the now-disbanded Task Force on the Surface Mining Act was headed by E. Franklin Hart. The committee and ACSM are represented on the Committee on Federal Procurement of Architect/Engineer Services (COFPAES) by William G. Wallace, Jr.

The Joint Government Affairs Program is staffed by a full-time Director, John M. Palatiello. Additionally, the societies retain the Washington, D.C. law firm of Patton, Boggs and Blow to assist in their legal and governmental activities.

Recognizing that numerous decisions affecting the profession were being made by the U.S. Congress and Federal agencies without input from the profession, ACSM was joined by ASP in the formation of the Joint Government Affairs Program. Herewith is a summary of the accomplishments of this program in less than two years existence.

- An amendment was added to the fiscal year 1984 Department of the Interior and Related Agencies Appropriations Bill (Public Law 98-146) which rein-

states the land surveyor to his traditional role as the "lead professional" qualified and authorized to prepare and certify maps, plans, and cross-sections of land which are included in a permit required by the Surface Mining Control and Reclamation Act of 1977. This amendment corrected an inequity passed by Congress some six years ago which had an adverse impact on the public and the profession in mining regions of the country. The Act's original provisions excluded land surveyors from a lead role in the performance of services which they are exclusively entitled to provide under the registration laws of almost every State in the Union. It was primarily this issue that brought ACSM into the field of Government Affairs.

- The selection of firms to provide surveying and mapping services to the Federal Government is now based on demonstrated competence and qualifications, not the lowest bid, as a result of several actions by the Government Affairs Program. These efforts to clarify the application of "Brooks Bill" (Public Law 92-582) procedures put surveying and mapping services on the same level as architecture and engineering services.

Our first success was language in the report of the House and Senate Armed Services Committees to accompany the Military Construction Codification Act (Public Law 97-124). That law codified the Brooks Bill method of procurement for A/E services for military construction projects. The committee report language (H. Rept. 97-612/S. Rept. 97-474) includes "surveys and mapping" in the definition of A/E services and construction design.

The civil works branch of the U.S. Army Corps of Engineers was the next ACSM-ASP target. The Corps civil works program includes several billion dollars per year on flood control, navigation, water resource, and related projects which require various types of surveying and mapping services. An amendment was added to the fiscal year 1983 Energy and Water Development Appropriations bill to require use of the Brooks Bill negotiated contract for Corps civil works procurement of surveying and mapping services. Congress was backed-up in its work in 1982, and this bill was not passed. A continuing appropriation (Public Law 97-377) was passed in its place and the Brooks Bill provision became effective. The Corps issued an

engineering circular in July, 1983 to implement this Congressional directive, which included a broad and comprehensive definition of surveying and mapping services, including photogrammetry and remote sensing.

In order to provide more permanent authority for the Corps to use these procedures, the House and Senate Appropriations Committees repeated this language in a Supplemental Appropriations bill for fiscal year 1983. Language in Public Law 98-63 states that "contracts for architecture and engineering services, and surveying and mapping services, shall be awarded in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 *et seq.*)"

This provision of law has been interpreted to be written in such a manner that, in the words of U.S. Senator William S. Cohen (R-ME), it "does not only apply to the Corps of Engineers, but to *all* Government procuring agencies" (emphasis added). This comment came on the floor of the United States Senate when Sen. Cohen, chairman of the senate subcommittee with jurisdiction over procurement legislation, and Sen. Charles Percy (R-IL), an original sponsor of the Brooks Bill, engaged in a discussion of architect, engineer, surveying, and mapping procurement during consideration of S. 338, the Competition in Contracting Act (see *Congressional Record*, November 11, 1983).

- The Government Affairs Program has further enhanced the professional image of surveyors by obtaining an opinion from the U.S. Department of Labor clarifying that members of survey crews are *not* subject to the Davis-Bacon Act. That Act requires contractors or subcontractors on federal construction projects to pay laborers the "prevailing wage." The Labor Department ruled in 1962 that members of crews conducting construction stake out surveys are *not* considered laborers within the meaning of the Act. ACSM-ASP successfully obtained a confirmation of that opinion from the Reagan Administration.
- The need for an accurate record of constructed public works was recognized by Congress when the House Public Works and Transportation Committee adopted an amendment to require an "as-built survey" of coal slurry pipelines. The amendment was added to a bill to grant the right of eminent domain for the construction or extension of pipelines to carry a mixture of finely ground coal and water, known as coal slurry. The provision was supported by a detailed explanation in the House committee's report (H. Rept. 98-64, Part 2), stressing the need for an accurate record of the location of the pipeline and its right-of-way.
- Recognition of surveying has also been enhanced by Congressional passage of a resolution to authorize the President to issue a proclamation to designate the 1984 ASP-ACSM convention week, 11-17 March, as "National Surveyors Week." House Joint Resolution 103 and Senate Joint Resolution 44 were cosponsored by 34 United States Senators and 224 members of the U.S. House of Representatives. This observance will help educate the public on the importance of surveying, mapping,

and all the related disciplines in construction, natural resource management, and protection of private property rights.

- The ACSM-ASP Government Affairs program provided expert comment which was adopted by the U.S. Forest Service in its regulations implementing the "Small Tracts Act" (Public Law 97-465), which authorizes the Secretary of Agriculture to convey small tracts of Forest Service land involved in boundary disputes. These regulations include such ACSM-ASP suggested provisions as recording of conveyance documents in state or local land offices, use of licensed surveyors or Forest Service surveyors for any needed surveys or resurveys, and compliance with state survey law in the survey or resurvey of lands to be conveyed.
- The profession's impact in the political world has been increased through the formation of the ACSM-NSPS Political Action Committee (PAC). This separate committee accepts voluntary, personal contributions from individuals in the societies. The PAC then evaluates the voting records of members of Congress and makes contributions to the election campaigns of candidates who have served the public interest by taking responsible positions on issues affecting the surveying and mapping profession. Formed in April, 1982, the ACSM-NSPS PAC has already provided financial support to more than 30 Republican and Democrat members of the U.S. House and Senate, totaling more than \$5,000. Additionally, the PAC hosted more than 50 members of Congress and their staffs at the profession's first Congressional reception held during the March, 1983 convention in Washington, and sponsored a breakfast at the September, 1983 Salt Lake City Convention which featured a speech by Congressman Dan Mariott (R-UT). ASP recently voted to join as a sponsor of the PAC, and the necessary paperwork is currently being processed to affect this change.
- The Remote Sensing community is also well served by the Government Affairs program. Current Administration plans to commercialize the nation's land remote sensing satellites (Landsat) have been monitored and addressed by ASP through the program. On 21 July, Dr. Thomas M. Lillesand testified before two subcommittees of the House Science and Technology Committee, presenting the society's views on the satellite program. This was the first time a member of ASP testified before Congress on behalf of the society. The Government Affairs program also sponsored a briefing at the ACSM-ASP National Office for members in the Washington area by the Commerce Department's Source Evaluation Board, the agency writing the request for proposals for the sale of Landsat. This briefing was repeated at the convention in Salt Lake City.

These are a few of the major accomplishments of the Joint Government Affairs Program. What this summary does not tell you is that ACSM-ASP is fast becoming a strong voice for the profession in Washington. Members of Congress and Federal agencies frequently call the National Office seeking advice on issues affecting the profession. In the past, too many decisions affecting the profession were made

without the input of the profession. In the two years since our full-time Government Affairs Program was formed, we played "catch-up ball" in an effort to correct those adverse actions that occurred before we became active in this field. Today, we are staying ahead of the game, taking the initiative and making

certain the public is protected by providing Congress and Federal agencies with the professional and technical expertise they need in order to make informed decisions on issues which affect every member of our profession, whether he or she is a member of ACSM-ASP or not!

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