

L2889

L2889

Mike Romportl

From: "VanKoten, Dominica" <dvankote@blm.gov>
To: <mrromportl@co.oneida.wi.us>
Cc: "Hand, Travis M" <t35hand@blm.gov>
Sent: Monday, May 21, 2012 8:08 AM
Subject: FW: Sec 21-38-7 4th PM Wisconsin

This is the response Travis prepared. I think maybe it did not get to you because he had a large attachment with the letters he found at archives. Let me know that you received this message and we will work to get you the attachments once we know you are receiving our messages.

Dominica VanKoten
 WO-350 Cadastral Program
 (202) 912-7167 desk
 (571) 266-9585 cell

From: Hand, Travis M
Sent: Thursday, May 03, 2012 12:01 PM
To: mrromportl@co.oneida.wi.us
Cc: VanKoten, Dominica; Sroufe, John
Subject: Sec 21-38-7 4th PM Wisconsin

Mr. Romportl,

Dominica Van Koten, BLM Eastern States', Chief Cadastral Surveyor requested that I reply to your email dated March 16, 2012, concerning the section line between sections 16 and 21, and the descriptions of corners restored in the vicinity of section 16, T. 38 N., R. 7 E, 4th P.M., Wisconsin, during the examination executed by Wesson Cook in 1928.

T. 38 N., R. 7 E., was originally subdivided by Alex Anderson in 1863, as shown on the official plat approved Jan. 19, 1864. Robert J. Brice of Eagle River made an application for the survey of alleged omitted public lands bordering a lake in Section 16, in 1927. Wesson Cook, U.S. Transitman, performed an examination of section 16 in 1928 to determine if there were indeed omitted lands in section 16 as reported by Mr. Brice. Mr. Cook submitted his report of examination on March 25, 1929, which proved that no public lands existed by reason of gross error or fraud. The application for survey by Mr. Brice was therefore rejected by letter dated Aug. 16, 1929 (1258441 "E" WHR).

The question of title to omitted lands was raised again in a letters to the GLO from J.A. Berkdall dated June 16, 1936 and the Commissioner of the Public Lands of Wisconsin dated October 8, 1936. Decisions were returned dated July 1 and October 24, 1936 respectively. In the decisions to each it is stated:

This office by letter dated July 25, 1929, approved by the Assistant Secretary on July 29, 1929, held that the areas in question are not of sufficient size and extent to justify the Government in asserting title thereto as public lands of the United States and rejected the application for survey by Robert J. Brice.

Title to the lands in question passed from the Government when patent was issued to the subdivisions to which they were attached.

On August 17, 1955, Emil Seiter filed an application to purchase unsurveyed public lands abutting Lot 1 in sec. 21. The decision to reject his application dated June 15, 1956, appears to have been made

L2889

without the above mentioned supporting documents, but instead was made by a comparison of the original survey with the U.S. Geological Survey Topographic quadrangle titled, Minocqua, Wis. The decision to reject Mr. Seiter's application to purchase unsurveyed land states:

In consideration of court decisions rendered on cases of lands omitted from the original survey through gross error or fraud, and the right of the United States to so claim these areas as public lands, it is held that the subject area is not of sufficient size and extent to support a claim of gross error or fraud in the original survey or to justify the Government in asserting title thereto. Title to the excess land is presumed to have passed from the government when patent was issued to the subdivisions to which it is attached.

Based on the previous determinations, title has passed from the United States and the surrounding lands are in private ownership, therefore, the laws of the State of Wisconsin will govern to the ownership of the small areas in question.

The section line between sections 16 and 21 was run in the original survey as a terminal line beginning at the corner of sections 16, 17, 20 and 21, and ending at the meander corner between sections 16 and 21 on the west shore of what is now known as South Two Lake. The measurements in the field notes for this mile terminate with the establishment of the meander corner; there is no triangulation across the lake or offset measurement to the east beyond the meander corner. The plat also demonstrates by dashed line that the remainder of the line was not run. The field notes contained in the report of examination are likewise a terminal line beginning at the proportioned cor. of secs. 16,17,20 and 21, and ending at a witness corner to the meander corner on the west shore of South Two Lakes.

Accordingly, the BLM would consider the riparian boundary of lots 1, 2 and 3 in section 21 to be defined by the actual ordinary high water line of South Two Lake.

The above mentioned documents are being attached for your information. The report of examination contains the descriptions of the corners restored.

Sincerely,

Travis Hand
BLM Cadastral Surveyor
P.O. Box 13215
Hayward, WI 54843

t35hand@blm.gov
715-634-6783

L2889

10/13/2012

L 2889

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE

Washington, D. C., March 25, 1929.

Report of examination,
Group No. 23, Wisconsin.

Mr. Arthur D. Kidder,
Associate Supervisor of Surveys,
General Land Office,
Washington, D. C.

Sir:

In pursuance of assignment instructions dated August 24, 1928, and in accordance with special instructions dated May 5, 1928, as authorized in office letter 1258441 "K" CGP, dated December 29, 1927, and letter "L" dated February 28, 1928, I beg to submit the following report in connection with the examination in Sec. 16, T. 38 N., R. 7 E., 4th P. M., Wisconsin, under Group No. 23. The accompanying diagram of Sec. 16 is hereby made a part of this report.

As provided in the special instructions, this examination was directed chiefly toward finding out whether or not there is an area of land, of approximately 50 acres, as represented by the applicant for survey, in Sec. 16,

"E" NO

above the lake level, rising as high as 30 feet above the same, which is now about one foot higher than usual. There is no indication that there has been any considerable change in the level of the lake.

The soil is the fertile sandy loam typical of the upland of the vicinity. A heavy growth of mature timber, including oak, poplar, birch, pine, hemlock, and maple, covers the area.

A house and three cottages have been built along the shore in Lot 1 by Dr. J. K. Morton, of Milwaukee. J. A. Barkdoll, of Milwaukee, has a summer home on the island shown opposite Lot 5 and Roy Ulric has a cottage on the south side of the lake adjacent to Lot 2 in Sec. 21.

For the reasons stated, it was concluded that the relatively small area of excess land in Sec. 16, was not erroneously omitted from the original survey, and that conditions do not support the claims of the applicant. For purposes of identification, the following retracements were made, monumenting certain corners as described below:

Retracements in T. 38 N., R. 7 E.

Chains. The point for the original cor. of Secs. 9, 10, 15 and 16 is marked by a wooden post 3 x 3 x 18

"E" WC

Chains. ins. above ground, alongside of which I set
an iron post 2 ins. diam., 36 ins. long, 28
ins. in the ground, with brass cap mkd.

T 38 N. R 7 E

S 9	S 10
S 16	S 15

1928

From which the remains of the original bearing
trees:

A white pine stump 24 ins. diam., bears N.
63° E., 93 lks. dist., (Record: N. 66° E.,
93 lks.) badly burnt and rotted but showing
evidence of a BT blaze.

A white pine stump 8 ins. diam., bears S. 75°
E., 52 lks. dist. (Record: S. 75° E., 52
lks.), burnt nearly to ground, no evidence
remaining.

Local bearing trees:

A white pine 16 ins. diam., bears N. 19° E.,
96 lks. dist., mkd. S 10 B T.

A white pine 12 ins. diam., bears S. 60½° W.,
31 lks. dist., mkd. S 16 B T.

I add T 38 N R 7 E to these trees.

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE

Washington, D.C., March 25, 1929.

Report of examination,
Group No. 23, Wisconsin.

Mr. Arthur D. Kidder,
Associate Supervisor of Surveys,
General Land Office,
Washington, D. C.

Sir:

In pursuance of assignment instructions dated August 24, 1928, and in accordance with special instructions dated May 5, 1928, as authorized in office letter 1258441 "E" CCF, dated December 29, 1927, and letter "F" dated February 26, 1928, I beg to submit the following report in connection with the examination in Sec. 16, T. 38 N., R. 7 E., 4th P. M., Wisconsin, under Group No. 23. The accompanying diagram of Sec. 16 is hereby made a part of this report.

As provided in the special instructions, this examination was directed chiefly toward finding out whether or not there is an area of land, of approximately 50 acres, as represented by the applicant for survey, in Sec. 16,

lying between the present shores of North and South Two Lakes and the record meander line of the lake, which was in existence as land in place, in 1863, when the original survey was made.

The plat of the original survey shows one lake in the eastern part of Sec. 16. The applicant's sketch shows this body of water as two lakes separated near the center of the section by a large tract of land. As shown on my diagram, it was found that these bodies of water are actually separated only by a small muskeg marsh. A channel has been cut through the marsh by the local residents to enable boats to pass from one body of water to the other. Careful examination of this marsh revealed that it is of comparatively recent formation, that is, within the past fifty years. There is no way of determining its exact age, but due to the fact that only a few young tamarack trees have taken root there and that instead of the usual marsh debris, there is a clean bed of white sand just below the muskeg, it seems fair to assume that this marsh is not as old as the typical muskeg in the vicinity. In such places evidence can be found of the old tamaracks which have fallen and lie preserved in the water beneath the muskeg and there is usually a

layer of debris which has collected in time around and beneath the muskeg. Additional basis for the assumption that this marsh has formed since 1863 lies in the fact that about forty years ago a grade for a logging road was constructed across this narrow and presumably shallow strait of water. It is believed that the damming of the lake by this grade has resulted in the gradual formation of the marsh.

From this conclusion it may be established that the record meander line of the original survey was not erroneous in showing this body of water as one lake. It will be seen from the diagram that, aside from this, the meander line represents closely the actual contour of the shore. The excess strip of land shown on the west side of the lake along Lots 2, 3 and 4 might be accounted for by a mistake in recording the field notes. Omitting one course, which looks to have been introduced into the field notes by mistake, the record meanders would be a fair representation of the shore, indicating that it was actually meandered by the surveyor.

It will be seen that a large part of the excess along Lots 3 and 4 is muskeg marsh. Other than this, the land shown outside the meander line has an elevation well

"E" WC

above the lake level, rising as high as 30 feet above the same, which is now about one foot higher than usual. There is no indication that there has been any considerable change in the level of the lake.

The soil is the fertile sandy loam typical of the upland of the vicinity. A heavy growth of mature timber, including oak, poplar, birch, pine, hemlock, and maple, covers the area.

A house and three cottages have been built along the shore in Lot 1 by Dr. J. K. Morton, of Milwaukee. J. A. Barkdoll, of Milwaukee, has a summer home on the island shown opposite Lot 5 and Roy Ulric has a cottage on the south side of the lake adjacent to Lot 2 in Sec. 21.

For the reasons stated, it was concluded that the relatively small area of excess land in Sec. 16, was not erroneously omitted from the original survey, and that conditions do not support the claims of the applicant. For purposes of identification, the following retracements were made, monumenting certain corners as described below:

Retracements in T. 38 N., R. 7 E.

Chains. The point for the original cor. of Secs. 9, 10, 15 and 16 is marked by a wooden post 3 x 3 x 18

"E" WC

Chains: 3 ins. above ground, alongside of which I set an iron post 3 ins. diam., 36 ins. long, 25 ins. in the ground, with brass cap mkd.

T 38 N R 7 E

S 9	S 10
S 16	S 15

1928

From which the remains of the original bearing trees:

A white pine stump 24 ins. diam., bears N. 63° E., 93 lks. dist., (Record: N. 66° E., 93 lks.) badly burnt and rotted but showing evidence of a BT blaze.

A white pine stump 8 ins. diam., bears S. 75° E., 52 lks. dist. (Record: S. 73° E., 52 lks.), burnt nearly to ground, no evidence remaining.

Local bearing trees:

A white pine 16 ins. diam., bears N. 19° E., 36 lks. dist., mkd. S 10 B T.

A white pine 12 ins. diam., bears S. 60½° W., 21 lks. dist., mkd. S 16 B T.

I add T 38 N R 7 E to these trees.

"E" WC

Chains. New bearing trees:

A Norway pine 14 ins. diam., bears S. 41° E.,
26 lks. dist., mkd. T 38 N R 7 E S 15 B T

A Norway pine 12 ins. diam., bears N. 62° W.,
21 lks. dist., mkd. T 38 N R 7 E S 9 B T

Thence from the cor. S. 85° $13'$ W., bet. Secs.
9 and 16.

Over gently rolling land, through heavy timber.

39.58 A wooden post 3 x 3 x 24 ins. above ground,
mkd. $1/4$ S, under a 5-wire fence running E.
and W. Alongside the post I set an iron post
2 ins. diam., 36 ins. in the ground, with
brass cap mkd.

$1/4$ $\frac{S 9}{S 16}$
1928

From which local bearing trees:

A Norway pine 12 ins. diam., bears S. 11° E.,
32 lks. dist., mkd. $1/4$ S B T

A Norway pine 16 ins. diam., bears N. 12° W.,
46 lks. dist., mkd. $1/4$ S B T

No trace of original bearing trees (Maple and Fir).

This corner was reestablished by the county

"2" MC

Chains. surveyor of Oneida County 18 years ago and is recognized locally as being correct. I accept it as the best available evidence of the original survey.

Thence from the 1/4 sec. cor. S. 55° 08' W.

Along a 5-wire fence.

12.46 To the point for the original M. C. bet. Secs. 9 and 16 on Carr Lake. I find an old rotted stake mkd. M C laying on the ground. At the true point for the cor. I set an iron post 2 ins. diam., 36 ins. long, 30 ins. in the ground, with brass cap mkd:

T 38 N
S 9
MC —————
S 16
R 7 E
1928

From which the remains of the original bearing trees.

A yellow pine stump 14 ins. diam., bears N. 42° E., 38 lks. dist., (Record: N. 41° E., 38 lks.), burnt and rotted, no visible evidence.

A yellow pine stump 13 ins. diam., bears

"E" NO

Chains. S. 80° E., 65 lks. dist. (Record: S. 85½° E., 64 lks.), burnt and rotted, blaze and marks "B T" showing.

Local bearing trees.

A Norway pine 11 ins. diam., bears N. 30° W., 48 lks. dist., mkd. M C S B T.

New bearing trees.

A poplar 4 ins. diam., bears S. 70½° E., 40 lks. dist., mkd. T 38 N R 7 E S 16 M C B T

A Norway pine 10 ins. diam., bears N. 8¼° W., 64 lks. dist., mkd. T 38 N R 7 E S 9 M C B T

From the corner of Secs. 9, 10, 15 and 16, thence S. 2° 38' E. bet. Secs. 15 and 16.

Over gently rolling land, through heavy timber.

16.52 To the point for the original M. C. bet. Secs. 15 and 16. The point falls in the water at the foot of the lake shore, same having been washed away since the original survey. From the true point for the corner, the remains of the original bearing trees.

A white pine stump 12 ins. diam., bears N. 6½° W., 22 lks. dist. (Record), badly burnt, but blazes plain.

"E" WC

Chains. A white pine stump 20 ins. diam., bears S. $81\frac{1}{2}^{\circ}$ W., 19 lks. dist. (Record), blaze and hack showing, marks burnt out.

At a point N. $2^{\circ} 38'$ W., 26 lks. from the true point, I set an iron post 2 ins. diam., 36 ins. long, 30 ins. in the ground, for a witness cor., with brass cap mkd.

	W	C
T	38	N R 7 E
	S 16	S 15
<hr/>		
	M	C
	1928	

From which

A red oak 3 ins. diam., bears N. $10\frac{3}{4}^{\circ}$ E., 21 lks. dist., mkd. W C T 38 N R 7 E S 15 MCBT

A Norway pine 10 ins. diam., bears S. $30\frac{3}{4}^{\circ}$ W., 64 lks. dist., mkd. WCT38NR7ES16MCBT

Thence from the true point for the M. C., S. $0^{\circ} 49'$ E.

24.68 By triangulation across the lake to the point for the original M. C. bet. Secs. 15 and 16, on the north side of Lot 5.
Set a temporary stake to mark this point,
From which, the remains of the original bearing

Chains. trees:

A white pine stump 18 ins. diam., bears S. $63\frac{1}{2}^{\circ}$ E., 76 lks. dist. (Record S. $63\frac{1}{4}^{\circ}$ E., 69 lks.), burnt and rotted, no evidence of marks.

A white pine stump 18 ins. diam., bears S. $72\frac{1}{2}^{\circ}$ W., 1.25 chs. dist. (Record), burnt and rotted, no evidence of marks.

Thence from the true point for the M. C., S. $1^{\circ} 46'$ W.

Over rolling land, through heavy timber and muskeg marsh.

22.20 Set a temporary stake on the south shore of Lot 5.

Thence over the lake by triangulation.

52.30 To a stake on the south shore of the lake. Continue over rolling land, through scrub timber.

31.76 To a wooden post 4 x 4 x 36 inches above ground, which is the $1/4$ sec. cor. bet. Secs. 21 and 22, as reestablished by the county surveyor about 18 years ago. Alongside the post I set an iron post 2 ins. diam., 36 ins. long, 30 ins. in the ground, with brass cap mkd.

"E" WC

Chains

1/4
S 21 | S 22
1923

From which the local bearing trees,

A pine stump 36 ins. diam., bears S. 5° E.,

31 lks. dist., mkd. 1/4 S B T.

A white pine 10 ins. diam., bears N. 23½° W.,

15 lks. dist., mkd. 1/4 S B T.

No trace of the original bearing trees. (Maples).

This corner is recognized locally as being correct and I accept it as the best possible evidence of the original

The original M. C. bet. Secs. 16 and 17 on Carr Lake is marked by a wooden stake 2 x 4 x 18 ins. above ground, mkd. M C 16 and 17 on E. and W. faces, respectively, and an iron rod 1 in. diam., 6 ins. above ground.

Alongside the stake I set an iron post 2 ins. diam., 36 ins. long, 30 ins. in the ground, with brass cap mkd.

M C
S 17 S 16
T 38 N R 7 E

1923

"E" WC

Chains. From which the original bearing trees:

A white pine stump 8 ins. diam., bears S. $13\frac{1}{2}^{\circ}$ E., 7 lks. dist. (Record: S. 19° E., 7 lks.), burnt and rotted, old hack visible.

A yellow pine stump 15 ins. diam., bears N. 74° W., 13 lks. dist., (Record: No bearing given - 10 lks. dist.), burnt and rotted, part of blaze visible.

Thence from the M. C.,

S. $1^{\circ} 03'$ W., bet. Secs. 16 and 17.

Through tamarack swamp.

20.67 To a stake 2 x 2 x 12 ins. above ground, alongside a much older stake 4 x 4 x 18 ins. above ground, badly rotted and mkd. $1/4$ S. Alongside this stake I set an iron post 2 ins. diam., 36 ins. long, 30 ins. in the ground, with brass cap mkd.

$1/4$

S 17 | S 16

1923

From which the local bearing trees,

A pine stump 15 ins. diam., bears S. $28\frac{1}{2}^{\circ}$ E., 65 lks. dist., mkd. $1/4$ S B T

"E" WC

Chains. A birch 10 ins. diam., bears S. $54\frac{1}{2}^{\circ}$ W., 26
lks. dist., mkd. 1/4 S B T

No trace of original bearing trees.

This corner has been known and accepted locally
for about 30 years.

I accept it as the best available evidence of
the original corner.

Thence from the 1/4 sec. cor.

S. $3^{\circ} 31'$ W., bet. Secs. 16 and 17

Over rolling land, through scrub timber.

39.52 To the proportionate distance for the cor. of
Secs. 16, 17, 20 and 21.

Set an iron post 3 ins. diam., 36 ins. long,
28 ins. in the ground, with brass cap mkd.

T 38 N R 7 E

S 17	S 16
S 20	S 21

1928

From which

A poplar 8 ins. diam., bears N. 29° E., 36 lks.
dist., mkd. T 38 N R 7 E S 16 B T

A white pine 7 ins. diam., bears S. 46° E.,
58 lks. dist., mkd. T 38 N R 7 E S 21 B T

"E" WC

Chains. A poplar 9 ins. diam., bears S. $11\frac{1}{2}^{\circ}$ W., 41
lks. dist., mkd. T 38 N R 7 E S 20 B T
A Norway pine 6 ins. diam., bears N. $16\frac{1}{4}^{\circ}$ W.,
1.15 chs. dist., mkd. T 38 N R 7 E S 16 B T

Thence from the sec. cor.

S. $1^{\circ} 51'$ E., bet. Secs. 20 and 21.

Over rolling land, through heavy timber.

39.47 To a stake 4 x 4 x 24 ins. above the muskeg
(corner lays in a small marsh).

Alongside the stake I set an iron post 2 ins.
diam., 36 ins. long, 24 ins. in muskeg, with
brass cap mkd.

1/4
S 20 | S 21
1928

From which, new bearing trees.

A poplar 4 ins. diam., bears S. 20° E., 1.66
chs. dist., mkd. 1/4 S 21 B T

A poplar 6 ins. diam., bears N. 35° W., 1.26
chs. dist., mkd. 1/4 S 20 B T

No trace of original bearing trees.

This corner was reestablished by the county

Chains. surveyor 20 years ago and is recognized as being correct. I accept it as the best available evidence of the original survey.

The point for the original corner of Secs. 13, 18, 19 and 24, T. 38 N., Rs. 6 and 7 E., lies in the center of State Highway No. 51, at a right angle turn in the same. Mr. A. H. Schultz, of Tomahawk Lake, Wisconsin, identified this point, having known this corner when the original bearing trees were standing and knowing the distance of the true point from the right of way fences, I redetermine this point which coincides with the center lines of the highway to the south and to the west, also with the county highway to the east.

I set an iron post 2 ins. diam., 36 ins. long, 6 ins. below the surface, with brass cap mkd.

T 38 N	
R 6 E	R 7 E
S 13	S 18
S 24	S 19

1928

From which, new bearing trees:

"E" WC

- Chains. A birch 8 ins. diam., bears N. 20° E., 76 lks.
dist., mkd. T 38 N R 7 E S 18 B T
- A birch 6 ins. diam., bears S. $52\frac{1}{2}^{\circ}$ E., 1.77
chs. dist., mkd. T 38 N R 7 E S 19 B T
- A poplar 4 ins. diam., bears S. $47\frac{3}{4}^{\circ}$ W., 1.69
chs. dist., mkd. T 38 N R 6 E S 24 B T
- A birch 5 ins. diam., bears N. $68\frac{1}{2}^{\circ}$ W., 1.11
chs. dist., mkd. T 38 N R 6 E S 13 B T

No trace of original bearing trees which fell
in the right of way.

Thence from the sec. cor.

S. 38° 14' E., bet. Secs. 18 and 19.

39.16 Record dist., no trace of the $1/4$ sec. cor.

79.16 Record dist., no trace of the cor. of Secs.
17, 18, 19 and 20.

Thence bet. Secs. 17 and 20.

40.05 Record dist., no trace of the $1/4$ sec. cor.

80.10 Record dist., for the cor. of Secs. 16, 17, 20,
and 21 and the reestablished corner, as previ-
ously described.

Thence east on the record bearing bet. Secs.
16 and 21.

Over rolling land, through scrub timber.

"E" WC

Chains.

38.23 To the shore of South Two Lake.

Set an iron post 2 ins. diam., 36 ins. long,
23 ins. in the ground, for a witness corner
to the M. C. bet. Secs. 16 and 21, with brass
cap mkd.

T 38 N
S 16 W C
S 21 W C
R 7 E

1928

From which:

A Norway pine 6 ins. diam., bears S. 76° W.,
73 lks. dist., mkd. W C T 38 N R 7 E S 21 -
M C B T

A Norway pine 8 ins. diam., bears N. 67° W.,
43 lks. dist., mkd. W C T 38 N R 7 E S 21 -
M C B T

Very respectfully,

Wesson Cook
U. S. Transitman.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

Washington, D. C.

REPLY TO LETTER OF MARCH 21, 1900

Handwritten signature
1900

The first of the two parcels described in your letter of the 14th inst. is a portion of the land owned by the United States and is situated in the County of ... State of ... The second parcel is a portion of the land owned by the State of ... and is situated in the County of ... State of ...

The first parcel is a portion of the land owned by the United States and is situated in the County of ... State of ... The second parcel is a portion of the land owned by the State of ... and is situated in the County of ... State of ...

The first parcel is a portion of the land owned by the United States and is situated in the County of ... State of ... The second parcel is a portion of the land owned by the State of ... and is situated in the County of ... State of ...

The first parcel is a portion of the land owned by the United States and is situated in the County of ... State of ... The second parcel is a portion of the land owned by the State of ... and is situated in the County of ... State of ...

There is also a narrow strip of land along the west shore of the lake through lots 1, 2, 3 and 4, in this section, which was not included in the original survey. This tract of land contains approximately 50 acres, is well elevated above the lake, is timbered with mature hardwood timber. This land was undoubtedly in existence at the date of admission of Wisconsin into the Union, but the situation with reference to the area is such that I am of the opinion that it cannot be considered as unsurveyed public land.

The area in question extends for approximately 100 chains along the original meander line. It has a maximum width of approximately 11 chains and an average width of about 5 chains. The record meander line is practically parallel with the actual shore line, and it is very apparent that the lake was actually meandered in the original survey and that there is no gross error in that survey.

There is also a tract of land containing approximately 10 acres in lot 5, Sec. 16, and another of approximately 12 acres adjacent to lots 1, 2 and 3, Sec. 21, extending into Sec. 16, which were not included in the original survey. It cannot be maintained that these small areas were omitted from the original survey due to gross error or fraud. Two unsurveyed islands in the lake are among those granted to the State of Wisconsin by the act of August 22, 1912 (37 Stat., 324).

Upon careful consideration of the report of examination, I draw the conclusion that there are no unsurveyed public lands in the area involved. Accordingly I recommend that the application for survey be rejected.

Very respectfully,



Technical Assistant to the
Supervisor of Surveys.

UNITED STATES
DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

JUL 25 1929

IN REPLY PLEASE REFER TO

1250442-737

recommending rejection of
application for survey.

The Secretary
of the Interior.

SIR:

Robert J. Jones of Eagle River, Wisconsin, made application for the survey of certain alleged omitted public lands bordering S 1/2 Sec. 14, T. 38 N., R. 7 E., 4th P. M., Wisconsin. Under date of September 30, 1927, the Department approved the recommendation of this office that the lands in question be surveyed if conditions were found to be as reported and the alleged omitted areas existed and were above ordinary high water mark in 1842 when Wisconsin was admitted into the Union.

This office is now in receipt of a letter from Donald C. Claret, Technical Assistant to the Supervisor of Surveys, transmitting the report of Vernon Lee, W. S. Transitman, who made the field examination in connection with the

1258441 "W" 3013

Proposed Survey. The report indicates that the conditions developed were greatly at variance with the showing made in the application for survey and that no survey was executed. The diagram which accompanied the application for survey showed a compact body of unimproved land containing about 50 acres lying between lots 2 and 5 Sec. 16 and dividing the lake shown on the original plat into two lakes. As a matter of fact, the examiner finds that the two lakes are separated by a small muskeg marsh with a channel dug through it for boats to pass from one lake to the other. It is stated that this marsh has been formed since the date of the original survey, so that at that time the original plat was correct in showing only one lake. There is a long and relatively narrow strip of land outside of the meandered line in front of lots 2, 3 and 4, Sec. 16, a considerable portion of which is upland and gives evidence of having been in existence in 1842, the date of admission of Wisconsin into the Union. The remainder of this strip which varies from 5 to 11 chains in width is muskeg swamp. There is also a tract of about 10 acres lying in front of lot 5 of this section and opposite the area above referred to. The examiner states that the excess area in front of lots 2, 3 and

It might be suggested that by the omission of one course by the original surveyor, in any event, the configuration of the actual shore line parallels quite closely the record boundary line.

Under the conditions above described, this office is of the opinion that there are no facts of sufficient weight or value in Sec. 16 to justify the Government in asserting title thereto as public land of the United States and it is recommended that the application for survey be rejected.

Very respectfully,

John H. Powell
Assistant Commissioner

Approved: JUL 29 1929

JOHN H. POWELL
Assistant Secretary



UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON

Aug 16, 1927

IN REPLY PLEASE REFER TO

Sir:

Reference is made to the letter of the State of Nevada dated July 20, 1927, in which the State of Nevada requests that the General Land Office issue a patent for the public lands in Nevada described in the attached plat, to-wit:

Section 36, Township 33N, Range 12E, Meridian 12N, Nevada.

The above described lands were included in the public domain of the United States by the Act of March 3, 1875, and have since that time remained in the public domain. The State of Nevada has no claim to these lands, and the General Land Office is unable to issue a patent for the same.

Very truly yours,
D. K. Carroll

12889

ADDRESS ONLY THE COMMISSIONER OF THE GENERAL LAND OFFICE

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE

WASHINGTON

AUG 16 1929

IN REPLY PLEASE REFER TO

1258441 W. W. W. W.

Repeating application for
survey.

Mr. Robert J. Brice,
Ridge River, Wisconsin.

My dear Sir:

Reference is made to your letter dated August 25, 1927, transmitting application for the survey of alleged unsurveyed land between the meander and shore lines of a lake in Sec. 16, T. 38 N., R. 7 E., 4th P. M., Wisconsin and subsequent correspondence relative thereto. By office letter dated January 5, 1928, you were advised that the Department had approved the recommendation of this office that an examination be made of the alleged unsurveyed land and that such land be surveyed if found to be public land of the United States.

The report of the examiner has been received in this office and indicates that the two lakes are separated by a small meadow marsh which has been formed since the date of the original survey. Consequently, the original

125642

plot was correct at that time in showing only one lake. There is a long and relatively narrow strip of land outside of the meander line in front of lots 2, 3 and 4 Sec. 16, a considerable portion of which is upland and the remainder muskeg swamp. There is also a tract of about ten acres in front of lot 5, and opposite the areas just referred to. Under these conditions this office held that there were no unsurveyed public lands in this section and this section was approved by the Assistant Secretary of the Interior on July 29, 1929. Your application for survey is accordingly hereby rejected.

Very respectfully,

Acting Assistant Commissioner.

8-15-14

2

L2889

1937200 "B" BSH

Group 23, Wisconsin.

Mr. J. A. Barkhall,

Lake Tomahawk, Wisconsin.

My dear Sir:

Reference is made to your letter dated June 10, 1936, relative to the ownership of land bordering on a small lake in Sec. 16, T. 33 N., R. 7 E., 4th P. M., Wisconsin, which was involved in the examination made by Vernon Cook, U. S. Engineer, in 1932.

Robert J. Price of Eagle River, Wisconsin, made application for the survey of certain alleged omitted public lands bordering a lake in Sec. 16, T. 33 N., R. 7 E., 4th P. M., Wisconsin. Under date of December 29, 1937, the Department approved the recommendation of this office that the lands in question be surveyed if conditions were found to be as reported and the alleged omitted areas excluded and were above ordinary high-water mark in 1868.

When Wisconsin was admitted into the Union.

The survey conditions developed on the ground in the examination did not agree with the showing made by the applicant, and, accordingly, the lands alleged to have been omitted from the original survey were not surveyed. The boundaries of Sec. 16 were retraced and certain corners thereon were re-monumented.

The report of examination shows that there is a gross error or fraud in the original survey. The lands lying between the position for the original meander line and the actual shore of the lake are narrow tracts with an average width of about 5 chains.

This office by letter dated July 25, 1929, approved by the Assistant Secretary on July 29, 1929, held that the areas in question are not of sufficient size and extent to justify the Government in asserting title thereto as public land of the United States and rejected the application for survey submitted by Robert J. Bryce.

Title to the lands in question passed from the Government when patent was issued to the subdividers to which they are attached.

Very respectfully,

Antonetta Frank
Assistant Commissioner.

12889

ADDRESS ONLY THE COMMISSIONER OF THE GENERAL LAND OFFICE

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON

IN REPLY PLEASE REFER TO

☐ 1659340 "NEW" BCH

OCT 24 1936

Group 23, Wisconsin.

Commissioners of the Public Lands,
Madison, Wisconsin.

Gentlemen:

Reference is made to your letter dated October 8, 1936, relative to the ownership of land bordering on South and North Two Lakes in Sec. 16, T. 38 N., R. 7 E., 4th P.M., Wisconsin.

Robert J. Brice of Eagle River, Wisconsin, made application for the survey of certain alleged omitted public lands bordering a lake in Sec. 16, T. 38 N., R. 7 E., 4th P. M., Wisconsin. Under date of December 30, 1927, the Department approved the recommendation of this office that the lands in question be surveyed if conditions were found to be as reported and the alleged omitted areas existed and were above ordinary high-water mark in 1848 when Wisconsin was admitted into the Union.

The survey conditions developed on the ground in the examination did not agree with the showing made by the applicant, and, accordingly, the lands alleged to have been omitted from the original survey were not surveyed. The boundaries of Sec. 16 were retraced and certain corners thereon were re-monumented.

The report of examination shows that there is no gross error or fraud in the original survey. The lands lying between the position for the original meander line and the actual shore of the lake are narrow tracts with an average width of about 5 chains.

This office by letter dated July 25, 1929, approved by the Assistant Secretary on July 29, 1929, held that the areas in question are not of sufficient size and extent to justify the Government in asserting title thereto as public land of the United States and rejected the application for survey submitted by Robert J. Brice.

Title to the lands in question passed from the Government when patent was issued to the subdivisions to which they are attached.

The act of Congress dated August 22, 1912 (37 Stat. 324), granted all the unsurveyed and unattached islands in inland lakes north of the township line between

Ts. 33 and 34 N., situated in the State of Wisconsin, to that State as additions to the State's forest reserves, but without authority to sell any of the islands granted.

Accordingly, if the two islands referred to in your letter existed prior to 1848, title thereto passed to the State of Wisconsin under the provisions of the above noted act of Congress. Since it appears that South and North Two Lakes should be considered navigable, title to the islands, if they have formed since 1848, is vested in the State of Wisconsin under her sovereign rights.

According to our records, the State of Wisconsin received under the school land grant 368.05 acres of lands in place in Sec. 16, T. 38 N., R. 7 E., shown by the official plat, and an indemnity of 271.95 acres, making a total of 640 acres.

Very respectfully,


Acting Assistant Commissioner.

6/15/35

Registered Mail

Decision

Mail Matter

Application to Purchase
Unsurveyed Land

Application Rejected

On August 17, 1935, Mail Matter, through his attorney, Walter P. Sage of Oshkosh and Sage, Milwaukee, Wisconsin, filed the above application seeking to purchase certain land abutting lot 1, sec. 21, T. 35 N., R. 7 E., 4th Prin. Mer., Wisconsin, said land being claimed by the applicant to be unsurveyed public land of the United States, omitted from the original surveys of said sec. 21 and situated between the position for the record meander line and the present shore of South Twin (South Two) Lake.

T. 35 N., R. 7 E., was originally subdivided in 1861, as shown upon the official plat approved January 19, 1864. This survey segregated an unground lake, now known as South Twin Lake and sometimes known as South Two Lake, in secs. 15, 16, 21 and 22, creating fractional lots abutting thereon, of which lot 1, sec. 21 is one. The general area is shown upon the U. S. Geological Survey topographic quadrangle titled, MINNOCQUA, WIS., compiled from aerial photography. The quadrangle is considered entirely reliable for representation of the subject area.

A comparison of the original survey with the quadrangle, MINNOCQUA, discloses a deviation between the two positions of the easterly shoreline of South Twin Lake with a resulting land area of some 10 acres, having approximate dimensions of 25 chains east-west and 5 chains north-south, situated between the record meander line and the present shore. The area abuts upon lots 1 and 2, sec. 21. Information at hand is not sufficient to make the determination whether this area represents a minor variation in the original surveys with actual conditions at that time or whether the area has been uncovered by the lowering of the level of South Twin Lake since the date of the original surveys.

If the area is one that has been created by the lowering of the lake level, then ownership thereto is governed by state law and decisions treating with riparian rights and is not a matter coming within the jurisdiction of this Bureau.

In consideration of court decisions rendered on cases of lands omitted from the original survey through gross error or fraud,

and the right of the United States to so claim these areas as public lands, it is held that the subject area is not of sufficient size and extent to support a claim of gross error or fraud in the original survey or to justify the Government in asserting title thereto. Title to the excess land is presumed to have passed from the government when patent issued to the subdivisions to which it is attached. See: Rust Own Lbr. Co., 50 L.D. 678; Hardin v. Jordan, 140 U. S. 371; Loh-lands Inc. v. Chipman and Flexman Improvement Co., 295 U.S. 919; Brotherton Realty Corp. v. Reedel, 227 U.S. 390; U. S. v. Lass, 260 U.S. 662; and cases cited therein.

In view of the above, the application to purchase unsurveyed land is hereby rejected.

This decision is subject to the right of appeal to the Director of the Bureau of Land Management. An appeal must be received in this office within 30 days from receipt thereof, accompanied by a \$5.00 filing fee. Full compliance is required with 43 CFR secs. 221.1 to 221.5, inclusive, and to other pertinent sections of the Rules of Practice. See the information sheet attached.

Supervisor

Enclosure

cc: O'Melia & Kaye
Rhinelander, Wis.

Hon. Alvin O'Konski
House of Representatives
Washington 25, D. C.

ESO Reading file
Permanent file
R. E. Chandler, Bemidji, Minn.

neshearer 6/7/56

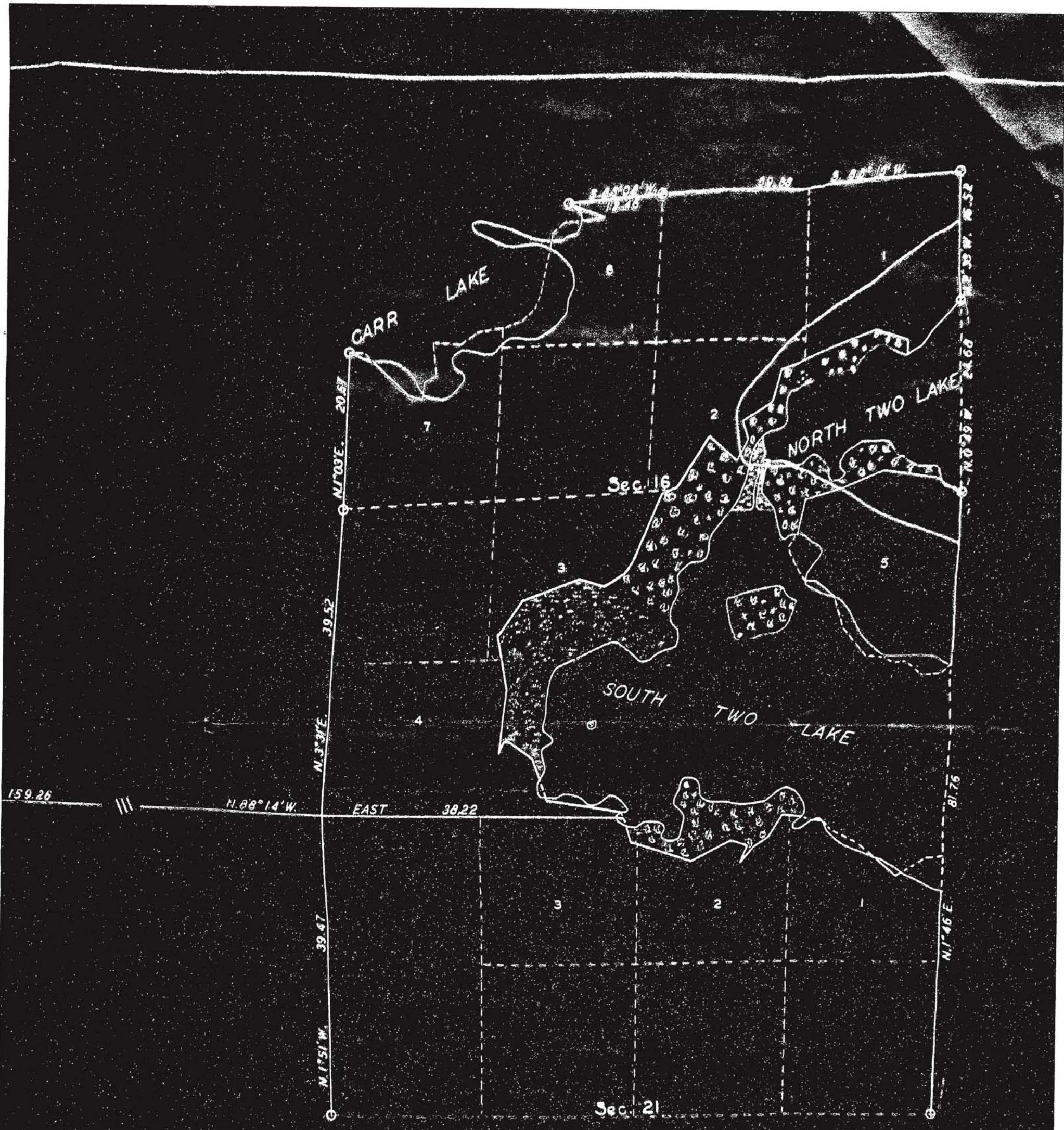


DIAGRAM OF
 Sec. 16, T. 38 N., R. 7 E., 4TH P. M.,

WISCONSIN.
 SCALE 1" = 10 CHS.

TO ACCOMPANY REPORT OF EXAMINATION, GROUP NO. 23,
 WISCONSIN, DATED MARCH 25, 1929, SUBMITTED BY WESSON
 COOK, U. S. TRANSITMAN.

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