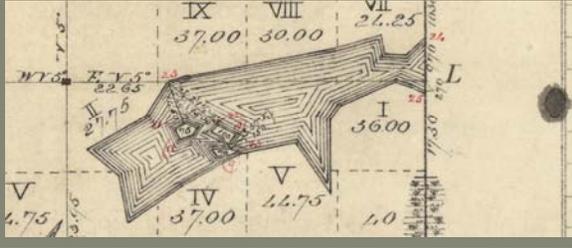


## Where is Government Lot 10?

Preston Dowell  
Deputy County Surveyor  
St Louis County MN  
dowellp@stlouiscountymn.gov



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## Outline

- Overview of the issue
- What is meandering
- What is an island
- Research and Analysis
- Conclusion

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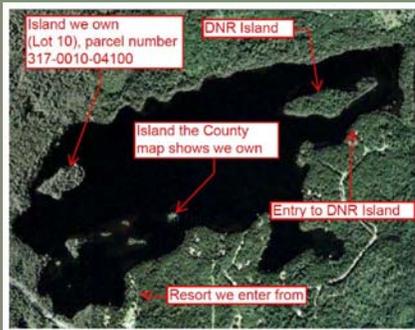
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## Overview



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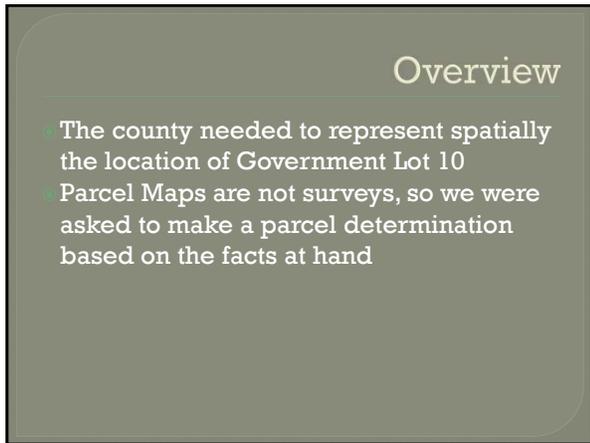
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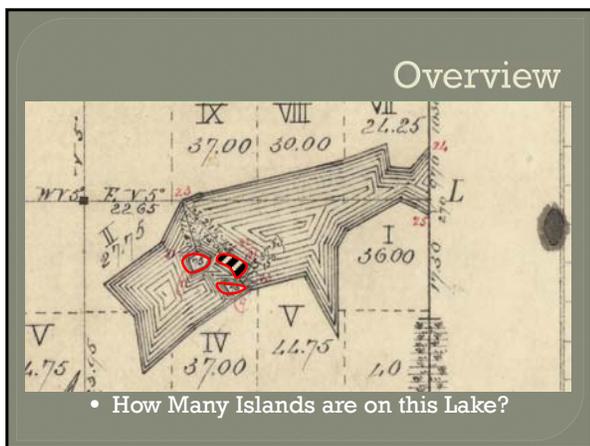
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### Overview



- How Many Islands are on this Lake?

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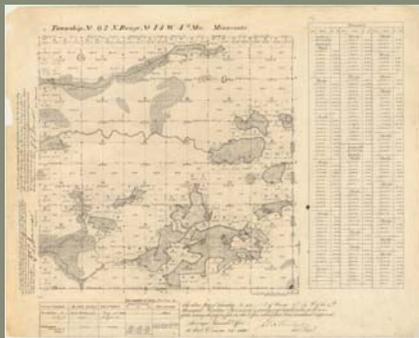
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### Original GLO Plat



1880

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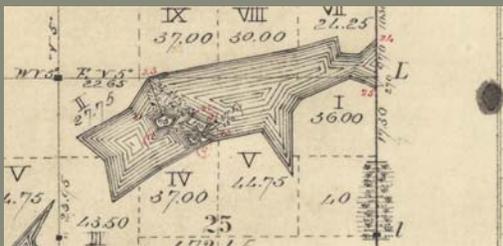
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### Section 25 T62N R14 W 4<sup>th</sup> PM August 1880



- How Many Islands are on this Lake?

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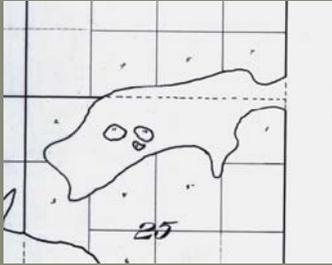
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Section 25 T62N R14 W 4<sup>th</sup> PM  
Index to County Roads 1885-1911



- How Many Islands are on this Lake?

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Section 25 T62N R14 W 4<sup>th</sup> PM  
Hixson Plat Book 1916



- How Many Islands are on this Lake?

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Section 25 T62N R14 W 4<sup>th</sup> PM  
Circa 1939 Air Photo



- How Many Islands are on this Lake?

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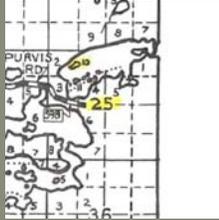
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Section 25 T62N R14 W 4<sup>th</sup> PM  
Township Plat Book Circa 1958



- How Many Islands are on this Lake?

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Section 25 T62N R14 W 4<sup>th</sup> PM  
Plat Book 1976



- How Many Islands are on this Lake?

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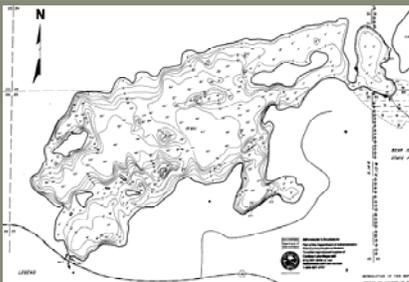
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Section 25 T62N R14 W 4<sup>th</sup> PM  
MN DNR Lake Map 1985



- How Many Islands are on this Lake?

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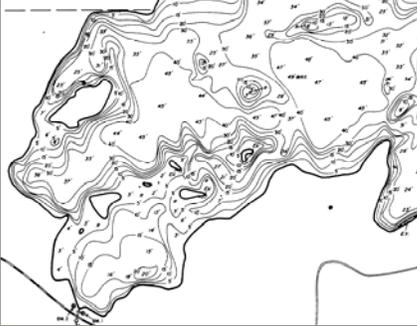
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Section 25 T62N R14 W 4<sup>th</sup> PM  
MN DNR Lake Map 1985



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Where is Government Lot 10?



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Gut Reaction



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## Questions

- What are Meanders?
- What is an Island?
- Who owns what, and what do we do if we find a discrepancy?

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## Manual Of Surveying Instructions

- 1815 were the 1<sup>st</sup> “Original Instructions”
- These instructions told the Surveyors how to do their jobs
- In 1855 the 1851 Oregon instructions were modified to become :
  - Instructions to the Surveyor General of Public Lands
- Subsequent revisions until current 2009 Manual
- Manual contains guidance on how to address these issues

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## What is meandering

- **3-162** - All lands beneath navigable waters and other important rivers and lakes are to be segregated from the upland. Meanders are run along the OHWM for inland waters, and along the line of MHT for tidewater.

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### What is meandering

- GLO Meanders are not (in general) boundaries
  - 3-176. It is not practicable in public land surveys to meander in such a way as to follow and reproduce all the minute windings of the ordinary high-water mark,.....The intent is to show the general configuration of the water line. As a result, it is expected that when choosing the angle points, the meander courses may cross either water or land during the process to minimize the number of angle points. Effort should be made to balance the amount of water and land crossed to return accurate acreage.

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### What is meandering

- GLO Meanders are not (in general) boundaries
  - Lakes and rivers were not “valuable” during the original survey
  - The meanders are intended to delineate the sinuosities of the bank
  - Generally show the water vs the shore
  - They wanted to sell the upland
    - What was valuable?
      - \$1.25 per acre
      - \$20 per acre in todays dollars
    - \$2.75 per mile
      - \$75 per mile in todays dollars

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### What is meandering

- The GLO plat creates the boundary of the government lots, but the water body as located will fix its location.
- The meander shown on the plat is not the boundary
  - It's a map

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## What is meandering

3-162 - All lands beneath navigable waters and other important rivers and lakes are to be segregated from the upland. Meanders are run along the OHWM for inland waters, and along the line of MHT for tidewater.

The general rule is that when the Federal Government conveys title to a lot fronting on a navigable body of water, it conveys title to the water's edge, meaning the OHWM or line of MHT. Such riparian boundaries are ambulatory, not fixed in position. When an exception to the general rule is shown, the consequence is that the meander line becomes fixed and can become a fixed and limiting property boundary. Meander lines may be held fixed because of (1) an avulsive change, (2) gross error or fraud, (3) substantial accretion after survey but before entry, or (4) where the facts and circumstances disclose an intention to limit a grant or conveyance to the actual traverse lines

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## What does the Manual say about islands

- 3-162. All lands beneath navigable waters and other important rivers and lakes are to be segregated from the upland.
- 3-191. For official survey purposes, an island is defined as a body of upland that is completely surrounded by water when the water is at the OHWM ....
- 3-193. Every island above the OHWM of any meanderable body of inland water or above the line of MHT of tidal water, except islands formed in navigable bodies of water after the date of the admission of a State into the Union, is locatable by survey and should be meandered and shown on the official plat.
- 3-194. All islands will be meandered if practicable. In passing islands not to be meandered, estimated ties to their upper and lower ends will be reported to establish their location. Such islands are to be exhibited on the plat as accurately as practicable.

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## Why does this matter

- Instructions had some ambiguity before the 1855 Instructions
- In 1846 instructions told them to survey islands that were valuable for soil and timber
- There seems to be confusion over what is meanderable
- In 1864 they made provisions for unsurveyed islands
  - It is clear that from 1864 on, all islands should at least be shown on the GLO Plats

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### Why does this matter

- They had a problem
  - Small islands were not of sufficient value to justify the cost of survey
  - GLO Surveyors were paid less to meander
    - It wasn't worth their time
- How was anyone going to know?
- If it was not surveyed, what is it?

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### What is it?



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### What does the Manual say about omitted islands

**3-195.** Even though the United States has parted with its title to the adjoining mainland, an island in a meandered body of water, navigable or nonnavigable, in continuous existence since the date of admission of the State into the Union and omitted from the original survey, remains as unsurveyed public land of the United States. As such, the island is subject to survey.

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## What does the Manual say about omitted islands

3-196. The proof of the time of formation of islands is often difficult. It is the practice to make a careful examination of the history of an island in relation to the question of its legal ownership. Proof of island formation prior to the date of statehood is most readily presented in the form of historical maps and tree corings taken from the island that are accompanied by a professional correlation of the tree ring counts to the age-dating of the trees presently growing on the island.

- Other means of presenting evidence of the age of islands comes from:
  - (1) the presence of fire pits correlated with prehistoric Indian dwellings;
  - (2) measurement of certain species of lichen diameters found on the island and correlated to similar lichens on datable grave markers, bridges or other structures of known date of construction;
  - (3) lead cesium dating of mollusks;
  - (4) identification of spores and pollen from introduced species whose date of introduction can be determined; identification of carbon layers from recorded fires; and
  - (5) overlays from historic records capable of showing the rate of changes in island configuration.

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## Where is the Island?

- The GLO plat creates the boundary of the government lots, but the water body as located will fix its location.
- The meander shown on the plat is not the boundary
  - It's a map

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## Islands



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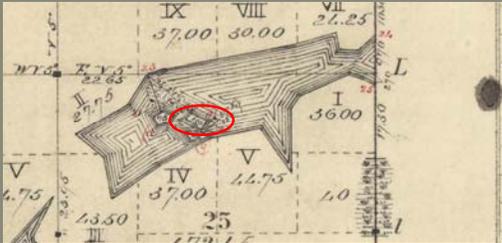
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Section 25 T62N R14 W 4<sup>th</sup> PM  
August 1880




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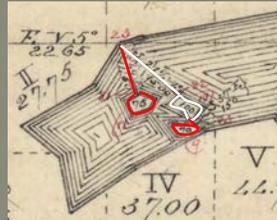
Research

Original Survey shows 3 islands

- The GLO plat is not conclusive

Original Notes

- When the original surveyors surveyed the islands, the record shows that they started from a meander corner on the northwest side of Eagles Nest Lake No. 4. They ran southerly to an island and meandered it. They returned to the meander corner on the northwest side of the lake and ran southeasterly to an island and meandered that island. They proceeded southeasterly to another island and meandered it.




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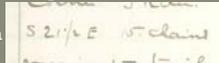
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Research

Original Notes

- When analyzing these notes, a couple of issues came to light.
- There is a discrepancy between GLO plat and the notes
- There is a discrepancy between the relative location of Government Lot 9 as described in the notes and shown on the GLO Plat
  - The plat shows Government Lot 9 as being meandered based on the most southerly corner of Government Lot 10
  - The notes for the meanders of Government Lot 9 state they commenced "from the most southerly point of the east island see page 17....."
  - Page 17 is the meanders of the westerly island




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## Research

- Held the general configuration of the islands as shown on the government plat to be correct
  - GLO plat was reviewed and approved by the Surveyor General. They would have noticed the discrepancy and resolved it on the final plat. (See River & Lake Boundaries, James A. Simpson, Pages 26-29).
  - Geometry of the islands shown should be honored since GL 10 and 11 were transferred to private parties.
  - Protect the Plat

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## Research

Township	Range	Liberal	Principal Meridian	Plat Type	Scan Side	MRL Plat ID	Survey Date	View Plat
G2	14	West	4	Independent	Front	184502314	1980	<a href="#">see attached.pdf</a>
G2	14	West	4	Independent	Back	184502314	1980	<a href="#">see attached.pdf</a>
G2	14	West	4	Island	Front	184502318	1982	<a href="#">see attached.pdf</a>
G2	14	West	4	Island	Front	184502318	1982	<a href="#">see attached.pdf</a>

Survey	Approved / Assessed	State	Section	Township	Range	Meridian / Submeridian	County	Field Notes
Colonial Survey	18711980	98	48	18S	18E	062.0N - 04.0W	St Louis	<a href="#">see attached.pdf</a>
Survey of Islands	47913902	98	48	18S	18E	062.0N - 04.0W	St Louis	<a href="#">see attached.pdf</a>
Survey of Islands	47913902	98	48	18S	18E	062.0N - 04.0W	St Louis	<a href="#">see attached.pdf</a>
Survey of Islands	47913902	98	48	18S	18E	062.0N - 04.0W	St Louis	<a href="#">see attached.pdf</a>
Survey of Islands	47913904	98	48	18S	18E	062.0N - 04.0W	St Louis	<a href="#">see attached.pdf</a>
Survey of Islands	47913904	98	48	18S	18E	062.0N - 04.0W	St Louis	<a href="#">see attached.pdf</a>
Survey of Islands	47913904	98	48	18S	18E	062.0N - 04.0W	St Louis	<a href="#">see attached.pdf</a>
Survey of Islands	47913904	98	48	18S	18E	062.0N - 04.0W	St Louis	<a href="#">see attached.pdf</a>
Survey of Islands	47913904	98	48	18S	18E	062.0N - 04.0W	St Louis	<a href="#">see attached.pdf</a>
Survey of Islands	47913904	98	48	18S	18E	062.0N - 04.0W	St Louis	<a href="#">see attached.pdf</a>
Survey of Islands	47913904	98	48	18S	18E	062.0N - 04.0W	St Louis	<a href="#">see attached.pdf</a>
Colonial Survey	18711980	98	48	18S	18E	062.0N - 04.0W	St Louis	<a href="#">see attached.pdf</a>

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## Research

- In 1984, the BLM determined that the island in the NE portion of the lake was omitted lands and subsequently "surveyed" it

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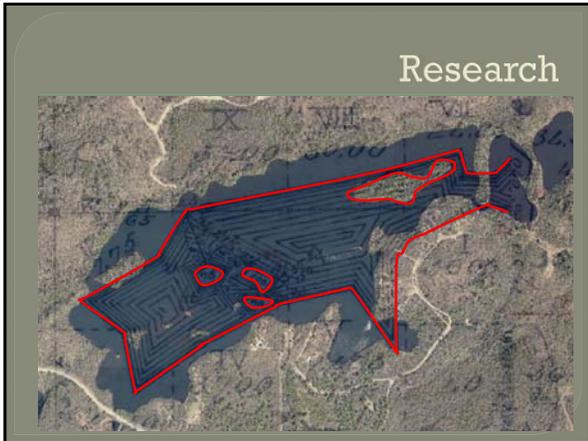
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Research

- I received some information from a local surveyor which I had never seen before.
  - Recorded as document number 00713389
  - Recorded in 1998
  - This was the counties recorded version of
    - **Tracts identified in Miscellaneous Volume 799, Lands Transferred to the State of Minnesota Under the Minnesota Public Lands Improvement Act of 1990**

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Research

- The document outlines islands across the State of Minnesota that were inventoried by the BLM and subsequently transferred to the State of MN
- County Control Numbers are listed with areas
- Contained a map depicting islands to be transferred

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### Research



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### Research



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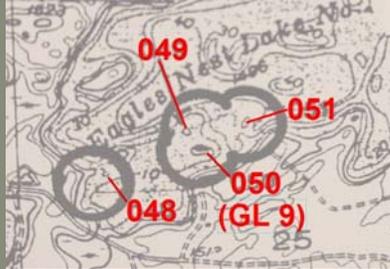
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### Research



048	02N	14W	25	A	N	0.10	TRACT 41	L	ISL EAGLE'S NEST #1/TITLE COM
049	02N	14W	25	A	N	0.10		L	ISL EAGLE'S NEST #4
050	02N	14W	25	A	Y	0.70	LOT 9	L	ISL EAGLE'S NEST #4
051	02N	14W	25	A	N	0.20		L	ISL EAGLE'S NEST #4

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### Research




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### Research

- I called the BLM and asked:
  - 1 - Which Islands correspond with Government Lot 9, Government Lot10, Government Lot11? If the BLM cannot answer this, who would be responsible for determining this answer?
  - 2 - Were Government Lots 9, 10 and 11 considered when Misc Volume 799..... was created?
  - 3 - Does the federal government have any interest in the large island in the Northwest portion of the lake?
    - If the answer is no, who may have interest? If the island arose after statehood, my understanding is that it would be the state. If it was already in existence, then would the adjacent upland owner be entitled to the land (GL 2)? Are there other scenarios that I am missing?
  - 4 - In 1984 Tract 40 was created. Was the island in the northwest portion of the lake considered at that time? Were the government lots in question considered at that time.
  - 5 -Is there any way to gain access to the files that created Tract 40 and the Misc Volume 700....

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## Research

- 1) All surrounding lands in the section are non-federal, and therefore BLM can only give advice on the interpretation of the Manual. The only way to properly determine which islands correspond to which lots, would be to perform a retracement of the exteriors of the section and islands within the lake. Since the plat shows the distances from a meander corner on the section line common to secs. 24 and 25, it would be necessary to recover/reestablish this in order to evaluate the islands.
- 2) Yes, but they were already surveyed. They referenced Lot 9 in the "Minnesota Act" under CCN #080. Lots 10 and 11 left federal ownership in 1903 during a land exchange under the Authority of the Act of March 2, 1889 (30 Stat. 993).  
 Lot 2 was patented on June 2, 1891  
 Lot 3 was patented on November 20, 1889  
 Lots 4 and 5 were patented on November 21, 1889
- 3) Based on the original survey's meanders and acreage, the island appears to have been included as upland for Lot 2, and determination of present day ownership would be a nonfederal matter.
- 4 & 5) I have attached the files utilized in the creation of Tract 40 and others. Tract 40 was considered to be more than 50% upland and was not conveyed under the Swamp and Overflowed Land Act of September 28, 1840. The plat memorandum contains the necessary information for this determination.

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## Research

LAND INVENTORY REPORT  
for  
Lake States Project  
Bureau of Land Management

*Handwritten: 4000 0000 00 00*  
(Inventory Tract No.)

**A. Location**

1. State <u>Minnesota</u>	2. County <u>Stearns</u>
3. Legal Description <u>Sec. 24, T. 142 N., R. 10 W., S. 23 E.</u>	Subdivision <u>10000</u>
4. Aerial Photo No. <u>000 000 00 00</u>	Map Ref. <u>00000000 00 00 00</u>
5. Lake Name <u>0000 000 00 00</u>	Game & Fish Lake No. <u>00 000</u>
6. Nearest Population Center <u>000000</u>	Dist. <u>000 Miles</u>
7. Access <u>000000 00000 0000 00 00 000 0000</u>	
8. Special Area Influence	
9. Ownership & Claim Data <u>000</u>	

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## Research




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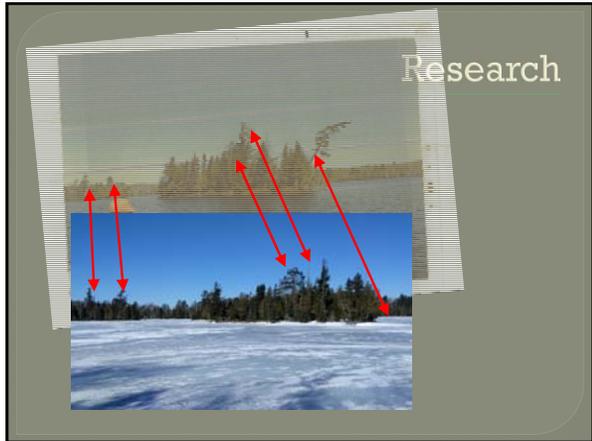
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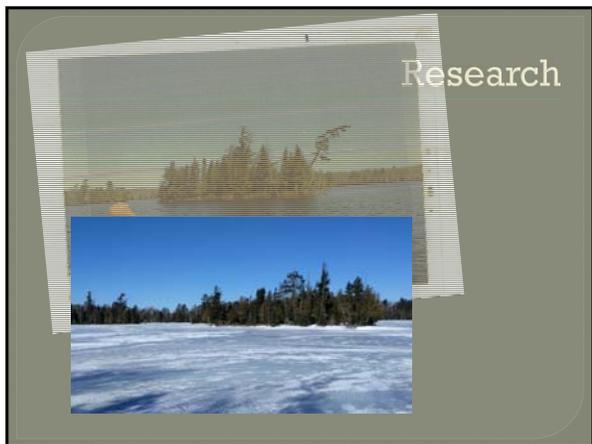
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