

The East Line of SECTION 3, T31N, R4E

Town of Corning
Lincoln County, Wisconsin

SURVEY REPORT

The length of the east line of Section 3 as measured during the original GLO survey performed in December, 1861 and January, 1862 was 79.0 chains or 5220.6 feet. More recent measurements by other surveyors indicate that the actual length of this section line is ± 4600 feet, a shortage of ± 620 feet. The purpose of this survey is to resurvey the east line of Section 3 and allocate this shortage among the four quarter-quarter sections in accordance with the Manual of Instructions for the Survey of the Public Lands of the United States 1873, published by the Department of the Interior, Bureau of Land Management (hereinafter referred to as the Manual) and Wisconsin case law.

The northeast corner of Section 3 was restored to Lincoln County standards by Gary R. Krueger in 1994. Krueger found a P.K. nail in County Highway "M" with two capped concrete monument witness corners to the west, each inscribed with a distance east to the section corner, and accepted it for this corner. A U.S. Public Land Survey Monument Record is on file at the Lincoln County Courthouse for this corner. This corner is accepted as correct.

The southeast corner of Section 3 was restored to Lincoln County standards by Gary R. Krueger in 1995. Krueger found a P.K. nail at the intersection of County Highway "M" and Cedar Road set previously by Wisconsin Valley Surveyors, and accepted it for this corner. This corner is located 2639.45 feet north of the Quarter Corner to Sections 10 and 11 and 230 feet south of a creek crossing County Highway "M". These measurements compare favorably with measurements from the original GLO survey. Cedar Road runs westerly from this corner generally along the south line of Section 3. A U.S. Public Land Survey Monument Record is on file at the Lincoln County Courthouse for this corner. This corner is accepted as correct.

The original GLO survey gives a measurement of 40.00 chains (2640.0 feet) from the southeast corner of Section 3 north to the East 1/4 Corner of Section 3, and a measurement of 39.10 chains (2580.6 feet) north from the East 1/4 Corner of Section 3 to the northeast corner of Section 3. No evidence of the East 1/4 Corner of Section 3 was found by a Wisconsin Department of Transportation survey crew in November, 1959, during a survey for the reconstruction of County Highway "M". The field notes on file at the Lincoln County Land Information Office for that survey show a "Probable Sec. Corner" at the intersection of County Highway "M" and Cedar Road for the southeast corner of Section 3, a "Probable 1/4 Sec. Corner" 2326.2 feet to the north, a "Probable Property Line" 1163.0 feet further to the north, a distance of 1110.8 feet from the "Probable Property Line" north to the northeast corner of Section 3, and a total distance of 4600.0 feet north from the probable southeast section corner to the northeast section corner. The distances to the "Probable 1/4 Sec. Corner" and to the "Probable Property Line" are those which would be obtained by proportioning the original GLO survey measurements against the total section line length of 4600.0 feet. This proportioning is the method specified in Sections 5-20 through 5-24 of the Manual for the restoration of lost corners. It is therefore evident that the Wisconsin Department of Transportation surveyors found no evidence of the original corner at the East 1/4 Corner of Section 3, and considered it to be a lost corner as defined in Section 5-20 of the Manual. "A lost corner is a point of a survey whose position cannot be determined beyond reasonable doubt, either from traces of the original marks or from acceptable evidence or testimony that bears upon the original position, and whose location can be restored only by reference to one or more interdependent corners."

In 1981 Registered Land Surveyor Hiram L. Krebs set a "temporary quarter corner" 40 chains (2640 feet) north of the apparent south section corner at the intersection of Cedar Road and County Highway "M", at a point that he felt "approximately locates this quarter corner". A letter from Krebs to Attorney Ralph Niemi dated January 3, 1981 detailing the basis for this temporary quarter corner location is on file at the Lincoln County Land Information Office. Krebs found no evidence of the original quarter corner, but noted that the north edge of a tamarack swamp called for in the original GLO survey as being located 34.10 chains (2250.6 feet) south of the northeast section corner was actually only 1490 feet. Krebs concluded from this shortage of 760.6 feet that the original GLO surveyors miscounted their chains by ± 10 chains (660 feet) in the northern one-half of the section line. He set his temporary quarter corner 2640 feet north of the southeast section corner, stating in his letter that "the U.S. Dept. of Interior's manual for the subdivision of sections purely illustrates that the first 1/2 mile measured from the South section corner has to be a full 40 chains (2640 feet), no matter what the full mile measures in those sections butting to the North Township line." Section 3-50 of the Manual does specify this procedure for the initial subdivision of a township into sections; however, for the restoration of a lost corner in a previously surveyed township, Sections 5-20 through 5-24 of the Manual specify that proportionate measurement must be used, so that "the excess or deficiency between two existent corners is so distributed that the amount given to each interval bears the same proportion to the whole difference as the record length of the interval bears to the whole record distance." This procedure was confirmed by the Wisconsin Supreme Court in *Jones v. Kimball and another*, 19 Wis. 429 (1865). See also *Clark on Surveying and Boundaries*, by John S. Grimes (3rd ed. 1959), pp. 216-217, and *Boundary Control and Legal Principles*, by Curtis M. Brown, (2nd ed. 1969), p. 210.

A note of unknown authorship on file at the Lincoln County Land Information Office states that in 1985 corners were found at the East 1/4 Corner of Section 3 and at the North 1/16th Corner on the east line of Section 3 by Bill Wengler and Steve Jackson. The note describes the corners as a green post 100 feet to the west of the centerline of County Highway "M" at the East 1/4 Corner location, and an iron pipe west of County Highway "M" at the North 1/16th Corner location. The note states that the distance from the East 1/4 Corner to the North 1/16th Corner and from the North 1/16th Corner to the northeast corner of Section 3 are approximately 1145 feet. We conducted an extensive but unsuccessful search for field notes or a map that might provide more information about these corners. A sketch of unknown authorship shows these two corners in relation to County Highway "M", and indicates that the distance from the East 1/4 Corner to the North 1/16th Corner is 1165 feet, and the distance from the North 1/16th Corner to the northeast corner of Section 3 is 1116 feet. These distances are similar to the distances given in the field notes for the 1959 Wisconsin Department of Transportation survey. The source of these corners is not known. We recovered an iron pipe and wood post west of County Highway "M" at the North 1/16th Corner location as part of this survey. It is shown on this survey map and is located N89°36'W, 56.64 feet from the North 1/16th Corner to the North 1/16th Corner is 1165 feet, and the distance from the East 1/4 Corner location was found. We believe both of these corners were set sometime between 1959 and 1985 by a party or parties unknown, by proportionate measurement between the southeast and northeast corners of Section 3.

In 1995 the East 1/4 Corner of Section 3 was set in the centerline of County Highway "M" at a distance of 2640.00 feet from the southeast corner of Section 3 by Gary Krueger, and restored to Lincoln County standards. The U.S. Public Land Survey Monument Record on file at the Lincoln County Land Information Office lists as the evidence used as the basis for the corner that it was established after extensive survey work in the sections to the east, and that it agrees with the location established by Krebs in 1981 except that the centerline of County Highway "M" was held for the east-west position of the corner. This corner is not accepted for the reasons discussed above regarding Krebs' 1981 temporary quarter corner.

The field notes from the original GLO survey list 3 topographic calls along this section line. A creek 20 links (13.2 feet) wide running East is noted 3 chains (198 feet) north of the southeast corner of Section 3, the south edge of a tamarack swamp bearing East and West is noted 15 chains (990 feet) north of the southeast corner of Section 3, and the north edge of the same tamarack swamp is noted 45 chains (2970 feet) north of the southeast corner of Section 3. Section 5-16 of the Manual addresses the proper use of topographic calls to assist in recovering corners of the original survey. It states, in part, as follows:

"A careful analysis should be made by the surveyor before using topographic calls to fix an original corner point. Indiscriminate use will lead to problems and disputes where two or more interpretations are possible. Close attention should be given to the manner in which the original survey was made. Instructions for chaining in the earlier manuals indicate that memory was an important factor in recording distances to items of topography. Early field notes often appear to have shown distances only to the nearest chain or even a wider approximation.

"In comparing distances returned in the original field notes with those returned in the resurveys, gross differences appear in a significant number of instances. In some cases the original surveyor apparently surveyed a line in one direction, but then reversed the direction in his record without making corresponding changes in distances to items of topography. These facts have sometimes caused distrust and virtual avoidance of the use of topography in corner restoration where proper application might be extremely helpful. Misapplication usually may be avoided by applying the following tests:

- (1) The determination should result in a definite locus in a small area.
- (2) The evidence should not be susceptible of more than one reasonable interpretation.
- (3) The corner locus should not be contradicted by evidence of a higher class or by other topographic notes.

"The determination of the original corner point from even fragmentary evidence of the original accessories, generally substantiated by the original topographic calls, is much stronger than determination from topographic calls alone. In questionable cases it is better practice, in the absence of other collateral evidence to turn to the suitable means of proportionate measurement."

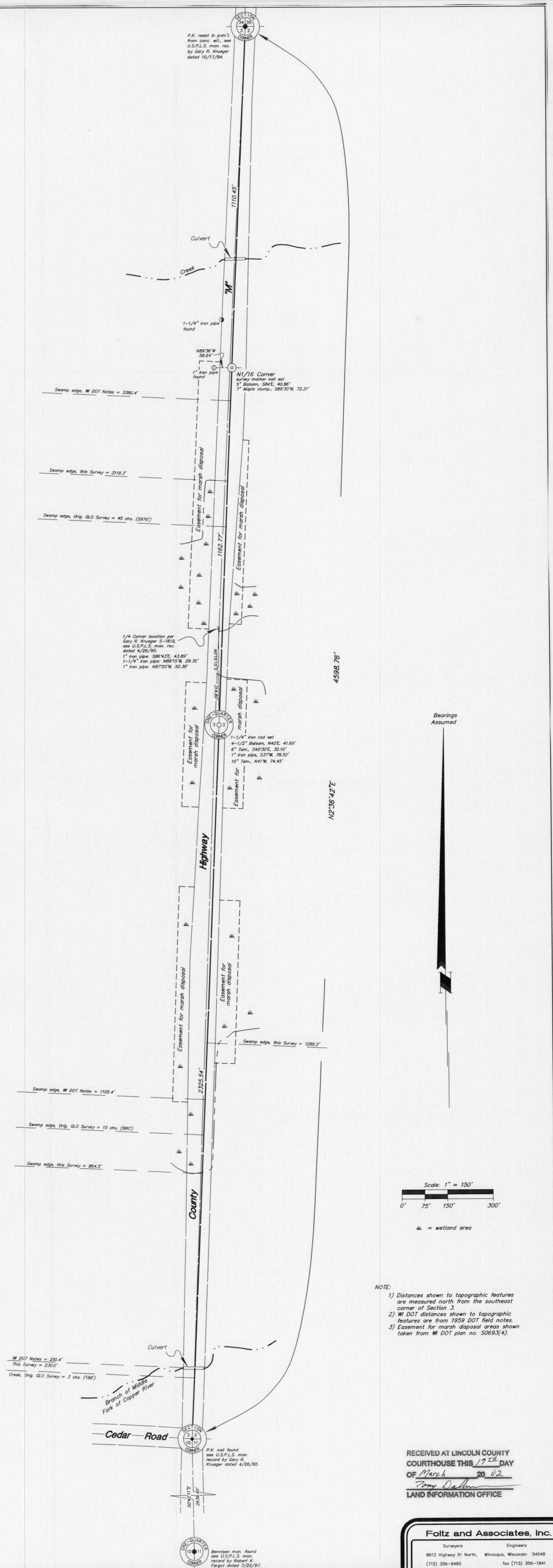
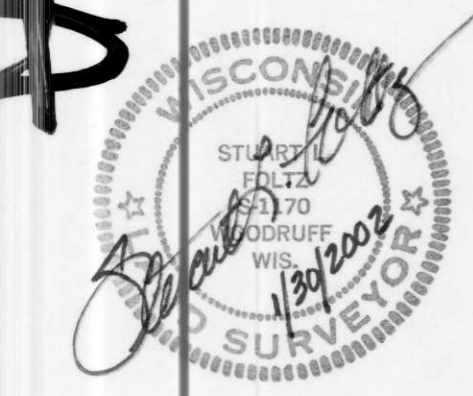
In examining whether or not the original topographic calls for this section line were sufficiently accurate to be used in repositioning the lost East 1/4 Corner of Section 3, we first note that all of the calls were given in even chains from the southeast corner of Section 3. There is a second creek similar in size to the creek mentioned in the original survey notes that crosses the section between the North 1/16th Corner and the northeast section corner, but it is not mentioned in the original field notes. County Highway "M" has been constructed and reconstructed since the original topographic measurements were made, very likely altering the topographic features as they existed during the original survey. A comparison of measurements from the southeast corner of Section 3 to the three topographic features mentioned in the original notes follows:

From southeast corner of Section 3 to the creek:	
Original survey (1861 - 1862)	198'
Wisconsin Dept. of Transportation survey (1959)	230.4'
This survey	230'
Maximum discrepancy from original survey	32.4' (approx. 1/2 chain)
From southeast corner of Section 3 to south edge of tamarack swamp:	
Original survey (1861 - 1862)	990'
Wisconsin Dept. of Transportation survey (1959)	1105.4'
This survey	864.5'
Maximum discrepancy from original survey	125.5' (approx. 2 chains)
From southeast corner of Section 3 to north edge of tamarack swamp:	
Original survey (1861 - 1862)	2970'
Wisconsin Dept. of Transportation survey (1959)	3380.4'
Krebs (1981)	3110'
This survey	3119.3'
Maximum discrepancy from original survey	410.4' (approx. 6 chains)

It is apparent from this comparison that the topographic calls in the original survey notes are not sufficiently accurate to be used to reposition the lost East 1/4 Corner, as no determination made from these calls could result in "a definite locus in a small area" one of the tests for using topographic calls set forth in Section 5-16 of the Manual.

We therefore have set the East 1/4 Corner and the North 1/16th Corner for this survey by single proportionate measurement between the southeast and northeast corners of Section 3, in accordance with Sections 5-20 through 5-24 of the Manual. This is in general agreement with the "Probable 1/4 Sec. Corner" and the "Probable Property Line" shown on the field notes for the 1959 Wisconsin Department of Transportation survey of County Highway "M", and with an iron pipe and wood post found this survey west of County Highway "M" at the North 1/16th Corner.

I hereby certify to the present owner(s) and/or purchaser(s) of the property included in this survey, and to those who mortgage or guarantee title for the present owner(s) or purchaser(s) within one year from the date hereof, that this survey was performed in accordance with acceptable professional standards; that the survey data shown hereon is, to the best of my knowledge, information and belief, a true and accurate representation thereof; that any legal descriptions conforming to this survey have been provided on separate sheets; and that this survey was performed by order of Todd Andrews.



RECEIVED AT LINCOLN COUNTY COURTHOUSE THIS 17TH DAY OF March 20 02
Tom Dahl
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