J. M. John Lumber Company et al.
A-30761

(This is an Administrative Decision, or "A" Decision. "A" Decisions are unpublished opinions which resulted from appeals of the Director's Decisions. "A" Decisions were issued prior to the creation of the Interior Board of Land Appeals, July 1, 1970.)

This case involves an island which was once public land owned by the United States. The island was gradually eroded away in its entirety by the force of the river. Fast land was then formed on the site formerly occupied by the island by the process of accretion to a bank of the river which is privately owned. The Bureau of Land Management (BLM) claimed the land as public land base on the rule of "submergence and reappearance of land. Appellants dispute BLM's claim and assert ownership as accretions to their riparian upland parcel.

T. 14 R. 1 E.

District West of Pearl River - Miss

Original 1834 Plat

MISSISSIPPI.
WASH. MER. N & E

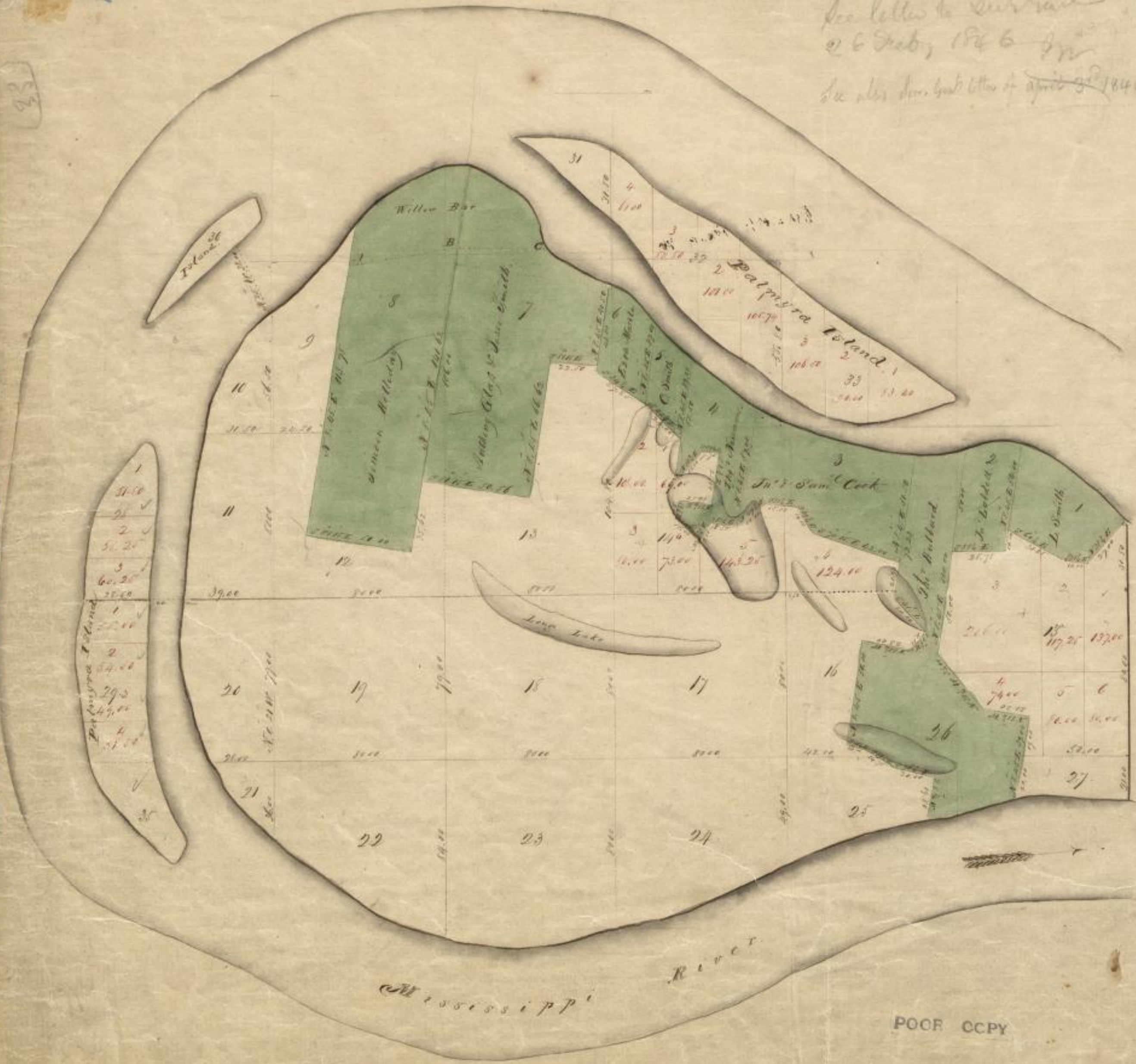


Table of Contents

Sec.	Acres	Sec.	Acres	Sec.	Acres
9	231.67	19	632.00	28	170.00
10	124.30				
11	283.48	20	298.67	29	210.00
12	347.49	21	64.91	30	69.92
13	672.91	22	506.90	31	63.68
14	597.25				
15	531.25	23	654.50	32	348.24
16	321.05	24	527.25	33	279.90
17	640.00	25	141.62	35	83.50
18	636.00	27	99.41		

Total Area of Public Lands 8.837.20

Claimants Names	Sec.	Cert.	Acres
Lucas Smith	1	D242	189.96
James Dobdell	2	D238	134.57
John & Samuel Cook	3	D214	347.66
Thomas Newman	4	D230	184.22
Chilsab Smith	5	D231	72.09
Ezra Mayble	6	D244	92.22
Anthony Glass & J. Smith	7	D265	791.53
Simeon Holliday	8	D241	553.75
Thomas Hubbard	26	D245	641.84

Surveyors Office Jackson Miss
April 4th 1834

The above Map of fractional Township No. 14 R. of 1 East in the District West of Pearl River is strictly conformable to the field notes of the Survey on file in this office which have been examined & approved. — The East Boundary was resurveyed by Thomas D. Kennedy in the 1st quarter of 1830 under Contract dated 19th July 1830, and paid at $4 per mile in the 2 qr of 1830 — The claims and interior sectional lines were so surveyed by Thomas D. Kennedy and completed in the 1st quarter of 1831 under Contract dated 19th July 1830 and paid at $4 per mile in the 2d qr of 1834

Payment of resurvey authorized by Commissioner's letter of 11 Mar 1834.


T.14.R.1.E. Dist: West of Pearl River.
MISSISSIPPI.
WASH. MER. N & E
1848 Plat
Upper Palmyra L.
Lower Palmyra L.
Cypress L.
Long L.
Miss. R.
POOR COPY

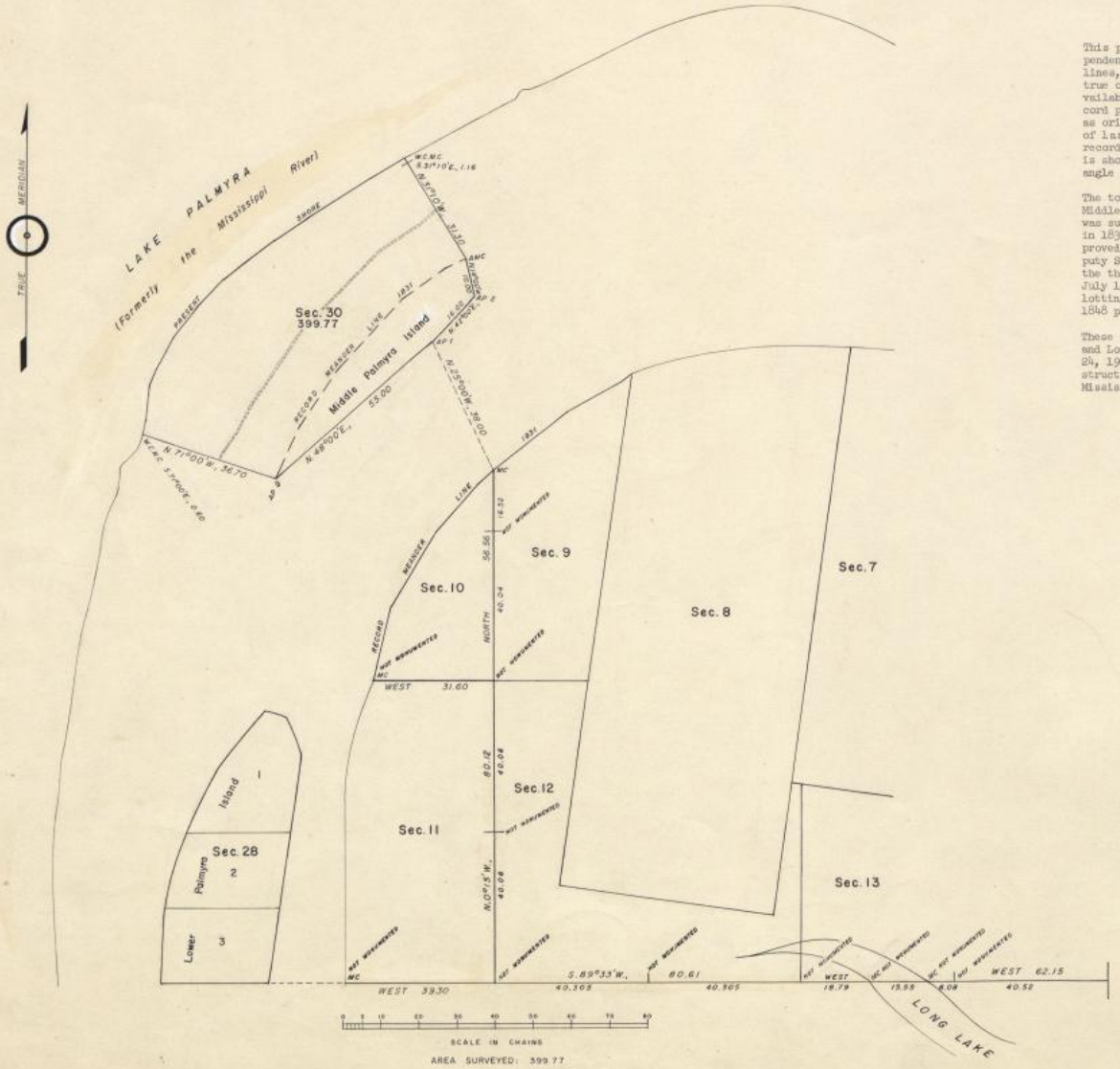
1966 Resurvey Plat

ORIGINAL

CANCELLED JANUARY 16, 1968 FILE: 9186(713a) GP 18, MISS.

TOWNSHIP 14 NORTH, RANGE 1 EAST, WASHINGTON MERIDIAN, MISSISSIPPI

DEPENDENT RESURVEY AND EXTENSION SURVEY OF MIDDLE PALMYRA ISLAND



This plat of T. 14 N., R. 1 E., represents the dependent resurvey of a portion of the subdivisional lines, designed to restore the corners in their true original positions according to the best available evidence; the reestablishment of the record position of Middle Palmyra Island (section 30) as originally surveyed; and, the extension survey of land accreted to Middle Palmyra Island. The record position of the easterly side of the island is shown by the irregular solid line with numbered angle points.

The township, which includes Lower Palmyra Island, Middle Palmyra Island, and Upper Palmyra Island, was surveyed by Thomas D. Kennedy, Deputy Surveyor, in 1830-31, as shown upon the official plat approved April 4, 1834. In 1848, Henry Hamblin, Deputy Surveyor, resurveyed the township, excepting the three islands, as shown upon the plat approved July 14, 1848. Except as otherwise noted, the lottings and areas are as shown upon the 1834 and 1848 plats.

These surveys were executed by Hugh B. Crawford and Louis V. Tout, Cadastral Surveyors, from June 24, 1963, to July 6, 1965, pursuant to Special Instructions dated June 13, 1963, for Group No. 18, Mississippi.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Washington, D. C. August 24, 1966

This plat is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and the regulations of this Bureau, is hereby accepted.

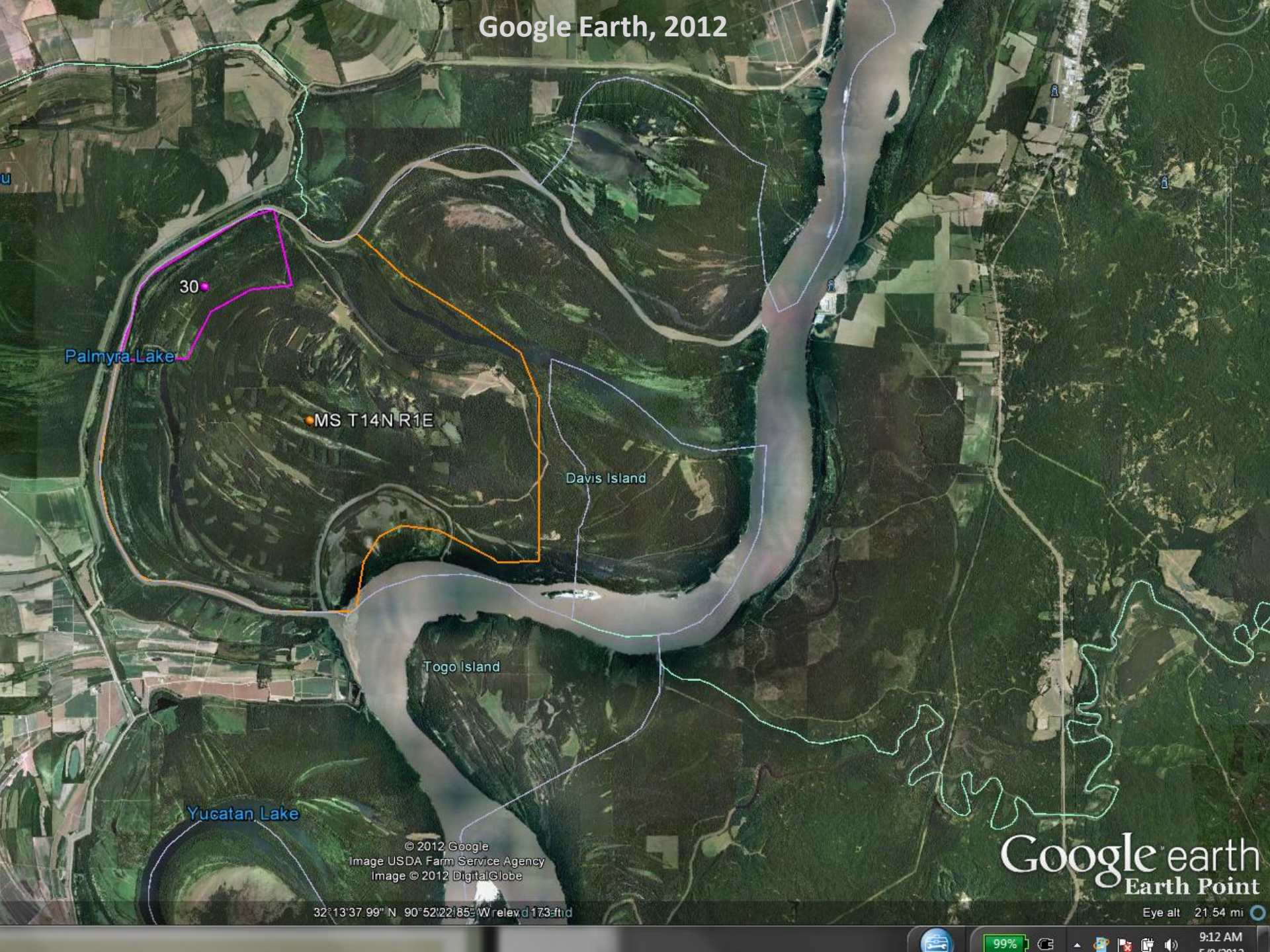
For the Director

R. E. Brown

Acting Chief, Division of Engineering

Introduction Page of the Field Notes
Approved August 24, 1966

Field investigation has shown that subsequent to the original survey Middle Palmyra Island was washed away and ceased to exist in place. Thereafter, gradual accretion to the upland of sections 9 and 10 reoccupied the geographic position of the island and extended beyond to the present southeast bank of Lake Palmyra. Title to the surveyed island as public land was reinstated upon its reappearance. The following field notes describe the redetermination of the original position of the island and the survey of accreted lands attaching to the westerly part of the island. Since the area occupied by the island was restored by accretion moving from the southeast, the original meander line along that side of the island is restored as a fixed and limiting boundary between the public land the area accreted to patented land.


Google Earth, 2012
30
Palmyra Lake
MS T14N R1E
Davis Island
Togo Island
Yucatan Lake
© 2012 Google
Image USDA Farm Service Agency
Image © 2012 DigitalGlobe
Google earth
Earth Point
Eye alt 21.54 mi
99%
9:12 AM

J. M. JONES LUMBER COMPANY ET AL.

DEC 28 1967

A-30761 Decided

Accretion -- Public Lands: Riparian Rights--Surveys of Public Lands: Generally

Where an island which was once public land owned by the United States is gradually eroded away in its entirety by the force of the river in which it lay and then fast land is formed on the site formerly occupied by the island by the process of accretion to a bank of the river which is privately-owned, the United States can not assert title to such land as public land.

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

A-30761

J. M. Jones Lumber Company et al.

: 9186 (713a) Group 18,
: Mississippi, Middle Palmyra
: Island

: Protest against acceptance
: of resurvey and extension
: survey dismissed

: Reversed and remanded

APPEAL FROM THE BUREAU OF LAND MANAGEMENT

The J. M. Jones Lumber Company and the Estate of R. Lee Parker, Jr., have appealed to the Secretary of the Interior from a letter decision by the Chief, Division of Engineering, Bureau of Land Management, dated November 14, 1966, stating that their protest against a resurvey and extension survey by the Bureau of section 30, T. 14 N., R. 1 E., Washington Meridian, Mississippi, had been dismissed upon acceptance of the plat of survey for the Director, Bureau of Land Management, on August 24, 1966. The decision further stated that, if no appeal to the Secretary were filed within 30 days, the plat would be officially filed and become the official record of survey.

The survey was authorized under special instructions, dated June 13, 1963, for the dependent resurvey and extension survey of Middle Palmyra Island, which comprises section 30, T. 14 N., R. 1 E., Washington Meridian. The appellants contend that

the lands within the resurvey and extension survey are not Federally-owned public lands, which there is authority to resurvey, 1/ but, instead, that the disputed lands belong to them as accretions to lands shown on the original survey plat as uplands riparian to the Mississippi River.

Township 14 N., R. 1 E., Washington Meridian, Mississippi, was surveyed in 1830-31, with the survey plat approved in 1834.2/ This plat shows an area, which is described in subsequent plats, maps and charts as Davis Island, bounded on the north, west and south by the Mississippi River in a large horseshoe-shaped bend. Within the river channel are meandered three islands, with the two larger islands being subdivided into sections and the smaller island simply identified as section 30. In later plats and other documents these islands are identified as Upper Palmyra Island, a large island lying in the northeastern portion of the river bend;

1/ The purpose of a resurvey is to identify and segregate the public lands of the United States. It entails an investigation into factual matters and legal interpretations to determine whether the United States may properly claim land as public land and establish and re-establish boundaries. Approval of the survey and the official filing of the plat constitute an administrative determination that the lands so surveyed are public lands. See Burt A. Wackerli et al., 73 I.D. 280, 286 (1966); cf. Lane v. Darlington, 249 U.S. 331 (1919). Such a determination, of course, does not have the effect of quieting title as does a proper court proceeding, and a resurvey cannot have the effect of divesting title from persons in whom title vested in accordance with an earlier survey. Lane v. Darlington, supra; Kean v. Calumet Canal Co., 190 U.S. 452, 451 (1903).

2/ There was also an earlier survey of that township which it is unnecessary to discuss.

Lower Palmyra Island (also listed as Hurricane Island on some of the documents in the record), a slightly smaller island lying in the westernmost part of the river bend opposite the southern half of Davis Island; and Middle Palmyra Island, a small island lying between these two islands in the northwestern portion of the river bend. Middle Palmyra Island is shown on the plat as lying opposite areas of Davis Island designated as sections 9 and 10, with a tie to the meander corner on the east bank of the river between sections 9 and 10. The 1834 plat showed the acreage for sections 9 and 10 as 231.67 and 124.30 acres, respectively, and the acreage of Middle Palmyra Island (sec. 30) as 69.92 acres.

There has been considerable movement of the Mississippi River in this area during the past century and a half. Some of the changes have resulted in gradual shifts of the river's course from year to year, whereas other changes have resulted in a sudden change of the river's main channel to a new bed. Such an avulsive action in 1867 changed the main channel of the river to what is known as the Davis cut-off, which cut across the neck of the bend and caused the encirclement of the area known thereafter as Davis Island. Later changes sent the main flow of the river back around the Davis Island bend (also known as Hurricane Bend). However, at the time of the resurvey, and as far as we know now, the present main flow of the Mississippi River is east and south of the Davis Island area. The remainder of what was

the river bend is now known as Palmyra Lake, a body of water much narrower than the former river channel. The medial line of this water way forms the boundary between the States of Louisiana and Mississippi, it having been established as such at the time of the Davis cut-off.

There is now land in the area shown on the 1834 survey plat as a river channel separating Middle Palmyra Island from the western shore of the mainland of Davis Island. There no longer appears an island formation. This land area extends over the geographical area of Middle Palmyra Island as shown on the 1834 plat and continues westward beyond the island a considerable distance to the present water line of Palmyra Lake.

The land status records of this Department show that section 30, Middle Palmyra Island, has never been patented or title to it otherwise relinquished by the United States, but that it was withdrawn by Public Land Order 2709, June 20, 1962, for the Davis Island National Wildlife Refuge.3/ The resurvey was ordered upon the request of the Bureau of Sport Fisheries and Wildlife to determine the public lands in the refuge. Sections 9 and 10 shown on the 1834 plat as uplands on Davis Island opposite Middle Palmyra Island have been patented by the United States.4/

3/ The status records also show that an oil and gas lease, Bureau of Land Management 046411, for section 30 was issued effective May 1, 1958, and extended to April 30, 1968.

4/ The records show a patent for section 9, dated September 4, 1824, and a patent dated June 28, 1831, for section 10.

The dependent resurvey and extension survey was conducted from June 24, 1963, to July 6, 1965, and the plat of this survey was accepted for the Director on August 24, 1966. The field notes of this resurvey indicate that subsequent to the survey conducted in 1830, Middle Palmyra Island was washed away and ceased to exist as an island in place, that thereafter gradual accretions to sections 9 and 10 extending westward occupied the geographic position of the island and extended beyond to the present southeast bank of Palmyra Lake, and that title to the surveyed island as public land was reinstated upon its reappearance. The field notes and the plat show that the original meander line along the side of the island opposite sections 9 and 10 was reestablished as a fixed and limiting boundary separating the public land of the reestablished island from the lands accreted to patented sections 9 and 10. After establishing northern and southern meander points for the island's record position, the survey was extended to include the area accreted to the west of the island from lines normal to the present bank of Palmyra Lake. The total acreage for the resurveyed and extended area is given as 399.77 acres. All of this area is claimed by the appellants as lands accreted to sections 9 and 10 and other adjoining sections.

There is no disagreement as to the essential facts in this case, i.e., that Middle Palmyra Island had gradually eroded away sometime prior to 1862, and that land had accreted to the uplands on the east bank of the river extending westward to and over the record

position of the island and beyond westerly to the present bank of Palmyra Lake. The difference between the Bureau's position and that of the appellants has been in interpreting the law applicable to this factual situation. In reaching the legal conclusion that upon formation of the new land within the area of the original survey of Middle Palmyra Island, title to the land belonged to the United States, the Chief, Division of Engineering, in his letter of February 18, 1965, to appellants, relied on an opinion, dated February 4, 1965, by the Associate Solicitor for Public Lands. This opinion based its conclusion on cases discussing the so-called rule of "submergence and reappearance of land" to the effect that where land once riparian has been completely eroded away but by subsequent action of the river it is restored or reappears by accretion or reliction, title of the former owner reattaches to the land thus reappearing, citing Towl et al. v. Kelley and Blankenship, 54 I.D. 455 (1934); Herron v. Choctaw and Chickasaw Nations, 228 F.2d 830 (10th Cir. 1956); Elliot v. Atlantic City, 149 Fed. 849, 853 (C.C. D. N.J. 1907); Stockley v. Cissna, 119 Fed. 812, 831 (6th Cir. 1902); Widdicombe v. Rosemiller, 118 Fed. 295, 299-300 (C.C. W.D. Mo. 1902).

In their appeal appellants dispute this legal conclusion. Briefly, their contentions may be summarized as follows: First, they contend that the survey is contrary to the facts which show that the island was completely eroded away and the land extending

over the former boundaries formed as accretions from the mainland. Second, they contend that the survey is contrary to the law for several reasons. They suggest, first of all, that the doctrine of reappearance of submerged land is not applicable here because under the old common law ruling as discussed by the Supreme Court in Arkansas v. Tennessee, 246 U.S. 158, 174 (1918), there must be reasonable marks to continue notice of the lands or if the marks be removed land must be identifiable. They contend that neither of these criteria is applicable here since the island completely disappeared by erosion and it is not capable of identification as the character of the land has been changed from an island formation to land accreted to the upland. Appellants also contend that State law controls here rather than Federal law in determining the title to lands lost by erosion and title to accretions. They assert that the "law of accretions" governs here to the effect that riparian owners lose land by erosion and gain title to land by accretion and that this rule is followed without dissent in this country. They state that it is the law of the State of Mississippi that the title to the bed of the Mississippi River belongs to the riparian proprietor to the thread of the stream unless restricted by the grant, and that the riparian proprietor is entitled to the accretions to his riparian lands. Appellants also suggest that the court cases cited by the Bureau, mentioned above, are distinguishable and involve the application of the doctrine of submergence and reappearance of land where there is avulsive action

of the waters, rather than erosion and accretion, as is the case here, and that they also involved jurisdictions which hold that private ownership of lands extends only to the high water mark, or to the ordinary high water mark, or to the space between the high water and low water marks, or to the space between the ordinary high water and low water marks, and not to the thread (or thalweg or center) of the navigable river.

Finally, appellants contend that, even if the survey is not contrary to the facts and law, it is in error in that it encroaches upon the riparian rights of the owners of sections 8, 9, 10 and 11 of T. 14 N., R. 1 E. They request that this Department either withdraw the claim to the land (i.e., the survey), or file a suit to have title to the land judicially determined.

The real question posed by this appeal is whether or not the law is so clear with respect to the facts of this case that the United States should refrain from asserting any claim of title to the lands in dispute. The position of the appellants basically is that the United States lost title once the island was submerged and never regained title to any land reappearing within the former boundaries of the island as such land belongs to them as accretions to their lands. The position of the Bureau is that the United States did regain title to the lands once they reappeared.

As we have seen, the opinion on which the Chief, Division of Engineering, relied described the situation of land which has been submerged and then restored as "reappearance" and apparently

considered all situations in which lands reappear to be governed by the same rules.

As we read the cases, we find that land can disappear and reappear in a variety of factual situations with the consequences varying with the facts.

The most ordinary situation is one in which land in a riparian lot is partly eroded away and then restored by accretion but the accretion does not extend beyond the former river bed. In another situation a riparian lot is eroded completely away so that adjoining land once remote from the water becomes riparian, and then by accretion the eroded lot is restored in whole or in part so that the adjoining land is again remote. In a third variation accretion builds on a riparian lot on one bank to such an extent that it reaches across the whole of the former river bed and covers the position of land which was originally on the opposite bank but which has been washed away. And, finally, for our purposes here an island may be eroded completely away and then reappear in its former position.

The generally stated and accepted rule governing the rights of riparian owners to whose land accretion attaches is that the added land belongs to the riparian owner. Jefferis v. East Omaha Land Co., 134 U.S. 178 (1890). This rule applies to our first example.

In the second variation, in which the river erodes away a riparian lot to such an extent that a remote lot becomes riparian

and then accretion builds up from the formerly remote lot so that not only is it restored to its former boundary but the eroded riparian lot is also recreated in part, in whole, or even beyond its original riparian boundary, the courts are divided as to whether the accretion belongs to the owner of the remote lot in total or only to his original boundary with the rest going to the original riparian owner. Compare Perry v. Erling, 132 N.W. 2d 889 (N.D. 1965), and Greeman v. Smith, 138 N.W. 2d 433 (N.D. 1965), with Cunningham v. Prevow, 192 S.W. 2d 338, 350 (Ct. App. Tenn. 1945). The Department has held that in such circumstances the originally remote owner can acquire title only up to the limits of his original surveyed boundaries. Towl et al. v. Kelly and Blankenship, supra.

The third situation has been before the Department several times in recent years. In each case it has been held that land formed by accretion to one bank of a river belongs to the owner of that bank even though the accretion is so extensive that it covers an area which was formerly fast land on the other side of the river but which was eroded away. Edwin J. Keyser, 61 I.D. 327 (1954), and cases cited in footnote 1 of that decision; Henry E. Schemmel et al., A-29906 (February 20, 1964). As the Keyser case noted, all the courts which have dealt with the problem have reached the same result. A recent case held that a tract of land measuring several thousand feet added by accretion to a

lot on the north bank of the Colorado River belonged to the owner of that lot even when the accretion came to occupy land in the same physical location as land patented to another on the original south bank of the river. Beaver v. United States, 350 F. 2d 4 (9th Cir. 1965), cert. denied 383 U.S. 937 (1966).

In another recent case in which the movement of the Arkansas River was quite similar to that of the Mississippi here, the north bank of the river migrated southward from sections 17 and 18, T. 7 S., R. 4 W., Arkansas, to a position in sections 2, 3, 4, and 5 in T. 8 S., R. 4 W., forming a huge bend. The river then cut across the neck of the bend leaving an ox-bow lake on the periphery of the bend. The area in dispute covered 800 acres formerly contained in sections 33, 34, and 35, T. 7. S., R. 4 W., and in sections 2, 3, and 4, T. 8 S., R. 4 W. -- which had originally been on the south bank of the river. The accretion added some three miles to the lots riparian to the north bank. The court found that the river migrated southward by the process of accretion and awarded the land in dispute to the plaintiff whose claim was based on ownership of a portion of sections 7, 17, and 18, T. 7 S., R. 4 W. McGee v. Matthews, 358 F. 2d 516 (8th Cir. 1966).

Here again the court followed accretion into the physical site of land on the opposite bank, and, despite the ease with which the former land could be identified and its boundaries restored, it recognized the right of a riparian owner to the

accretions to his land, even to this great extent.

There remains the problem of the disappearing and reappearing island. While there do not appear to be any cases in which the facts were so limited, there are dicta supporting the view that the original owner regains title to a reappearing island if it reappears as an island in its original location. Widdicombe v. Rosemiller, supra; St. Louis v. Rutz, 138 U.S. 226, 249 (1891); Van Deventer v. Lott, 180 Fed. 378, 382 (2d Cir. 1910).

We are concerned, however, not with an island that arises anew as an island, but a land mass that grows by accretion from a bank opposite the island until it covers the site the island formerly held and substantially more. This is not a situation of simple accretion without an invasion of former fast land, nor is it the case of riparian land being washed away and then reappearing on its own side of the river; nor is it an island that is resurrected as an island. It is, in all pertinent factors, a case of accretion to one bank extending across a river bed until it covers land formerly within the physical location of land on the opposite bank.

The only complicating, and to some extent confusing variation, is that the physical site of the reappearing land was once an island instead of the opposite bank. But there does not seem to be any reason why accretion invading the site of a former island should be governed by a rule different from that applicable to the opposite bank of a river. An island is governed by the

same rules of accretion as land bounded on one side only by water, that is, the boundaries are presumed to vary with any gradual change in the line between land and water, "or, as it is otherwise expressed, the owner of an island is entitled to land added thereto by accretion to the same extent as the owner of land on the bank or shore of the mainland." 3 Tiffany, Real Property, sec. 1228 (3rd ed. 1939).

A striking example of the application of the regular rules of accretion to an island is found in Widdicombe v. Rosemiller, supra, in which after discussing the law governing a reappearing island the court found that the island had not been entirely washed away and that a body of land from 15 to 20 acres formed the nucleus to which there was built on by accretion not only an area equal to the original surveyed area but, extending laterally beyond the survey lines, a substantially greater area (p. 301). The court awarded to the island the land accreting to it to the west across a channel of some 200 yards to the point where it met accretion from the mainland. It also held that the island gained by accretion eastward, the direction of the major accretion, all of a bend measuring one and a half miles that lay directly east of it. The island on survey contained 48.62 acres while the bend formed by accretion covered 1100 acres, a substantial portion of

which went to the island.5/

In a recent case a Federal district court applied the North Dakota law to an identical factual situation and held that where an island has been completely eroded and washed away and later land is formed by accretion to riparian lots on the river bank to such an extent that land appears again in the physical location formerly occupied by the island the title to the land goes to the owner of the riparian lot and not to the owner of the island. United States v. 2,134.46 acres of land, etc., 257 F. Supp. 723 (D.C. N.D. 1966).

If we treat the situation then as one in which accretion to one bank of a river advances across the original river bed until land appears within the physical site of land formerly on the opposite bank of the river, we must conclude that the United States has no title to any of the accretion based solely on its ownership of the former island.

The doctrine of reappearance is, we believe, not helpful here. In a recent case, the Ninth Circuit dealt with the issue of accretion and the doctrine of reappearance. Beaver v. United States, supra. The facts show that the Colorado River,

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5/ While there is no discussion of the point in the case, it seems as though the land accreting to the island and adjacent mainland must have extended to the eastward sufficiently to invade the position of land formerly on the east bank of the river.

which in the area in question flows generally from east to west, had in the course of some forty years moved several thousand feet to the south so that a tract of land formerly on the south shore of the river was now on the north. The United States claimed this tract as accretion to land it owned which was originally riparian land on the north shore. After holding that the land was formed by accretion, the court held that the case was governed by the ordinary rules of accretion and that the doctrine of "re-emergence" was not pertinent. The court said:

> "As an alternative theory of recovery, appellants raised a title claim under the doctrine of re-emergence. That doctrine rests upon 'easy identification' of riparian land 'lost' and 'found' again by re-emergence from stream bed. These elements are not here present.
>
> We agree with the government:
>
> 'That doctrine has been applied by some state courts as an exception to the doctrine of accretion, but not in a factual situation such as is present in this case. In order for the doctrine to be applied in those states that recognize it, two things must occur: First, the water-course must move across and submerge riparian land so that land formerly non-riparian is made riparian; then the watercourse must return to or near its original bed so that the riparian land that had been submerged is uncovered, or re-emerges.
>
> * * * * * *
>
> 'The United States' land to which the tract has accreted was riparian originally and one of the reasons for the doctrine of accretion is to allow that land to remain riparian. Philadelphia Co. v. Stimson, 233 U.S. 605, 624 [32 S.Ct. 340, 56 L.Ed. 570]

> (1912). Appellants here seek to apply the "re-emergence" doctrine to render nonriparian land that was originally riparian. This is directly contrary to the purposes of the exception.
>
> * * * * *
>
> 'Stone v. McFarlin, 249 F. 2d 54, 55-57 (C.A.10, 1957), cert. den., 355 U.S. 955 [78 S.Ct. 540, 2 L.Ed.2d 531] * * * Anderson-Tully Co. v. Tingle, 166 F. 2d 224 (C.A. 5, 1948), cert. den., 335 U.S. 816 [69 S.Ct. 36, 93 L.Ed. 371], where the court stated (pp. 228-229): "Where a river is a boundary and there is no avulsion, a land-owner can never cross the river to claim an accretion on the other side."' (Appellee's Brief, pp. 15-17.)." 350 F. 2d at 11.

There is nothing in the Mississippi cases indicating that the regular rule of accretion would not apply to unusually large increments of land to one bank of a river. In several cases the court apparently assumed the regular rule to be controlling although the accreted area attained a depth of a mile. United States Gypsum Co. v. Reynolds, 18 So. 2d 448 (Miss. 1944); Sharp v. Learned, 14 So. 2d 218 (Miss. 1943).

So here we must conclude that the doctrine of "reappearance" or "re-emergence" cannot apply to cut off the rights of a riparian owner to accretion attaching to his land in favor of a riparian owner on an opposite bank whether it be the land of the other shore or of an island.

Therefore, pursuant to the authority delegated to the Solicitor by the Secretary of the Interior (210 DM 2.2A(4)(a); 24

F. R. 1348), it is concluded that upon the basis of the facts presented in this appeal, the United States has no basis for a claim to title to the land here in dispute, the decision of November 14, 1966, is reversed, and the case is remanded for further proceedings consistent herewith.

DEPUTY Solicitor