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May 7, 2018

Joseph P. Gone, Ph.D.
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Dear Professor Gone and Mr. Petoskey:

This letter is in further follow up to your request that the University take certain actions in light of the atrocious prior history connected with land we now own on Burt Lake and which is part of the UM Biological Station. As I indicated in my correspondence to you dated December 11, 2017, I referred this matter to the President's Advisory Committee on University History (PACOUH) which has undertaken a careful review and has made recommendations to me on appropriate steps we might take to address this history. The PACOUH report and recommendations are enclosed with this letter.

After consultation with senior leaders at the University, I have decided to accept the PACOUH recommendations. As the Biological Station is part of the College of Literature, Science and the Arts, I have asked LSA Dean Andrew Martin to take the lead on implementing the recommendations. Dean Martin and Biostation Director, Knute Nadelhoffer will work in consultation with the relevant Native American communities on the recommended activities and will do so in coordination with a broader task force on Native American issues which is underway under the auspices of the Office of the Vice Provost and Chief Diversity Officer, Rob Sellers.

Thank you for bringing this matter forward. Understanding and acknowledging the past with both its successes and failures is essential to a more positive future especially as we strive to create an inclusive and equitable learning community. You have catalyzed an important opportunity for all of us.

Sincerely,

A handwritten signature in blue ink that reads 'Mark Schlissel'.

Mark S. Schlissel
President

Cc: Andrew Martin
Terrence J. McDonald
Knute Nadelhoffer
Robert Sellers

Report and Recommendations on Possible Relationship between the Burt Lake “Burnout” and the
University of Michigan Biological Station.

President’s Advisory Committee on University History

Summary:

On October 15, 1900 Cheboygan County Sheriff Fred Ming and others burned to the ground every home in the area of that county near Burt Lake known as Indian Village. As a recent historical writer about this incident, now known as the “Burt Lake Burnout” has put it “this brutal eviction is perhaps one of the least-known and least-understood incidents in the long history of Native American struggles Michigan.”¹ The action, taken under the authority of a writ of possession for the land obtained from a local court by Cheboygan banker and land speculator John W. McGinn, destroyed the geographical heart of the Burt Lake Band of Native Americans and scattered the residents of the Village, whose families in some cases had lived there for more than 70 years, throughout northern Michigan. By 1902 McGinn had secured ownership of an area on the peninsula into Burt Lake known as “Indian” and later “Colonial” Point that encompassed more than 400 acres of land containing both the ancestral site of “Indian Village” itself and most of the lands adjacent to it on which Village residents had grown crops and harvested timber. From then on the Burt Lake Band would have no geographical home.²

[See **Map #1** -- a modern representation of the Village and adjacent territory, “Figure 11” from Dennis Albert and Leah Minc, “The Natural Ecology and Cultural History of the Colonial Point Red Oak Stands,” University of Michigan Biological Station Technical Report No. 14, 1987, 43.]

[See **Map #2**, the actual 1855 State Survey Map of the same area, where the territory in the color Green and marked “IR” indicates the “Indian Reserved” area, from “1855 survey map of Township 36 North, Range 3 West,” Michigan State Land Office Board records, plat maps, Box 4. Bentley Historical Library, University of Michigan]

Eight years after the burnout, at their June meeting in 1908, University of Michigan Regents accepted the gift of the so-called “Bogardus” tract of 1,441 acres on Douglas Lake about 5 miles north of the site of the burnout. At their December meeting of 1909 they authorized the establishment of a Biological Station on the Bogardus tract. There is no evidence anywhere in the historical record of any connection

¹ Matthew J. Friday, “Michigan’s Burt Lake Indians and the Burning of Indianville,” *Michigan Historical Review* 33 (2007), 88.

² Richard Wiles, “A Bitter Memory: Seeking ‘Maamaw Gwayak’ (Social Justice) at Burt Lake,” *Michigan Historical Review* 42 (2016), 61-74. The accounts of Friday and Wiles, which disagree on overall interpretation, are the most recent detailed accounts of this episode in scholarly journals. Wiles says the land obtained by McGinn was 411 acres.

between the land involved in the burnout and the establishment of the Biological Station at that time. The Bogardus tract was located outside the boundaries and north of Burt Township.³

[See **Map #3** representing the land added to the Biological Station by Decade; prepared by the University of Michigan Real Estate office from University records of deeds, 2018.]

But, in a deeply ironic development, part of the land involved in the burnout and its aftermath came under the control of the University in several actions by the Regents over the period 1985-89. Then, working in collaboration with the Little Traverse Conservancy, the University sought to help save for public purposes a tract of land owned by the Devereaux Sawmill Company which planned to log the area. Through gift and purchase arrangements the Conservancy and the University received all of the lands involved in or implicated in the burnout. In general, as we understand the boundaries, the site of Indian Village where the actual burnout occurred is under the control of the Conservancy today. The lands adjacent to the Village which had been farmed by those living there are now in possession of the University whose share of the land is under the control of the Biological Station.⁴

[See **Map #4** indicating the area on the site under the control of the University, prepared by the University of Michigan Real Estate Office from University records of deeds, 2018.]

In December 2017 the Director of the Native American Studies program here at the University, Professor Joseph Gone, forwarded to your office a request from current University of Michigan law student John M. Petoskey, a member of the Grand Traverse Band of Ottawa and Chippewa Indians, for review of the historical relationship between the land dedicated to the Burt Lake Band and that under the control of the University, entitled “Synopsis of the Burt Lake Burnout and Request for University Action.” After a thoughtful review of the history of the Band and the burnout Mr. Petoskey wondered whether the establishment of the Biological Station was “directly facilitated” by the burnout. Whether or not that was true, he proposed that the history of the burnout and the pattern of land acquisition at the Biological Station should receive more attention from its leadership so that students would be aware of the complicated history between the Native American and white population in the area of the Station. Specifically Mr. Petoskey requested that the University include curriculum on the taking of Burt Lake and the burnout for the students attending the Biological Station, work with descendants of the Burt Lake Band to reach an agreeable plan to commemorate the burnout through the establishment of a memorial, a plaque, or an image at the Biological Station, and he proposed that the Biological Station, the Department of Ecology and Evolutionary Biology, and the School for Environment and Sustainability include in their curricula indigenous perspectives on the topics of resource management, environmental history, ecology, traditional ecological knowledge, and environmental justice.

With your permission, in January 2018 your Advisory Committee on University History agreed to take up this issue and we have independently reviewed primary and secondary sources relevant to it. We have received help from the Bentley Historical Library and from the University’s Real Estate Office and Office

³ University of Michigan. “Proceedings of the Board of Regents,” (1908): 275; (1909): 472. The Borgardus tract was at T. 37 N., R. 3 W. in Cheboygan County on the shores of Douglas Lake.

⁴ For Regental discussions and actions on this property, see “Proceedings” (1985), 247-48, 409; (1989) 219-220.

of the General Counsel. We have also consulted with the Director of the Biological Station, Professor Knute Nadelhoffer from the LSA Department of Ecology and Evolutionary Biology.

We strongly recommend that the Biological Station devote a good deal more attention to this history and topic, as our report will make clear. Although neither the University nor the Biological Station had any immediate role in or benefit from the burnout they now occupy land that was taken from the Burt Lake Band and placed in the open marketplace as a result of that incident. It seems to us that a heightened consciousness of this history should be available to students at the station, and, indeed, that teaching more about this at the Station and on campus is a real pedagogical opportunity.

We make several suggestions for raising this historical awareness at the end of our report.

Background

It is important to begin any consideration of the relationship between Native Americans and those in political power in the state of Michigan in the 19th century with the recognition that it was a relationship of unequal power conducted almost entirely for the purpose of dispossessing the Native Americans of their ancestral lands. A series of treaties “negotiated” before the Civil War basically opened almost all Native American lands to white settlement and awarded the Native American tribes financial and other compensation that represented a tiny fraction of what the Native American Bands were expected to surrender. The so-called Washington Treaty of 1836 for example, involved the surrender by Native American tribes of almost 14 million acres of land – 40 percent of today’s State of Michigan – in return for much smaller “reserved” areas for the tribes that would turn out later to be held under titles that were time-limited. Against pressure to remove from the newly forming state, the American Indian leaders instead extracted from the United States promises of continued usufructuary rights on the vast ceded lands; what is more, they agreed only to consider westward removal, and only at some future time. In the event, they avoided the fate of many Indians who lived south of Grand River: being forced west of the Mississippi River. The Detroit Treaty of 1855 confirmed the temporary nature of the land titles awarded in the earlier treaty and required that individuals select land from these so-called “reserved” areas – granting 80 acres to each head of household, 40 acres to each single person over the age of 21, etc. thereby in practice reducing the areas inhabited by the tribes.⁵

The history of the Burt Lake Band in the period leading up to and after the burnout was brilliantly told in 1978 by the now well-known Stanford historian Richard White, who at the time was a beginning assistant professor at Michigan State University. His “Report to the Native American Rights Fund and Burt Lake Band” from 1978, entitled “The Burt Lake Band: An Ethnohistorical Report on the Trust Lands

⁵ For a map and explanation of the territory involved in the Treaty of Washington, see <http://www.mackinacparks.com/how-michigan-became-a-state-the-treaty-of-washington-1836/>. The texts of these treaties are all available on the website of the Clarke Historical Library at Central Michigan University, https://www.cmich.edu/library/clarke/ResearchResources/Native_American_Material/Treaty_Rights/Text_of_Michigan_Related_Treaties/Pages/default.aspx

of Indian Village” is the basis for all recent accounts of the Band and the burnout and we briefly summarize its major points here.⁶

The Burt Lake Band of Ottawa and Chippewa Native Americans were members of a loose confederation of Ottawa Indians near Little Traverse Bay whose original name -- Chaboiganing -- was taken from the name of the lake on whose western shore they located their chief village. The name of this area would later be corrupted to Cheboygan, the name of the county in which the lake was located and the lake itself would be renamed after the man who surveyed the area and become Burt Lake. An archeological study of the area suggests that the Band survived primarily by hunting until settlement of what would come to be called Indian and later Colonial Point began in the mid-1830s.⁷

The chief of the band at the time who signed the Treaty of Washington in 1836 was Chingassimo, or the Big Sail, and the treaty authorized him to select a 1000 acre reservation for his people in the state. White believes that it was always the intention of the Band to locate the reservation in the area of settlement on the Burt Lake Peninsula known as Indian (later Colonial) point around the site of what would later be called Indian Village. But delays in the surveying of the land led to this tract never being identified. Concerns about the possibility of being put off the land led members of the Band living in that area to decide in 1845 to use federal annuity payments provided in the Treaty of 1836 to actually purchase the land they occupied. In 1846 and several years thereafter federal patents were issued to the Native Americans for 375 acres of land in sections 28 and 29 of Township 36 N., Range 3 W. (These lands are so indicated on Map #2). (Because a section contains 640 acres, the original treaty land grant of 1,000 acres, had it been surveyed and registered, could have encompassed all of sections 28 and 29 without the necessity of Band members to purchase any land.) On the advice of federal Indian agents, the Band put the lands so purchased in trust with the Governor of Michigan. In the next treaty -- of Detroit in 1855 -- the “reserved” area from which the Band was eligible to select land was increased to two townships, all of what is today Tuscarora and Burt Townships, basically all the land around Burt lake, but the selection process was more limited; each adult was required to select and register the land. This did permit some families to obtain lands outside the Village in the 1870s. Villagers had previously built a Catholic Church for themselves and payments from the treaties funded the building of a school and the hiring of a teacher in the Village.⁸

For most of the second half of the 19th century anywhere from a dozen to 30 families lived on this land which, because of the vagaries of the treaties and the land purchase contained two parts; one, encompassing the Village, collectively owned by the tribe, the other, in the adjacent areas individually owned by tribe members. Ownership of the land gave the Burt Lake Band a seeming security of location and, thereby, to some extent the ability to remain separate and distinct from other tribes in the area.

⁶ Richard White, “The Burt Lake Band: An Ethnohistorical Report on the Trust Lands of Indian Village,” report prepared for the Native American Rights Fund and Burt Lake Band (1978) 96 pp. This remarkable historical work exists only in manuscript form and has never been published.

⁷ White, “Band,” 1-2; Dennis Albert and Leah Minc, “The Natural Ecology and Cultural History of the Colonial Point Red Oak Stands,” University of Michigan Biological Station Technical Report No. 14, 1987, 40-41.

⁸ White, “Band,” 4, 9-13, 61.

In the 1870s Indian Village was fairly prosperous according to White. A visiting Catholic priest described it as follows:

“My host in Indian Village,...keeps four horses, five cows, pigs, geese, ducks, chickens and raises feed for them and cereals and potatoes for his family and sells stock to provide for other necessities including such luxuries as tea and coffee. He plays the organ and reads English and Ottawa (sic). The dozens of families belonging to that settlement built a good sized church with their own hands. They have a good choir that sings masses in Latin and Vespers in Ottawa...the proportion of those that read – one teaching the other – by far exceeds that among the Canadians or the Irish of the older generation. On Sundays they dress well, even elegantly.”⁹

The Village was protected not only by its prosperity, but to a certain extent, too, by an irony in the Michigan situation. Unlike in some other states the Michigan Constitution of 1850 awarded the right to vote to all male Native Americans. This provided a point of leverage in those areas where Native Americans were a significant portion of the population such as in the Upper Peninsula and the northern Lower Peninsula. Although Native Americans did not achieve a unified political force in these years in each area in which they were numerically significant they were taken more seriously than if they had not been voters. It was because of this constitutional provision, for example that for some period of time a Native American served as the elected treasurer of Cheboygan County in the 1860s. The fact that the Indian Village area remained in native hands as long as it did was in part related to their latent political power.¹⁰

The Village was undone by accidental and intentional confusion over whether land placed in trust to the governor of the state was taxable. Certainly the assumption at the time of the purchases in the 1840s had been that, because the lands were held in trust by the Governor of Michigan they would not be subject to property taxation. Throughout the second half of the 19th century local, state, and federal authorities gave confusing answers to the question of whether the lands were taxable and different local officials treated them differently. At times the Band members paid taxes on the land, at times local officials refused to accept such payments, and at times the county stopped assessing the lands for taxation at all. However, in 1878 Cheboygan County began regularly assessing the land for taxation, and failure to pay the taxes left the parcels liable for sale for back taxes. In 1878 W S. Humphrey, a local lawyer who was also a speculator in tax deeds, was elected county treasurer. He began the practice of continuous assessment of the lands for purposes of taxation. He also appears to have been one of the first to purchase one of the lots adjoining Indian Village for lack of payment of taxes.¹¹

⁹ Quoted in White, “Band,” 62.

¹⁰ Holding the suffrage was not an unalloyed blessing because it subjected the Band members to all the usual practices of the “patronage” politics of those years, including the attempts of federal agents to encourage them to vote for the party that had appointed the agents; even the Village school teacher seems to have done this. But when members of the Band or their advocates wrote to state elected officials they heard back, even if the advice was contradictory or mistaken. Cf. White, “Band,” 63, 72.

¹¹ For accounts of this confusing taxation history and its tragic effects on the Band, see White, “Band,” 69-86; Wiles, “Bitter,” follows White and also reviews the important “Howell Report” on the incident done in 1914 which belatedly concluded that the taxation of the land was incorrect. Friday “Morality,” was written without the benefit

Because of this lack of consistency in local policy and failure to understand the legal ramifications that might occur because of this from 1882 through the 1890s portions of the land owned by the Band would be deeded to tax land speculators who paid the back taxes or bought the land at tax auctions, including one named John McGinn. It was not until 1885 that the Band began to discover these problems and to try to seek help from state and federal officials to remedy the situation. At that point state officials declared – based on what now appears to have been a mistaken understanding -- that the land was taxable. In 1893 the state legislature passed a general law clarifying the process through which parcels could be seized and sold for nonpayment of taxes. And in 1895 under the coverage of this law McGinn began the series of purchases that would bring approximately 400 acres of Native American land under his control by 1899. In that year he served notice upon individual Native Americans that his ownership of the land would give him possession and in the fall of 1900 with a court order in hand, he joined with the sheriff to conduct the burnout.

On the day McGinn and the sheriff arrived in the Village there were 15 homes occupied there and the men of the Village were away because it was payday in the neighboring lumber camps near Cheboygan. According to White:

“The sheriff and his deputies removed the household goods from the homes. They offered the Indians the windows and doors of the houses, but the people refused. The Band members just sat patiently on their goods in the road, waiting for the deputies to leave so they could move back into their homes. But late in the afternoon McGinn systematically moved from house to house, dousing each with kerosene, and as the Indians and the posse watched, set them on fire. He spared only the church.”¹²

The Villagers were scattered throughout the area and the action was denounced in state newspapers. The Detroit Free Press account published on October 18 was headlined “This Did Not Happen In Ireland Officers Throw Indians Out and Burn Their Homes,” referring to the land evictions that had led to so many immigrants coming to the United States from Ireland. The story noted that village residents “sat on their goods in the pouring rain” that night. And a Free Press editorial published a month later deplored the “tax title fiend” who had brought the burnout about and the “criminal mismanagement” of the land issues by government officials that had made it possible. “They had their church, their school and many pretty cottages. The report that their ‘shanties’ were burned after their eviction is a slanderous misstatement, for the village was worthy of the beautiful environment.”¹³

Although various appeals were made for help from state government later, including to Governor Hazen Pingree himself who was sympathetic to the appeal, no adequate solution or compensation was offered. The land remained in the hands of McGinn and his heirs through the early 1920s when a series of private sales commenced over the next several decades. In 1984 portions of the land which would

of White’s work and comes to the conclusion that “the burning of the village and the eviction of its residents were legal acts.” A legal process certainly was followed, but neither White nor Wiles believes that the action was, strictly speaking, legal.

¹² White, “Band,” 85.

¹³ “This Did Not Happen In Ireland Officers Throw Indians Out and Burn Their Homes,” *Detroit Free Press*, October 19, 1900, p. 7; Editorial, *Detroit Free Press*, November 25, 1900, p. A4. A brief dispatch on the burnout was also published in the Washington Post, on October 19, 1900, p 4.

ultimately come into the hands of the University were purchased by the Devereaux Sawmill Company which intended to log it. Parts of those were sold to the Little Traverse Conservancy and in 1987 the land currently under the control of the Biological Station came to the University through a gift from the Conservancy and a purchase by the University from Devereaux Sawmill.

The website of the Conservancy describes the current landholding situation as follows:

“The protection of this remarkable area began in 1985 when the Colonial Point Forest was purchased by a sawmill and slated for heavy logging. The local community voiced great concern for this treasured area because of its red oak forest, one of the most significant in the Midwest. In response, the Little Traverse Conservancy coordinated an effort to purchase the property with a significant grant from the Michigan Natural Resources Trust Fund. Many partners including the University of Michigan Biological Station, the Michigan chapter of The Nature Conservancy, local property owners, and other caring citizens joined forces to raise the additional funds needed to complete the purchase. Colonial Point is now owned by the Biological Station. In 1993, the Little Traverse Conservancy used donated funds to purchase 192 acres adjacent to the Colonial Point Memorial Forest. The property is known as the Chaboiganing Nature Preserve. Combined, this is one of the most impressive protected areas in the region.”¹⁴

We note that the current name of the Preserve -- Chaboiganing -- is an attempt to recognize the original name of the Band and we understand that some historical interpretive markers are available on the land maintained by the Conservancy. While we applaud these efforts we nonetheless take note of the relative absence in this description of Native American history in general and the burnout itself in particular.

Even this much information is not currently available on the website of the Biological Station. Speaking now in our area of authority which is the University itself we believe that the erasure of this history in general and the burnout in particular is deeply problematic. We have been pleased to learn that the Director of the Biological Station, Professor Knute Nadelhoffer, is eager to be a good partner in remedying this situation.

Recommendations:

At a bare minimum a version of the complicated history revealed by White should be posted on the website of the Biological Station and known by every student who attends sessions at the Biological Station. In a previous version of the Station’s website some information about the history of its land was provided but that may have been lost in the various website updates since. Such a section might include a link to a bibliography of historical works on this topic such as those indicated in this report. This history should be communicated to students at the Biological Station in their orientations to each term there, and these orientations might include lectures on the topic and/or tours of the actual area in question on the Burt Lake property.

¹⁴ See <https://landtrust.org/colonial-point-chaboiganing-nature-preserve/>

But we believe this is also a situation that provides opportunities for both innovative pedagogy and community engagement. We strongly recommend that the Biological Station seek advice from faculty and students in our Native American studies program as possible and members of regional Native American organizations with which the Station already has relationships to discuss the appropriate ways that this history might be elaborated and contents of this commemorated. Students could be active participants in these discussions.

Collaborative projects should include application for a Michigan State historical marker commemorating this event on proximate territory now under the control of the Biological Station. The costs of proposing and installing such a monument – should it be approved by the state commission – will be approximately \$4000 and should be borne by the University. Once the appropriate orientation and commemoration information is established, the Biological Station should consider an annual event – lecture, day of community commemoration and/or service, etc. that focuses on this topic. Speakers at such an event might include UM faculty with relevant expertise, faculty members from other institutions, such as Wenona T. Singel, or Matthew L. M. Fletcher from the law school at Michigan State University, Michelle Cassidy, from the history department at Central Michigan University, or others, including Native American historians and organizational leaders from Northern Michigan. The current attempt of the Burt Lake Band to achieve federal tribal recognition would be an appropriate topic in such an annual series.

The Biological Station should encourage the Little Traverse Conservancy to participate in all these activities as possible, perhaps beginning with a review of existing information on its website and property.

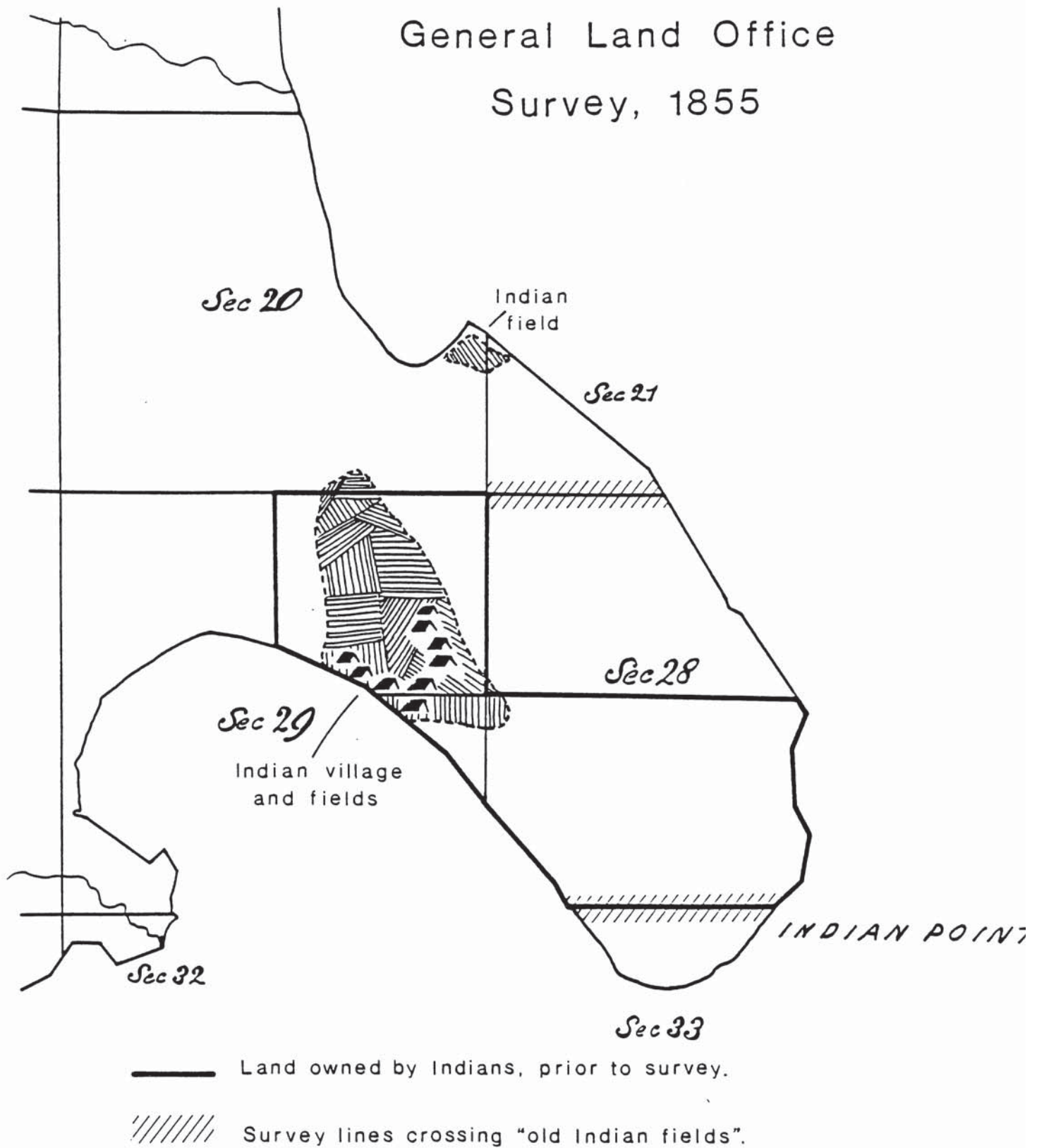
We have learned that the University intends to launch a task force on Native American students at the University later this semester. We would urge that task force to consider co-sponsoring with other units an historical forum on this topic – similar to those on the C. C. Little issue -- on the main campus during its deliberations.

Although we do not intend to specify curricular changes necessary at the Biological Station or in EEB or SEAS, we do note that the re-discovery of this history significantly changes the context for ecological studies of the region. The recognition even by treaty negotiators in 1855 with their own agendas that the Burt Lake Band was entitled to select land holdings from all of the land in the two townships surrounding Burt Lake – and touching the western edge of Mullett Lake -- provides evidence from an unexpected source of the importance of Native American persons and practices in that area.

Burt Lake Report Map #1

Figure 11

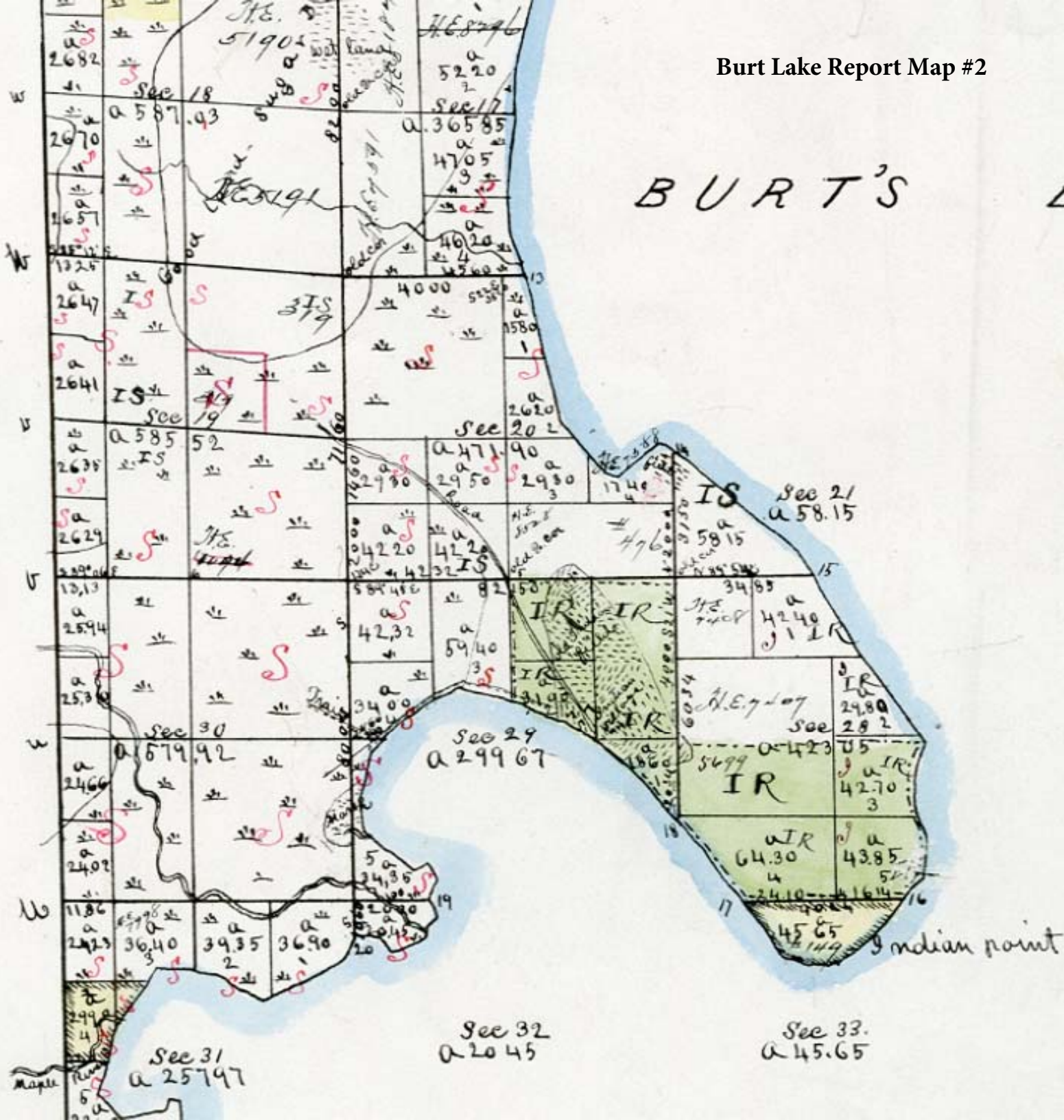
General Land Office Survey, 1855



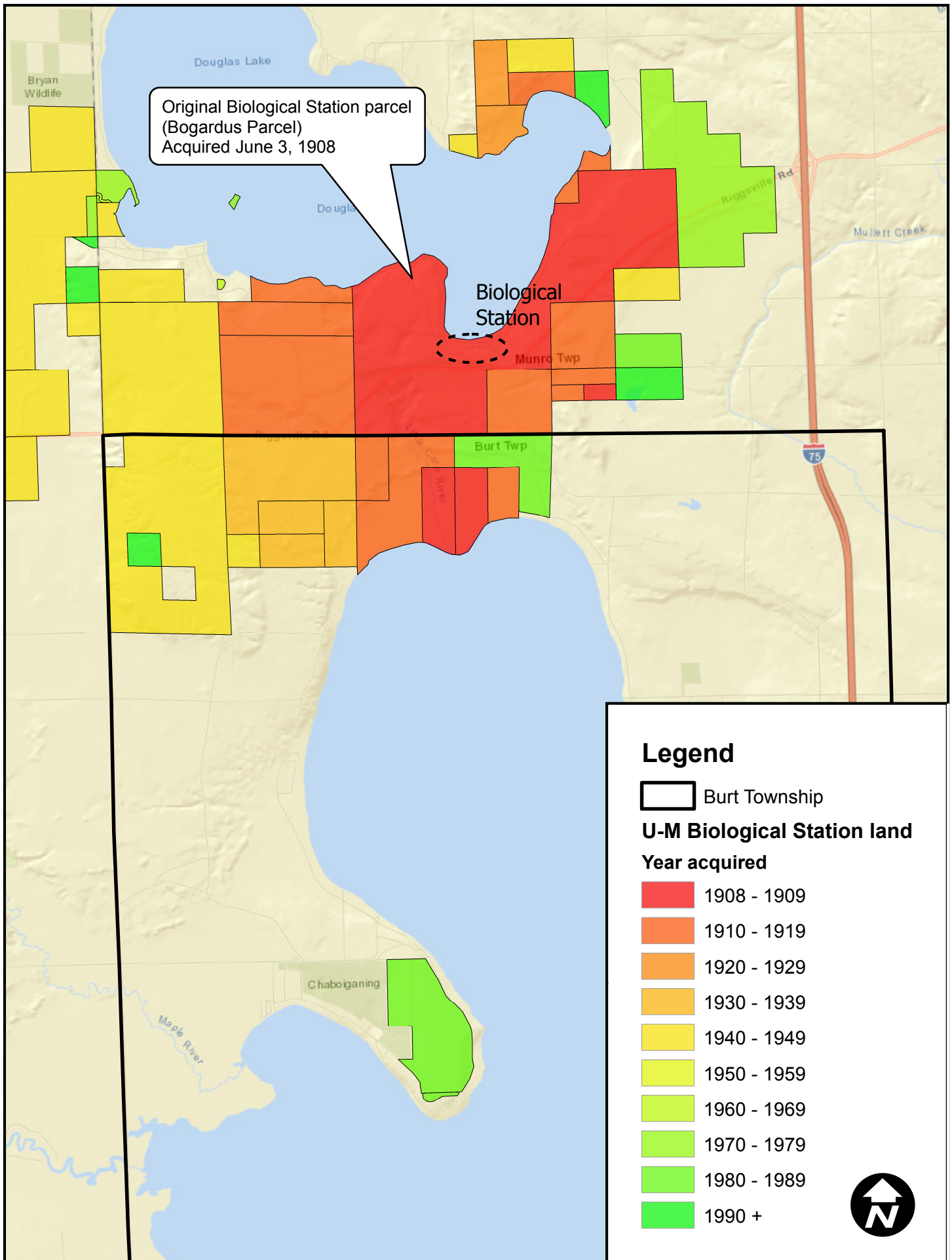
Burt Lake Report Map #2

BURT'S LAKE

Note: Lots shaded yellow show the sales made prior to the re-survey.
 Lots shaded green are held in trust by the Gov of Mich. for the Indians.



Burt Lake Report Map #3



Burt Lake Report Map #4

U-M owned land in
Township 36 North, Range 03 West, Section 28
Burt Township, Cheyboygan County, Michigan

 Subject area

