

Lake in Limbo



What's
it called?



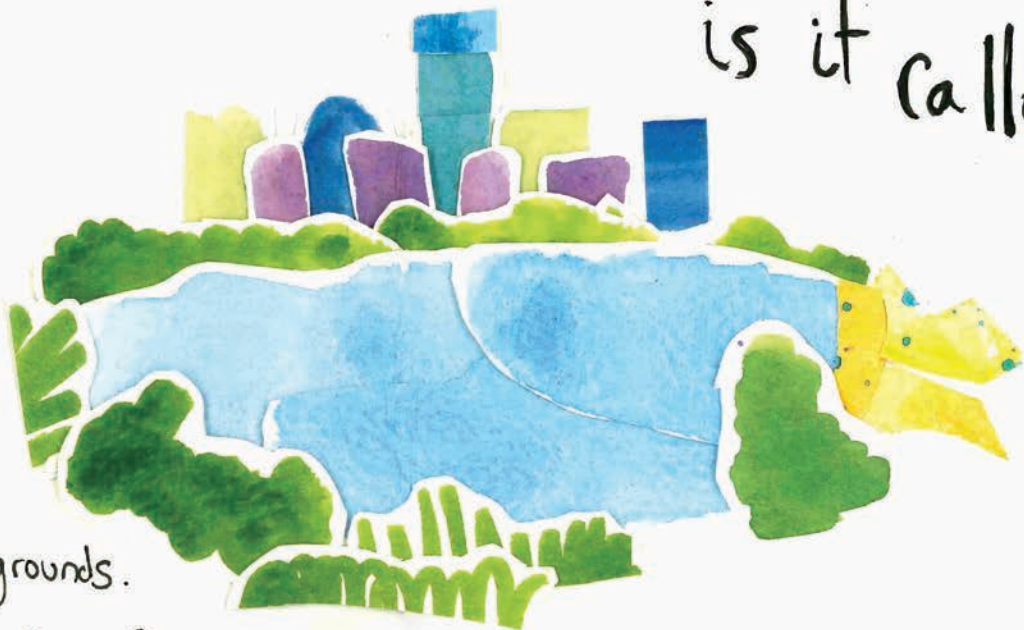
That
Depends...



by Madeline Buck.

3 (or so) miles around.

Surrounded by
walkers,
runners,
bikers,
sitters,
loungers,
fishers,
volleyballers,
and ice-cream-cone
eaters
of all ages and backgrounds.



But what
is it called?

An Urban Lake.

Many call it by the name
it has had over a century -
named after a 19th century
Secretary of War, Senator, and
Vice President who was
a fierce defender
of slavery.

But have you ever read his famous
speech?

"I hold that in the present state
of civilization, where two races of different
origin, and distinguished by color, and
other physical differences, as well as
intellectual, are brought together, the
relation now existing in the slave holding
states between the two

is, instead
of AN
EVIL,
A POSITIVE
GOOD."

(His hair was quite intense.)

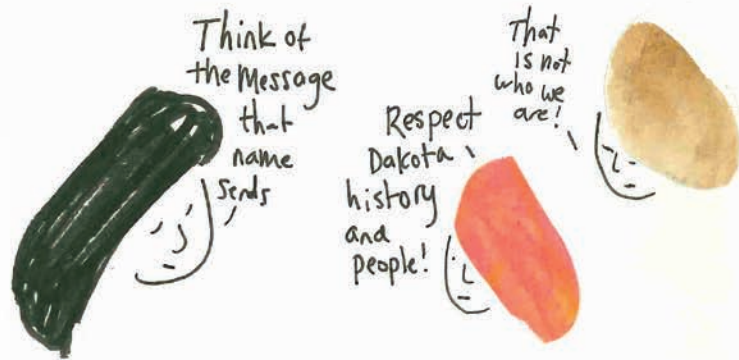


That's who
the lake was
named for?

Yep.

Yikes.

Many others have
pushed to officially
abandon that name
and its hateful legacy
and officially restore
its Dakota name.



Bde



Lake

Maka



Earth

Ska



White

In 2015, the Minneapolis Park Board changed the signs on the lake to Bde Maka Ska.



But that didn't make it official, legally.

Minnesota law has a special procedure for name^{ing} and renaming lakes.

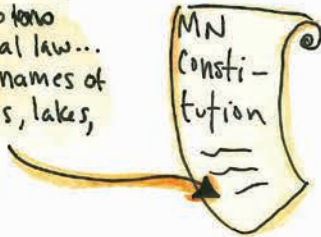


Here are the basics:



1 the legislature can't change lake names. it can only make general laws about how to name and rename them.

"the legislature shall pass no ~~local~~ local or special law... changing the names of persons, places, lakes, or rivers."
- Article XII, Section 1.



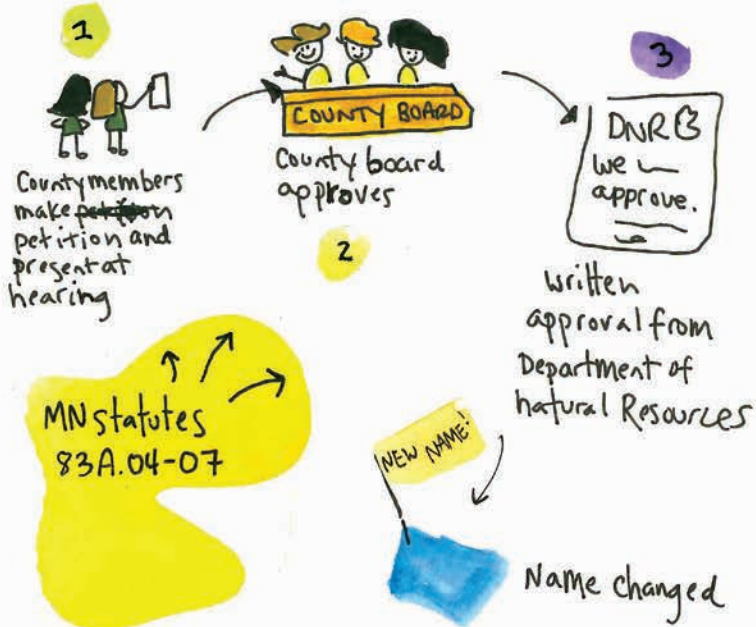
2 The department of natural resources has authority over lake names.

the Department of Natural Resources SHALL: ^{i.e. things the department of natural resources CAN do}

- "determine the correct and MOST APPROPRIATE names of the lakes"
 - "pass upon and give names to lakes, streams, places, and other geographic features in the state for which no single, generally accepted name has been in use"
 - "in cooperation with the county boards and with their approval, change the names of lakes [and other features] with the end view of eliminating, as far as possible, duplication of names within the state"
- ↑ this piece is key for the next page

MN. Statutes
83A.02

3 There is a process for how the county boards must work with the department of natural resources to change names:



4 There's a limit to the County board process: it won't work for names that have existed over 40 years.

Does the 40 year limit apply here?

is that the question... one of them, at least.

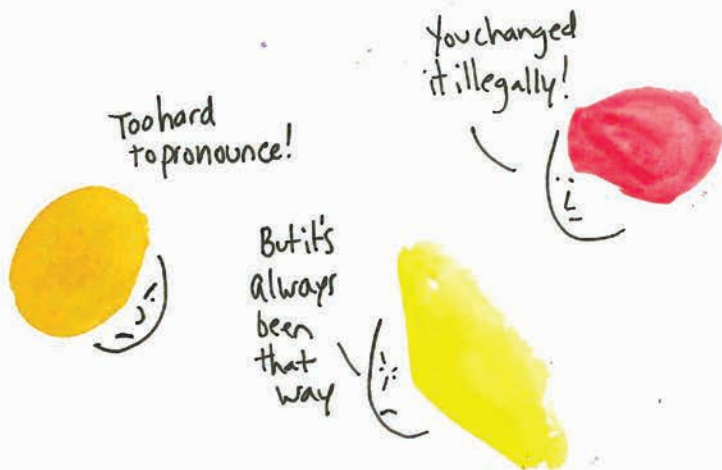
Depends on whether the DNR can change/restore a name WITHOUT working through the county board process.

In 2017, the Mpls park board and Hennepin County Board of Commissioners went through the process to ^(restore?) change the name.

Then the department of natural resources approved the new (old?) name.



Some people Sued.



The Minnesota Court of Appeals
decided the Department of
Natural Resources was wrong
to change the name.

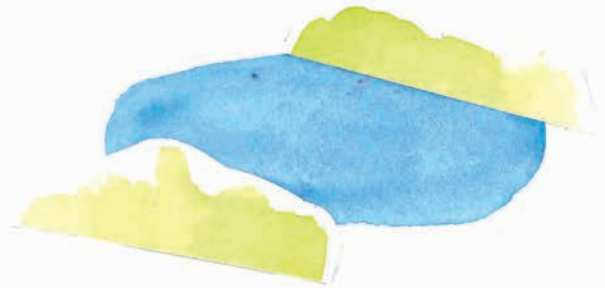
- only 1 way to CHANGE a lake name!
 - must go through county board process
 - that process has 40 year limit
- SO THIS NAME COULDN'T BE
CHANGED!



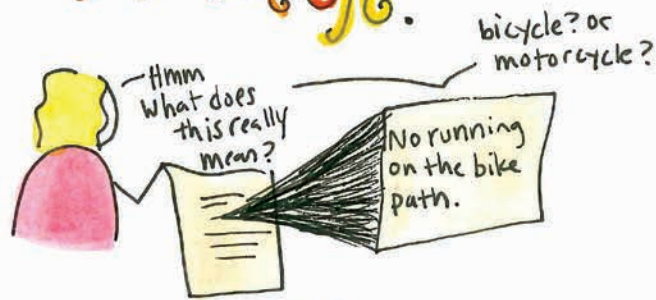
★
Court of Appeals

* they said a lot of technical
stuff too...

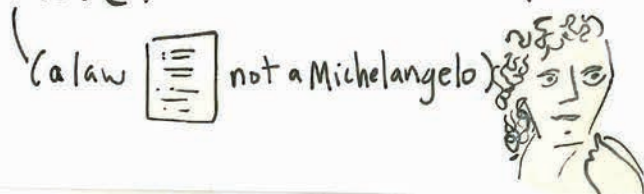
But were they?
Is there another
interpretation?



Let's **PAUSE** for a moment to talk about **statutory interpretation**.



This is a **technical term** for how the court chooses to read a statute.



How does it work?

- ① Pay attention to the words and the literal meaning.
- ② Is it **clear**? If yes, then **YOU'RE ALLSET!**
- ③ Not clear? Then proclaim it **"AMBIGUOUS"**
 (these are **MAGIC** words)
- ④ If it's not **clear** just from reading, then you can bring in some **extra** tools (like history and context) to figure it out.

* There's a lot more nuance to this process. Maybe I'll share in another book

UNPAUSE: So the court of appeals looked at the literal meaning of the statute about the dept. of natural resource's powers. They saw that it has a part about CHANGING a name.

MINNESOTA STATUTES 2018

83A.02

83A.02 POWERS AND DUTIES.

The commissioner of natural resources shall:

- (1) determine the correct and most appropriate names of the lakes, streams, places and other geographic features in the state, and the spelling thereof by written order published in the State Register. Name designations are exempt from the rulemaking provisions of chapter 14 and section 14.386 does not apply;
- (2) pass upon and give names to lakes, streams, places, and other geographic features in the state for which no single, generally accepted name has been in use;
- (3) in cooperation with the county boards and with their approval, change the names of lakes, streams, places, and other geographic features, with the end in view of eliminating, as far as possible, duplication of names within the state;
- (4) prepare and publish an official state dictionary of geographic names and publish the same, either as a completed whole or in parts, when ready;
- (5) serve as the state representative of the United States Geographic Board and cooperate with that board to the end that there shall be no conflict between the state and federal designations of geographic features in the state.

History: (128-3) 1937 c 63 s 2; 1971 c 25 s 20; 1986 c 444; 2004 c 221 s 1

So "logically" * that is the only way to change a name under this statute.

* this is one of those fancy interpretation rules that you can

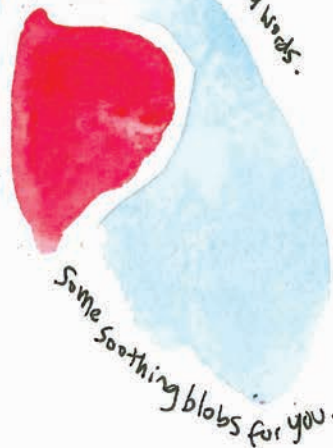
So: the only way to change a lake name, they said, is "in cooperation with the county boards^{process}, which, you may recall, does not allow for the changing of a name that's been in place over 40 years.



According to their logic "determine the correct and most appropriate names" can never mean CHANGING a name because the statute already talks about CHANGING. "DETERMINE" has to mean something else.

choose to use

Sorry. Too many words.



But is it so simple?

Isn't this bit on "CHANGING" names
just about avoiding repeat repeat names?

(3) in cooperation with the county boards and with their approval, change the names of lakes, streams, places, and other geographic features, with the end in view of eliminating, as far as possible, duplication of names within the state;

Meaning, the dept of natural resources only
works with county boards to change repeat
names ... ?

(and gets that 40 year
limit)



What about restoring a
former name?

or abandoning a culturally
insensitive name?

"Determine the correct and
most appropriate" name seems
more realistic.

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And there's no time limit
for doing that....



Also, if the court of appeals is right (and they could be) the legislature has to change the rules for changing lake names if we ever want to change a name we've used for over 40 years. (Recall that getting laws passed is HARD.)
'slow.

[PAUSE FOR SOOTHING BLOBS]



[or are they lakes?]

In some ways, the law really doesn't make sense within itself. In a year, the Minnesota Supreme Court will decide the case, explaining the law as if it were obvious all along....

Possible results:

it's not up to us!

Name can't change that way!

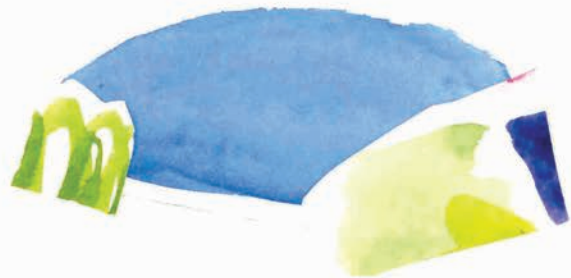
Name can change!



MN SUPREME COURT

The law is one thing.
But how will this time
in limbo affect how we
think about the lake?

I stutter
over the
name still,
but it's Bde Maka Ska
in my mind....



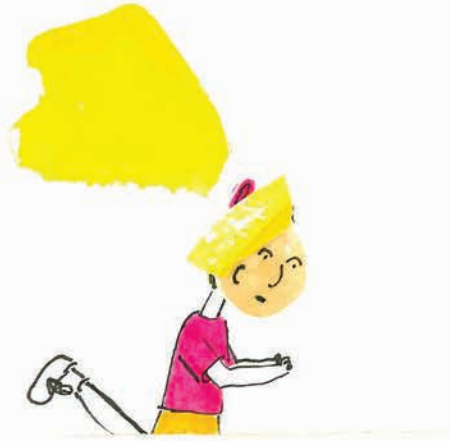
People don't like change
(That's probably why the lawsuit
happened, in part.) But the
more time goes by, the
more we get used to the
new (old?) name.

;) IT'S BDE MAKASKA!
I DIDN'T STUMBLE ON IT THAT TIME!

Will the law catch up to
that momentum?



We'll see. 
In the meantime,
who's up for a
run



... around

BDE
MAKA
SKA!



MADELINE



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