

James E. Zorn

My job as the Executive Administrator of the Great Lakes Indian Fish & Wildlife Commission is to figure out how to facilitate co-management while exercising that precisely delegated sovereignty that our member tribes have trusted us with. The last time I checked, and my mother can attest that I've never been that good at math, co-management is not a four letter word. It's certainly not profane by any definition of profanity I ever understood. I guess what I quickly learned in my job is I don't care what you call it; it's about what it is and how you go about it. You can call it cooperative management. What it really means I think, as George Newago tried to tell us earlier, is listening to those folks that came before us. I listened to Henry's story about his dad and about Dick Gurnoe, and their initial trip to the Great Lakes Fishery Commission. As to what they were really doing there, it's very simple. It's the power of presence, just being there. Not a word had to be said.

As I recall the story, about the first or the second day of a meeting the folks up in the Fishery Commission started poking each other saying, "Who's that?" And finally the Fishery Commission's Executive Director, Carlos Fetterolf, went over to Henry's dad, or Dick, just wanting to know, "Who are you guys and why are you here?" The lesson I take away from that encounter is that just being there made a difference. Henry Buffalo, Sr. and Dick Gurnoe hadn't been introduced. They hadn't been formally integrated in the process, but their presence showed there was a new kid on the block that had to be dealt with.

So, if at GLIFWC and those who work for the tribes, understand their jobs that we're supposed to do for the tribes in our area of natural resource management and co-management, the first job is to always be there and let those other governments know. The other people who make the decisions that affect the tribal rights know that the tribes are there and their rights exist. If you don't know what else to say, at least remind everyone else of tribal rights and tribal sovereignty, and they're not going away.

The other aspect that always has to be remembered about how to do co-management, at least from the chair I sit in right now, is never forget how important it is that the tribes themselves have come together to co-manage amongst themselves. These treaties are among a nation that had been divided into bands. As Mic Isham likes to point out, this is one nation that has somehow been divided into a "modern system". The notions of a shared origin, a shared story, shared history, shared language, shared treaty, shared areas dictate that it's really up to the tribes themselves to be co-managers among themselves first and foremost.

What that tells me, and as Jim Schlender taught me and Henry Buffalo noted today, is that an agency like GLIFWC is not just another DNR. What George Newago was trying to tell us all today is that if I approach my job like George Meyer did at one point when he was secretary of the Wisconsin DNR, I would fail. I have to come to it from the perspective of 'thinking Indian'. You have to remember, as Marc Slonim argued before the United States Supreme Court in the *Mille Lacs* case, the first point he tried to make with that court was this is not about governments duking it out. This is about Indian people just trying to be who they are and why they are here. And if we and our staff can understand that, in at least some small way, we are well on our way to doing a job for the tribes. No other agency, other than the tribal agency, nor any other government, other than the tribal government, can or should do that job for the tribes. First and foremost we have to remember co-management among the tribes themselves.

In terms of co-managing with other governments, our challenge is somewhat unique because these rights attach to geographic areas. The tribes themselves do not have regulatory authority over those factors such as land use decisions or how much pollution can go in the river. Those permits and those decisions are made by other governments.

As George Meyer pointed out, tribes certainly can regulate the harvest for members. Jim Schlender used to lecture to all of us that “If the act of harvest isn't an act of management, I don't know what is.” After all, what are we taught? If you don't go about harvesting that resource in the right way for the right reason, the Creator will not have that resource available to us in the future. So we understand that harvest itself by the individual members involve acts of stewardship and management that are necessary.

In terms of interrelating with other governments, there are formal protocols that have come out of the court cases. The notion, for example, that if the tribal code is to be changed there has to be notice provided to the state and they have an opportunity to comment and you have this period to resolve your differences. These are very formal structures, which are very necessary and helpful in carrying out co-management responsibilities.

As we look to the future, the thing that needs to guide us, and that I hope guides us at GLIFWC, is that when formal structures are not in place and as we face those decisions and those challenges that relate such issues as climate change and continued habitat destruction, we must understand that it is not a fight about allocation and who gets to take fish. The fight is to make sure that there are enough fish for everyone to take and to make sure that those fish are safe to eat when we do take them and that the mercury and toxins are out of them.

So what do we hope that we can take away from our co-management discussion? We, at the Great Lakes Fish & Wildlife Commission, and me at my job, and whoever comes after me, as we look to the future, we go forward with an understanding of how we got to today. What you have heard from these particular panelists today regarding co-management is that there should be no decision made that affects the tribes, their rights, the resources they depend on, or the habitat to support those resources without the tribes being involved.

And the goal should be that those decisions cannot be made without tribal consent to them. At the very least, if we can't get to consensus, those other decision makers must know the full consequences of their decisions in terms of impacts or as the tribes. If they make a decision that the tribes don't agree with and that negatively affects the tribes' right to the resource, they proceed at their own risk. If we ever get to that point, as George Meyer said, there will be a test case. If that happens, I hope that the work we've done at GLIFWC will establish the objective factual bases – from our science and our biology that is credible, is transparent and is as good or better than anyone else's - ultimately for the right decision to be made so that the sustainability of the resource is first and foremost.

Thank you very much for being such kind listeners.