

Merry Christmas and a Happy New Year



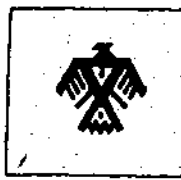
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DECEMBER, 1985



Back In Court

The Scope of Treaty Rights to be Determined

DOYLE HEARS TESTIMONY

MADISON, WI—Following the instructions of the 7th U.S. Circuit Court of Appeals, Federal District Judge James Doyle heard additional arguments regarding Lake Superior Chippewa off-reservation treaty rights.

The trial, which lasted six days, began Monday, December 9th at the monolithic blue federal court house in Madison, Wisconsin. Final motions are due 60 days after the trial transcripts are printed. Doyle will rule sometime thereafter.

The Chippewa presented a detailed and exhaustive inventory of species, methods of harvest and uses that were prevalent during the treaty era—the 1830's through the 1850's. The treaties in question were signed in 1837 and 1842. In other proceedings of the 7th Circuit it has been affirmed that the Chippewa reserved hunting, fishing, and gathering rights in these treaties.

In the recent trial the Chippewa also asked Judge Doyle to come up with a standard by which the allocation of these species will be determined once they are decided.

Except for commercialization the state did not contest the species, methods or uses documented by the Chippewa.

They did argue against an allocation that would include a 50% distribution.

The state's case focused on the theory that both the U.S. and the Chippewa knew at the treaty time that the Chippewa rights would at some future date have to give way to settlement. The state said that the giving way did not require a specific legal instrument or act; it simply required that the area be "settled".

In previous motions and at the trial the Chippewa objected to this settlement theory, arguing that this issue has been already addressed and resolved by the 7th Circuit's findings. Judge Doyle reserved a ruling on the objection and asked the parties to prepare post-trial briefs on this issue.

Representing the Chippewa were attorneys Kathryn Tierney, Lac du Flambeau and by leave of attorney, Mole Lake; Candy Jackson, Bad River; Jim Zorn and James Schlender, Lac Courte Oreilles; Mill Rosenberg, Red Cliff; and Howard Bichler, St. Croix.

Representing Wisconsin were assistant attorney generals Mary Bowman and Charles Larsen. The state's witnesses were Alan Newell, a historian from Missula, Montana, and Robert Birmingham, an anthropologist with the

University of Wisconsin Center System.

Dr. Charles Cleland, an ethno-historian from the University of Michigan was the only witness called by the Chippewa. He also acted as the plaintiff's rebuttal witness to Newell's historical testimony. Cleland testified that he had been studying the Lake Superior Chippewa for over twenty years and had done extensive work on their cultural adaptations during the treaty era.

As the first witness of the trial, Cleland was lead through lengthy testimony by lead attorney Tierney. He provided detailed references and analysis to historic documents which backed the Chippewa claim of widespread harvesting of practically all resources in the region, a wide array of methods including guns, shining and gillnetting, a variety of uses of the resources including sophisticated commercial activity.

In contrast to Cleland's background and testimony the state's witness Alan Newell held only a masters degree and admitted that he had done no study of the Chippewa prior to his contract with the state for this trial. He also said that he limited his investigation to pertinent federal documents and used them as the basis of his conclusions.

It was Newell's testimony

that sought to make the state's case on the settlement theory. Newell characterized the federal policy of that era as realistic and humanitarian, NOT the land grab others say it was.

The other expert called by the state was Robert Birmingham who held a masters degree in anthropology from UW-Milwaukee. Although he had some experience in studying the Chippewa he was only on the stand for twenty minutes.

He said that although there were exchanges of fish during the treaty era, these were made primarily as gift exchanges. He also said that the Chippewa, except for the fur trade, were not engaged in commercial activity.

The abrupt testimony by Birmingham was a surprise; he was the state's key witness to rebut Cleland's testimony. After quick consultation the Chippewa attorneys viewed Birmingham's testimony as inconsequential and elected not to cross exam him.

In their own surprise move they recalled Cleland to rebut the testimony of historian Newell. Although the state objected, saying he was not qualified as a historian, Judge Doyle overruled. Cleland's rebuttal began the final day of the trial.

Cleland's rebuttal testimony sought to further

—INSIDE—

DNR's Wonderland
Interview with Sharon Metz
Co./Tribal Committee
Nuke Waste Dump
U.S.-Canada Treaty
Special on GLIFWC Supplement

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Judge James E. Doyle sitting in his fifth floor offices in the Federal Courthouse in Madison. Two floors down Judge Doyle heard six days of testimony by the Lake Superior Chippewa and the state of Wisconsin; the issue before him was the determination of the scope of the treaty rights that the Chippewa reserved in the treaties of the 1837 and 1842.

undercut the credibility of Newell's historical analysis as well as the state's documentary evidence. Cleland illustrated how conclusions would be distorted by only looking the federal record and with only the use of an historical methodology. He said a cross cultural understanding analysis was essential in order to draw any meaningful

conclusions from the material Newell looked at.

He showed that the material was filled with allegory, metaphor, and indicative of the social and political systems of the Chippewa. He said to take the material at face value or certain words literally it to misunderstand their meaning and shows a lack of

Kathryn Tierney: Lead Attorney



In the foreground is Kathryn Tierney and James Schlender outside the Courthouse in Madison listening to the honor song just before the beginning of the trial. Tierney, an attorney for the Lac du Flambeau tribe was the lead counsel for the Chippewa in the trial proceedings. Schlender, representing Lac Courte Oreilles at the trial, has been the lead spokesman for the Chippewa since the January 25th, 1983 ruling of the U.S. 7th Circuit Court of Appeals which affirmed but refused to delineate the scope of the treaty rights.

The role of "lead" attorney in the current round of litigation concerning the scope of Chippewa Treaty rights confirmed in the Voigt Decision fell on the petite, but determined attorney, Kathryn Tierney, legal counsel for the Lac du Flambeau Band of Chippewa.

Tierney, better known as Candy, makes no bones about what she regards as the legal rights of the people she is defending, and that she is about to do all in her power to assure that those treaty-preserved rights are honored.

There is little doubt that Candy enjoys her job. Part of that enjoyment, she relates, is "having a direct positive impact for my clients - it's a matter of enfranchisement." And that is why Indian law, though complex and demanding, and the issue of treaty rights are important to her.

Tierney is no stranger to Indian law. When in Law School at the University of Minnesota, she and her husband, James Janetta, who is also an attorney, developed an interest in the field of Indian law. In fact, the two of them provided the impetus to initiate an Indian Law course at the University. At that time the issues involved in Wounded Knee were much in the forefront of public interest and Tierney felt she learned by speaking with attorneys involved in the case that people can make a dif-

ference if they are willing to try.

Following graduation from law school in 1974, Tierney and Janetta went to northern Michigan, where Janetta worked for the Saulte Ste. Marie Tribe and Tierney for the Bay Mills Indian Community. This threw her directly into court cases on treaty fishing rights in ceded waters. She spent five years in Michigan representing Bay Mills in both state and federal courts in litigation on usufructary rights.

Representing Bay Mills she argued U.S. vs. Michigan and briefed and argued the Le Blanc case. These cases reaffirmed the Tribes' fishing rights in the Great Lakes.

In 1979 the couple moved to Washington, D.C. where Tierney worked in the Solicitor's Office of the Department of Interior, Division of Indian Affairs. However, by 1980 they were on their way back to the midwest to work with Judicare, Wisconsin Legal Services, Indian Unit in Wausau, and about to enter into the world of Voigt.

While with Judicare, it came to their attention that Voigt vs. LCO had been sitting in "legal limbo" since 1978. Since the Reagan administration was also threatening the continued existence of Legal Services, Janetta and Tierney decided the case could no longer afford to wait, so they

pushed to have the case tried and were successful.

In March, 1983, Tierney became the tribal attorney for the Lac Courte Oreilles Band of Chippewa, the original plaintiff in the Voigt case. By that time, she says, the favorable decision had come from the Seventh Circuit of Appeals, but other problems needed to be tackled, such as the implementation of the rights and the involvement of other Wisconsin tribes affected by the decision.

In talking about the current case in court, Tierney feels it is more complex than some of the previous cases she has handled. The major difference, with Voigt, she explains, is that so many resources are being discussed, unlike the Michigan case where only fish were involved.

She also indicated fear that because the case can "upset the status quo" there might be a tendency for judges to make conservative judgements. However, she added that the State of Wisconsin can pat themselves on the back for helping get people accustomed to the exercise of treaty rights through a number of interim agreements between the State and the tribes.

Tierney also points out that the case is the biggest inland, off-reservation case ever tried and also the largest case without direct U.S. involvement as a party to the law suit.

Frequently, the U.S. government files suit on behalf of the tribes.

The current case in court, she says, is looking for a definition of "what the right is." This includes determination of what can be harvested (which resources), by what methods, and how those resources can be used. This case, however, is not to determine who regulates the harvest.

Being "lead" attorney is not particularly a glorious position to Tierney - it only sounds good. In reality it means tending to the nitty gritty details of the case and organizing nuts and bolts. It has meant making sure briefs are written and filed on time, coordinating the other tribal attorneys who are involved, and scheduling which attorney is going to present what argument during the court proceedings. As she candidly points out, being the "lead" attorney also means being the one responsible if the case is lost.

But Tierney is not a person to dwell on the possibilities of defeat. The days in court are a culmination of months and years of preparation. She's looking towards a positive experience in court, and, of course, a positive outcome for the Chippewa people whose treaty-reserved rights will be affected by this trial.

Back in Court

(continued from page 1)

understanding of the Chippewa who were parties to the documents in question.

Cleland concluded that only an ethno-historical analysis could flesh out of the documents' true meaning. Newell had previously testified that he limited his inquiry to an historical approach because Birmingham was to provide the cultural analysis. However, as mentioned earlier, Birmingham did not rebut nor review in court the many documents or testimony offered by Cleland.

The closing arguments was essentially a review of the major points raised by each side during the trial. Although Bowman began the trial for the state it was clearly in the hands of Larsen who handled the state's closing argument. Tierney closed for the Chippewa, with Rosenberg contributing to the rebuttal of the state's closing arguments.

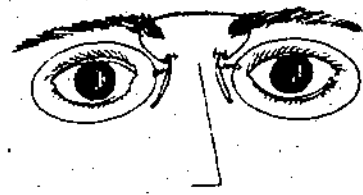
Throughout the trial all of the attorneys participated in

cross examination, the lead being taken by Zorn. Bichler handled the concluding arguments on the objections to the state's theory on settlement.

Each side will now prepare post trial briefs on facts and law as well as on the various motions and objections that the Judge reserved rulings on. The briefs will be exchanged 40 days after the completion of the transcripts which is expected by January 15. Reactin to each other's briefs will have to be completed with twenty days at which time the Judge may request additional oral arguments on the concluding briefs and motions.

After this series of actions Doyle will, issue a ruling of which species, methods and uses were in practice at the time of the treaties. Sometime thereafter the two parties will go back to trial to argue, allocation, state regulatory involvement and damages.

DIFFERENT PERSPECTIVES ON THE TRIAL



The following is the result of observation at the recent six day treaty rights trial in Madison, IT is partly analysis, partly commentary and partly a reflection of other issues surrounding the Voigt Decision. It is not intended as a report of the trial, more an impression. This and other trial material has been completed by Walt Bresette.

The recent trial was a humbling experience. For the past three years I've been dealing with the Voigt Decision. This trial has made me realize how very little I know about the legal process and the historic backdrop from which the Chippewa treaty rights emerge. The issues are vast and the legal part is just one aspect. Eventually tribal leaders, members and supporters will have to decide what will happen once the legal issue are finally settled.

Some general conclusions I've drawn since the trial: The state has intellectually accepted that the treaty rights exist but they are unable to emotionally accept it. For myself and I suspect many other tribal members the obverse is true. We have always emotionally acknowledged we have treaty rights but haven't the faintest idea on how they've been salvaged.

On the surface I felt good about the Chippewa presentation in the recent trial. However, as a layperson in court procedure I wonder about what I missed. As I understand the courts, they have a very precise set of rules and the judge is only allowed to make a decision based on those rules. If so, then the latest trial was an overwhelming victory for the Chippewa. The background and testimony of Professor Cleland vastly overshadowed the less credible state "experts".

Despite this sense of confidence, I have this other gnawing fear that what I saw at the trial really didn't happen, or worse, it meant something entirely different than what I understood. Not knowing Judge Doyle I'm wondering how he makes his decision; which of the multitude of facts presented and opinions given and objections raised and arguments made will he consider and be persuaded by?

Apart though from that concern, I have to admit I was impressed by the judge. After the two earlier false starts due to his recent bout with cancer, I wondered what his faculties would be like once we actually got to trial.

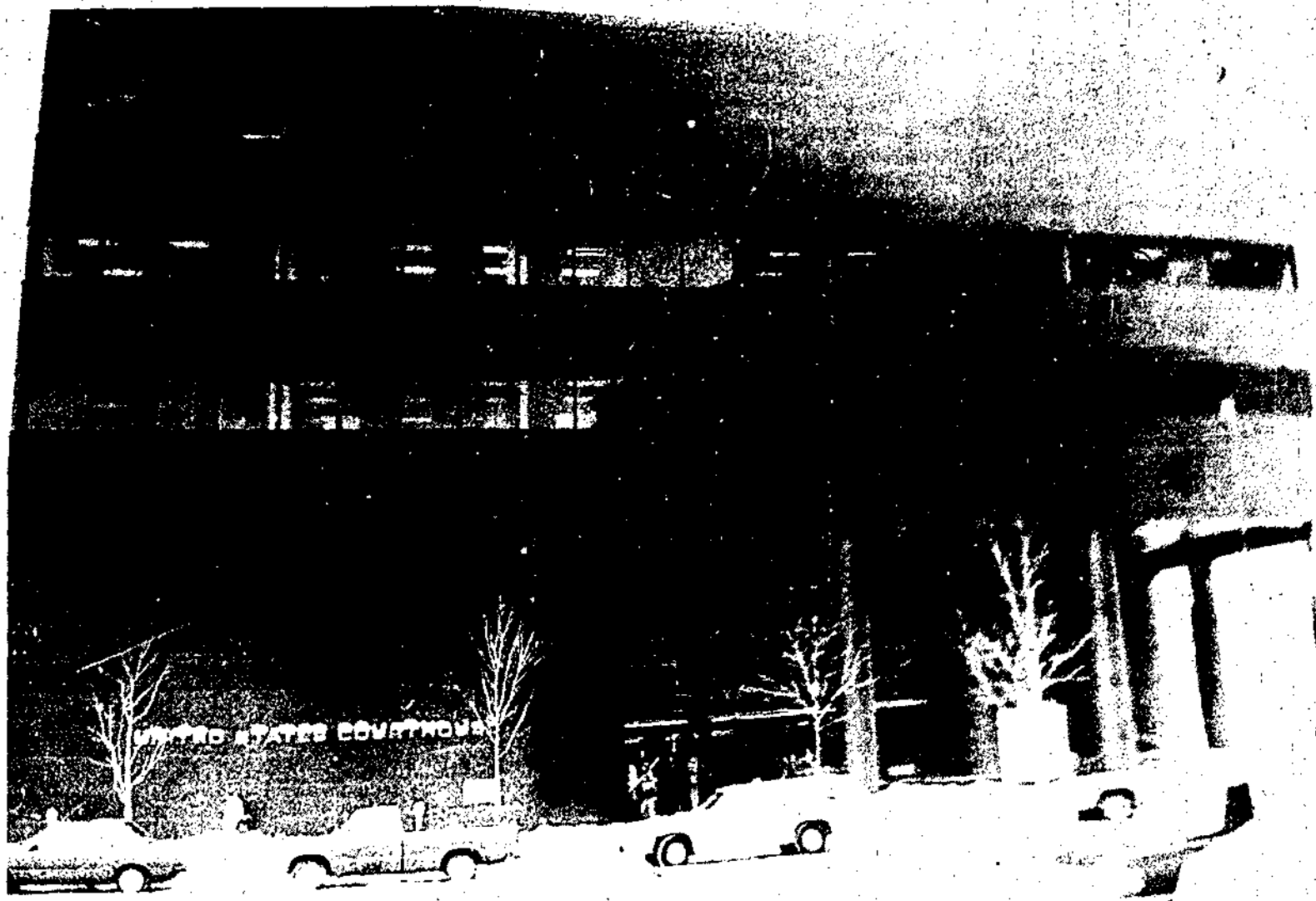
My first impression of the judge was disappointment. He looked too frail to withstand the issues and the respective arguments was sharp and with apparent overall comprehension; certainly clearer than mine at times. He was also exceedingly frank about what he didn't understand and fair about ensuring that both sides said as much and precisely what they wanted to say. He's obviously become an expert of sorts on Chippewa treaty issues.

The state however is a different matter. My overall impression was that they were confident they were going to lose on the facts, the testimony, and the law, therefore their strategy was to invent a theory that would confuse Judge Doyle hoping for a victory of ambiguity. Their theory of settlement diminishing the rights, which is explained in the preceding article, was in retrospect a good tact to take. The state had this one attorney who had oratorical skills I've not seen elsewhere. This guy I'm sure could be wealthy as a salesman; perhaps this is also a way to become wealthy in the legal profession.

If the trial was by jury I'm sure he would have won them over. Despite the fact that on the final day his arguments went against his previous days arguments didn't seem to phase him in the least. Hopefully, Hopefully Judge Doyle saw the same and will remember Milt Rosenberg's comment: "The only facts or testimony which backs up Mr. Larsen's closing argument is Mr. Larsen's closing argument."

So I wonder how Judge Doyle will weigh what he saw. I wonder if he too saw the well prepared case brought by the attorneys for the Chippewa. I wonder if he too was as impressed as I by this Dr. Cleland from Michigan.

Imagine if you can a man you don't know, but one who meticulously and exhaustively paints a verbal picture of your ancestors - one that makes you feel proud. Here you are sitting cockily in a courtroom, daily telling the world of your treaty rights, and you meet this man, this chimolimon, who says he has devoted his career to the study and understanding of your ancestors. Then he proceeds to talk of them almost in intimate terms. He eloquently rattles off the names of the principle



The U.S. Courthouse in Madison, scene of the six day trial before Judge Doyle on the scope of Chippewa treaty rights.

chiefs, which clans they belong to, what those clans meant and what the words meant that were translated as your ancestors negotiated the treaties.

He said so much more, much about you, your ancestors and their of another day. And he didn't stop there. He spoke of the geology and climate of your home and your former homeland. He listed all the plants and animals and fish your ancestors used, how they used them and with whom they shared this richness of flora and fauna.



Many Madison area tribal members and supporters offered ways to help the Chippewa as they went to trial. Here, outside the Federal Courthouse, is an inter-tribal drum signing in an honor song. The attorneys requested them as a way to help emotionally prepare for the trial.

He said that our ancestors had a lifeway as hunters and gatherers within which existed complex systems of government, social interaction and a traditional economy based on reciprocity. He quickly added that the Chippewa were also aware of and sophisticated participants in an international market economy exemplified as producers in the fur trade. He said that the need for surplus goods of the market economy eventually prevailed and the Chippewa, through a growing dependency on trade goods and alcohol, capitulated and began producing surplus goods.

As I've said, he impressed me and now I wonder how much else I don't know about this thing called treaty rights and the Voigt decision.

Beyond a new appreciation for attorneys and professors and the legal process (hopefully not premature), the trial had additional facets and stimulated a great deal of rethinking of the treaty rights struggle. Locally the trial brought together Indians and supporters from the Madison area. Law students came by in the midst of finals to witness the trial and to show support. The attorneys requested and got an honor song outside the court house prior to the trial. They said it will help them mentally prepare for the trial and remind them of who and what they are representing.

As I drove away from Madison - back up north, through ceded territory - other things began to take on new meanings. I realized that the trial and ultimately the overall legal view is just one facet of the Voigt Decision. There are ongoing, negotiations, of sorts, and interim treaty harvesting; there are new resource management schemes being looked at; and many non-Chippewa are confused and some very upset over this whole issue. It's an historic event which is testing many quarters of this place called Wisconsin.

The Voigt Decision raises questions some thought were resolved with Wisconsin statehood or for sure when the Reservations were established. Prior to this case the Chippewa were comfortably viewed as victims of broken homes and

furniture, not people capable or assertive enough to argue broken treaties. The Voigt Decision has helped shatter this false and myopic view, to the dismay of some, but for the betterment of everyone.

This court case in another focal point of Chippewa resilience; a partial acknowledgement of revival and renewal that unfortunately somehow threatens others. Racism, as American as apple pie, is given here; it contributes to the fears people have regardless of fact or law or reasoning. It was here before Lester P. Voigt and it will be here long after we forget who he was.

My renewed intent then is to help view this situation as more than two-dimensional; something that is not so easily reduced to our basic fears and other emotions; something of an opportunity to relook at our homeland and at each other. The Voigt Decision then is really an Indian problem or issue.

It is indeed a series of legal questions, but one of land tenure; it is also review of history, it is an example of value differences and most importantly it is a legitimate questioning of who and how natural resources are cared for in Wisconsin. It is also a situation which will ultimately measure how people know and treat each other.

The legal questions are ones of ownership and jurisdiction. Simply, what rights did the Chippewa reserve, can we today inherit and exercise these property rights and did the state ever get authority to regulate these rights? What has clouded the understanding of these legal issues and exacerbated social tensions is the failure of educators and media to inform the citizenry of their importance.

The educational systems do not deal with treaties in discussing history nor do they deal with contemporary tribal governments in the classroom. The news media, products of these very same classrooms, simply lack the depth and commitment to accurately place these issues in proper historic and legal perspective.

One value clash that we've witnessed is that between the sports ethic and a subsistence or food ethic. One seeks to create a hunt or fish activity and has challenging rules of the game. The other seeks to take the resource as quickly and efficiently as possible. Both are appropriate but until they are understood as distinct, people will confuse one with the other.

The treaties are not credit cards with unlimited purchasing power or payment deferrals. The Chippewa must continue to prove their rights, to show resource management capabilities, to develop effective enforcement and judicial systems, to frame a co-management attitude and to begin expanding into environmental and resource enhancement projects. If they don't then they will extinguish their own rights regardless of what the legal theory states. The treaties are acknowledgements of sovereignty.

If the Chippewa have a legal property interest in natural resources then it follows that they can help protect them against threats. Some leaders have already said that there will be no nuke dumps in the ceded territory. Others are currently studying acid rain, ground water pollution, forest management practices, toxins in Lake Superior and other threats. It is absurd to view the treaty as an Indian problem or to reduce it as a threat to the resources; ceded territory and northern Wisconsin is also our home.

It is a look at history that our schools have ignored. It is a legal argument over property rights and a test of the judicial principles of American land law. It is an opportunity to relook at resource management for everyone, not just a fight to continue the sweetheart relationship that currently exists between the DNR and the sports lobbyists. It is an opportunity to look at other social, political, and economic factors facing northern Wisconsin.

It is also a political fight; one that pits the giant Wisconsin government and its bureaucracy against the small developing Chippewa governments. It is an opportunity for the Chippewa to move forward as partners in the region.

And finally, it is a challenge for all people to look at themselves and see if someone else's identity really threatens their own, and if so, why?

Cross-Deputization Meets Stalemate

Great Lakes Indian Fish and Wildlife Commission (GLIFWC) warden staff met with Wisconsin Department of Natural Resources officials in Park Falls, Thursday, December 5, to resume talks regarding cross-deputization. However, according to GLIFWC Chief Warden Mike Cardinal, little was resolved.

Cardinal and GLIFWC Warden Maynard Whitebird met with Ralph Christanson, DNR Director of Law Enforcement Services, John Plenke, District Warden, Spooner and Michael Rindfleisch DNR Warden, Park Falls. Cardinal says that chiefly they can agree that the state and tribal enforcement will have to intermingle at some point in time, but they cannot determine the middle ground.

Last year the dispute was largely focused on training, according to Cardinal, but this year State liability is the stumbling block. From the State's point of view, a disadvantage to cross-deputization would be that the State would be held liable for actions on the part of GLIFWC wardens in the field.

The issue then becomes one of the amount of supervision and control the State would have over GLIFWC wardens. Cardinal does not feel

the Commission wants to lose control over its wardens for the sake of cross-deputization, or for instance, to allow the DNR to schedule GLIFWC wardens. This would be a misuse of personnel, he feels.

The issue of training has been resolved. Although GLIFWC wardens would have to take the 320 hours of training required for state certification, it would not have to be taken immediately, but rather could be spaced over a period of time.

Cardinal says that questions of jurisdiction also became complex. Uniquely, Tribal jurisdiction is over its membership not, like a county, over prescribed area, also, attitudes and laws change from state to state.

Michigan recognizes the Tribes and Tribal enforcement as lawful agencies, Cardinal explains; however, this recognition is not forthcoming in Wisconsin, he says. Partly this is also related to the status of Wisconsin as a 280 state with that jurisdiction, whereas Michigan is not.

Technically cross-deputization would be a boon for GLIFWC wardens. While in the field if they see probable cause that there has been a violation they can detain a person and get sufficient informa-

tion without violating the person's rights. However, if the individual turns out not to be a tribal member, the wardens can go no further even though there is evidence of a violation. Currently the information regarding the probable violator is given to the DNR to deal with as they deem fit.

Although cross-deputization seems to be at a stalemate, the GLIFWC wardens will be working with DNR enforcement on a training session in the early part of 1986. The wardens will be participating in a session that will cover the filing of court cases and general warden procedures. The session will hopefully be scheduled when a season is open.



DEER



Alan Ruger, GLIFWC environmental biologist, is interested in the lesions on this walleye caught on the Bad River Reservation.

Fish Committee Endorses Management Plan

The Fish Committee of the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) met Friday, Dec. 6th to discuss further involvement with the Great Lakes Fishery Commission, review fish stocking plans for Keweenaw Bay, and examine '86 budget priorities.

Following a report by Tom Busiahn, GLIFWC Chief Biologist, on the joint Strategic Plan for Management of Great Lakes Fisheries, the Fish Committee voted to endorse the plan with the provision that the language in the plan is changed to recognize the proper status of tribes as co-managers.

The plan, as Busiahn pointed out, was developed in 1980 under the supervision of a group called the Committee of the Whole (COW), which consisted of a senior fishery administrator from each state, province, and federal agency. It was developed without tribal input.

The intent of the plan was to develop common approaches to common problems in the management of the Great lakes; however, to date, only some of the actions specified in the plan have been implemented.

COW has decided to reconvene to review the implementation of the plan, and the Great Lakes Fishery Commission, which helps facilitate these meetings, has indicated that tribal representatives from GLIFWC and the Chippewa-

Ottawa Treaty Fishery Management Authority, MI will be invited. At that time, tribal representatives will be asked to adopt the plan and join the Committee of the Whole.

Busiahn also emphasized that with endorsement of the plan and if GLIFWC achieves membership on the Lake Superior Committee of the GLFC, tribes will be taking on additional responsibilities which come with the membership.

As an example he cited four general strategies listed in the plan:

CONSENSUS STRATEGY: "Consensus must be achieved when management will significantly influence the interests of more than one jurisdiction."

ACCOUNTABILITY STRATEGY: "Fishery management agencies must be openly accountable for their performance."

ENVIRONMENTAL MANAGEMENT STRATEGY: "Fishery agencies shall endeavor to obtain full consideration by the Great Lakes environmental management agencies of the potential impacts of their activities and decisions on fishery, needs and objectives."

MANAGEMENT INFORMATION STRATEGY: "Fishery agencies must cooperatively develop means of measuring and predicting the effects of fishery and environmental management decisions."

Although the Fish Committee voted to endorse the Plan and to continue to seek a seat on the Lake Superior Committee, representatives have not yet been selected.

Mark Ebner, Great Lakes biologist, provided the Committee with an update on procuring trout for Keweenaw Bay to use for stocking. The U.S. Fish and Wildlife Service would be unable to provide the fish, he said, but possibly could provide fertilized eggs to the hatchery.

With this in mind Ebner proceeded to contact several private hatcheries and found two which would be interested in providing the fingerling for the tribe. One, in southern Minnesota, has trout ready to stock, but at greater expense. The other in Watersmeet, MI has no lake trout, but would be willing to raise them if the eggs were supplied.

Ebner is continuing to explore the possibilities available and help determine the best source of the lake trout.

The Committee received an update on the '86 budget process from GLIFWC Executive Administrator Ray DePerry. They reviewed budget handouts briefly and decided to reconvene to consider the budget in more detail.

Committee members present at the meeting were Leo LaFornier, Red Cliff; Jim Hendrickson, Grand Portage; Robert Bender, Bad River; and Henry Buffalo, Jr., Fond du Lac.

Adventures in the DNR's Wonderland: Schlender - DNR Manipulating the Law

Mr. C.D. Besadny, Secretary
Department of Natural Resources
P.O. Box 7921
Madison, WI 53707



Dear Secretary Besadny:

I write to express my concern over the official lawlessness and racially-motivated hypocrisy which appears to be taking over the Department you direct. These are strong words, I realize, and I do not choose them lightly. I cannot remain mute, however, in the face of the State's cynical manipulation of the law. I find three examples particularly disturbing.

On October 23 the Natural Resources Board approved emergency rules relating to Chippewa small game and trapping. The rules before the board contained closed area designations for certain locales in Taylor, Burnett, and Marathon Counties. Our representatives pointed out that the dates given for these areas differed between the small game and trapping sections and that both differed from the Wisconsin Administrative Code, and suggested that the Board ask for staff corrections of these sections before precipitately making law. Your representative denied that any errors were contained in the sections, and the Board approved, as to those sections, the rule as presented. Then, when the official rule was published the dates had been changed, apparently by DNR staff, from those approved by the Board at its meeting.

The issue of a few days' difference for closed seasons in certain areas may be relatively minor; the issue of DNR staff tampering with the law as promulgated by the Natural Resources Board is something about which all citizens should be shocked. Who is responsible for this tampering? On how many other occasions has this happened? To what extent are the hunting and fishing rules published by the state authoritative statements of the law as approved by the Board, and to what extent has the staff made "adjustments" as they see fit? This is a shabby way to treat the law and one which demands explanation.

The second example which disturbs me deals with the extent to which DNR staff feels it can turn black to white through the vehicle of "intent." The rules approved by the Natural Resources Board pertaining to tribal small game and trapping provide that the department may enter into an agreement with the Chippewa tribes for "tag issuance" and "joint registration" of otters, bobcats, and fisher, as long as the procedures agreed to are "substantially in compliance" with §§13.07, 13.13, and 13.14. These sections require that each carcass of otter, bobcat, or fisher be immediately tagged with one of a limited number of carcass tags issued under the emergency rules. This procedured clearly contradicts that in place in 1984-85, whereby an unlimited number of transportation tags was issued and only registration tags were limited. Requiring joint registration also contradicts the 1984-85 procedure which provided for tribal registration in the presence of a DNR officer. Yet your representative claimed that these sections authorized the DNR staff to agree with the tribes to institute last year's procedures, even though, by not stretch of the imagination, could they be deemed "in substantial compliance" with the emergency rules. Your representative's explanation, I am told, was "I wrote the rules, and I know what I meant so that's what they mean." As your legal staff is no doubt aware, the post hoc representation of subjective intent of a staff member, never relied upon by the administration body actually exercising legislative powers, is a highly questionable basis upon which to repose the interpretation of an administrative rule. It is only because of your representative's response to a direct question posed Mr. Lawton at the full board meeting that such an intent could be construed to have been adopted by the Natural Resources Board, and that such an intent could form the basis for the eventual tribal-state understanding on fur-bear tagging and representation.

As I am sure you understand, the tribes are loath to enter into agreements based on unstable legal ground and unspoken intent. As we continue our journey through what often seems the looking-glass world of Voigt, the tribes would be most gratified if, at least when making law, your Department followed Lewis Carroll's advice to say what you mean and mean what you say.

The most serious example and that which concerns me the most is with regard to the Department's interpretation of 1985 Wisconsin Act 36. I would like explained to me exactly how the Department can take legislative language explicitly defining the term "highway" and then ignore it, redefining the term to its own liking and to appease non-Indian hunters. It does no good to say the legislature intended the administrative language all along, else why would the bill explicitly adopt the pre-existing statutory definition, why would legislators Kincaid and Hopperin have explained to the Assembly in their September 24 memo that all deer hunting on unpaved roads would be prohibited by the bill, and, most disturbing, why did it take until the end of what should have been the tribes' road hunting season for the DNR to formulate its interpretation and distribute it to the Great Lakes Indian Fish and Wildlife Commission? It should, of course, be no surprise to you that given the Department's current definition of highway the tribes' road hunting season should have run its full course through October 21.

You can explain your Department's action in one of two ways. Either the administrative interpretation was what the legislature intended all along (which could not be proved anywhere in the bill or legislative history) and the DNR deliberately withheld that information (although a memo was road-hinting season, or the legislature never intended the administrative interpretation (which is clearly the more defensible position to take) and the DNR willfully has ignored the statutory mandate to please state hunters, but has timed its actions to deny the tribes the benefits agreed upon at the bargaining table. Both explanations lead to the same conclusion: your Department cares naught for what the legislature directs if it feels it can get away with its own desires, nor does it care to honor the terms of an agreement entered into in good faith by the tribes, nor does it care to act in a way that treats Indians and non-Indians even-handedly.

The actions of your Department discussed in this letter may have all, in their way, been expedient in reaching the ends deemed desirable by your staff and popular to the constituency which to you matters most. They do nothing to illustrate good government or integrity in the making and carrying out of laws. They make a mockery of the deliberative process of rule-making bodies and of the legitimate field of statutory interpretation. And, thinly disguised under a cloak of legal analysis, they show a racist manipulation of the law to benefit non-Indian hunters and deny Indian hunters their rights as agreed upon and entered as a court order. Your effort to squeeze and mold Act 36 to meet your needs and deny Indians theirs has won you the opportunity to fight old battles anew in 1986.

This letter has asked for several specific explanations. I would appreciate a response.

Sincerely,

James H. Schlender
Chairman
Voigt Inter-Tribal Task Force



An Interview with Sharon Metz

(Reprinted from the November 1985 Wisconsin Counties Magazine)



On October 2, Representative Sharon Metz (D-Green Bay) spoke with WISCONSIN COUNTIES Managing Editor Ernest Stetenfeld in her Capitol office about the work of the American Indian Study Committee of the Legislative Council and her role as committee chair. Excerpts from that interview follow here.

The committee is one of only a few required by state law to be created by the Legislative in each biennium. By law the committee is composed of four senators, four representatives, and six members nominated by the state's tribes and the Great Lakes Inter-Tribal Council. A seven-member technical advisory committee comprising representatives of state agencies assists the committee.

At this writing members of the study committee (with two vacancies) were Metz; Co-chair James Schlender, Lac Courte Oreilles Band; Secretary Sen. Donald Hanaway; Rep. James Holperin, Rep. Cate Zeusk; Sen. Lloyd Kincaid, Sen. Jerome Van Sistine; Rita Keshena, Menominee Tribe; Richard L. Gurnoe, Red Cliff Band; Eugene Taylor, St. Croix Tribe; Gerald L. Hill, Oneida Tribe. Metz was appointed chair in March. She has served on the committee for more than three years.

Stetenfeld: What would you define as the major problems confronting the American Indian population in Wisconsin?

Metz: I would consider the major problem as plain old racism. And you can't label it anything else. There's racism and there's racism. Some people have made up their mind that they hate Indians and none of them are any good, and they can name you 12 examples of bad Indians. And we know about those people.

Other people, I think, sort of bumble into it, and it's because they don't understand. They haven't taken the time to learn. They are not educated, and our school systems do a rotten, crummy, job of educating in the history books, in the social studies classes, (on) anything about Indian populations.

They have a general minority category, and they don't understand that this is a different minority category. This is a minority category with land base, first of all, and secondly, they were here. Why should they jump into the melting pot. The melting pot came here. And if they chose to remain and keep their own culture, and they had a good society and a structure before we came, and they want to preserve that. I think it is arrogant of us to try to intrude on that.

S: What aims do you have under your chairmanship for the American Indian Study Committee?

M: Well actually, there are a number of aims. First of all, . . . because there are legislators and American Indians on the study committee, it's an educational process for those members who are not Indians. . . . The committee is sort of a clearing house and discussion group and screener for legislation that has to do with the state vis-à-vis the Indian tribes.

I think it's important that the committee keep as its primary goal the fact that we are dealing with sovereign nations here. . . . It's not like we are dealing with the town of Pittsfield. . . . And there are . . . not only special considerations, but special problems that have to be worked through. So . . . creating understanding between the Legislature and the tribes—better communication, resolving the problem in a peaceful way—is another major goal, so we can work on a government-to-government relationship with the tribes and resolve our differences and come to some compromises, if necessary, in a peaceful, negotiated way that gives respect to each government.

S: I am right in saying that any legislation that the committee would report out then goes through the Legislative Council for consideration and then to the Legislature?

M: As an example, we just reported out the Indian Sites Burial Bill, and that came out of the Legislative Council study unanimously. And now that will go through the standing committee. See, anything that comes out of the Indian Study Committee has more screening and more votes than most pieces. First of all, it has got to get out of the Indian Study Committee, where Indian members vote, as well as legislators. Secondly, it has to go through the Legislative Council. Then, you start at the point where most legislation starts. And that's through the standing committees of the Legislature.

S: Is there any other legislation that the committee's taking up right now?

M: We will be looking at the establishment of—I hate the word commission—but perhaps an Indian Council or an expanded role for Paul DeMain's (governor's aide for Indian affairs) role as liaison, (with) higher visibility. Paul has no staff, I mean of his own. And this (committee) is the legislative branch. And we also have some agency people who are liaisons. But something to bring it together could be staff for Paul DeMain to work in an expanded role with Legislature and the agencies in a highly visible, perhaps very small, group.

You can't get into something like every tribe (being) represented. . . . So it would have to be two or three people, as I view it, and make it real lean. . . . I see this new Indian organization, or this expanded role of Paul's office, or whatever we choose to call it—Indian Council—as something that brings everything together: the agencies, the Great Lakes Inter-Tribal Council, the American Indian Study Committee and the governor's office, in coordination and communication and working together toward some common goals.

S: In terms of your own development and involvement in Indian affairs, how has that come about?

M: Well I've been interested in Indian affairs and issues and history and culture since I was 5. I grew up in an area on a farm that has an Indian cemetery—burial ground—on it. And my dad, who is not a well-educated man in a formal sense, always taught me of all the things that we have done to Indian tribes. And he would say, "Imagine, they lived on this land, and they could go and hunt, and they could go and fish, and they probably had their houses right here, and nobody bothered them, and we took all that away from them." I mean, he schooled me in that. And he had a real sensitivity. . . . then, of course, I started reading all the library books about Indians when I was a little kid, and I continued that. And when I took college courses, anything on Indian studies, I

would take. So I tried to educate myself, and not just be a flaming-liberal do-gooder. I wanted to have some basic knowledge and concepts. I've now started my own Indian library. It's very small, but I add to it as I can.

. . . I really feel that we have here some beautiful nations and people. And that it's just rich in culture. When people come over from Europe and visit the United States, you know what our people tell them? "Well, we haven't got anything more than 200 years old here." That's ridiculous! I mean, there are wonderful Indian museums, and there are many wonderful things they could see. But we just negate that whole culture (that was here) before we came.

S: In terms of what the Wisconsin Counties Association and the Great Lakes Inter-Tribal Council are trying to do together now in the form of the Country/Tribal Committee, a joint committee of both organizations, could you express an opinion on the process?

M: I hope it works. I really hope it works. I think that anything that we can do to educate people by working together with them. . . . it's a constant educational process. Every single time that I attend a meeting with Native Americans or sit in. . . . I learn something. And I probably know more about it than your average, run-of-the-mill person, but I learn something. . . . If people would only open their minds to art, and I think that working together is a way to do that.

I think one of the things that might be helpful. . . . (is) to have a little briefing, prior to sitting down, on some of the things they may either take offense at, or not know how to handle. . . . For example, a lot of times I find that the tribes will . . . issue a statement. Well then, we're sort of stymied by that as white people. We don't know what to do with that statement. So, we either ignore it: "So, they made a statement!" Or we respond in the negative because we feel it needs a response. And we do not understand that that is a way of tribes communicating. They have issued a statement of their beliefs. And a lot of times, we just sort of brush that aside as a non-communication.

Many of the tribes had great orators. And they had a respect for words. They chose their words carefully. They were great orators. They could inspire people, and that oratory is still alive and well in many cases. And that oratory, we place no value on in our society. If it won't fit into a 20-second news spot, there's no value to it, we feel, and I feel that's just bizarre.

S: A resolution that was passed at the WCA Convention recently. . . . was one that urged formation of, in effect, mini-county/tribal committees. . . . something along the line of what GLITC and WA have done together, on the level of the individual county, between (counties and) tribes that have reservation lands adjacent to or within the boundaries of that county. Is that something that sounds to you like it could be productive? It's not something that's been implemented, apparently, anywhere except Ashland County, I believe.

M: I think it's a wonderful idea. I think it could be productive. And I think you will find the tribes more willing to participate than the counties. You know, a lot of the counties—I can't imagine my own county, for instance, participating—I mean, they just want to get rid of those folks.

I've said all along. . . . let's look at it from an economic standpoint. Never mind who's right, who's wrong, the cultural differences, what people are doing. It's easier to negotiate and get along with your neighbor than it is to litigate. You make the lawyers rich, and you create bad feelings if you argue with your neighbor. I don't care what color they are, if you can sit down and talk and work out your differences and maybe compromise where neither side is 100 percent happy, but you're getting along. I think that makes good economic sense. Why spend tax dollars on foolishness. Why not spend tax dollars, put some gas in your tank and . . . go out there and invite them to a meeting. . . .

S: What role, if any, does the committee have—or will it have—in resolving the disputed issues of treaty hunting and fishing rights?

M: Well, I was real disappointed that Senate Bill 88—that really closed down a lot of the negotiated agreements—was not referred to the American Indian Study Committee for comment. That was put on a fast track and just rushed through for one reason and one reason alone, and that is to keep Indians from exercising their treaty rights. And I think the committee should have been allowed to comment on it, but it was not. And I think that is reflective of an attitude in the Legislature among both parties that "We gotta show 'em who's boss. We have to be bigger and stronger one more time." And that is not a way to resolve things peacefully.

S: Is there anything within the purview of the committee from this time on that will have to do with resolving those treaty rights issues?

M: Well, basically, we can't get into federal issues anyway; it's a state committee. But because . . . S.B. 88 was a state piece of legislation, we should have been able to comment on that. We have to confine ourselves to what we're doing as a state with tribes. Federal is not within our purview at all.

S: . . . most of that, I guess, is up to the courts.

M: . . . if I might, I would just like to . . . urge county board members to (learn about Indian issues) on an individual basis. One of our county board members just got disgusted by this whole thing, and he felt he wasn't getting accurate information either from the newspapers or from the corporation counsel, or whatever.

He got in his car. He drove out to Oneida. He talked with some of the people who are in charge, some of the leaders out there. They were wonderful hosts. He had a good talk and came back with a whole different thing. I think in the meantime, he has read some . . . background material.

I wish county board members would educate themselves and not go in with a pre-conceived notion on. . . . what's happening here. And I think that would be very productive.

I would wager that almost every county board member in this state is a church-going member. And you know it's "Love your brother." "Love your neighbor as yourself." Okay, isn't that one of the premises of Christianity? Okay, what happens to that on Monday morning? Sometimes, when you love your

Metz Announces for Lieutenant Governor

I believe that we should separate the offices of Lieutenant Governor and Department of Development Secretary. The DOD Secretary should operate as an appointed department head with expertise and experience in business. The Lieutenant Governor should again operate as an elected representative of all the people. Let me add at this point that I believe that Tony Earl made the right decision when he combined the two offices in 1983. The state was facing a massive Dreyfus deficit and the Governor allowed us to save one salary by using the Lieutenant Governor in a dual role. By doing so, Governor Earl also gave the fledgling department higher visibility than it otherwise would have received. Now, however, the department is no longer a fledgling. It is time that the Lieutenant Governor pursue and stake out important functions that are broader than a single policy area.

On another note, let us recall at this time those principles that make us democrats. The principles: A concern for the people. A concern for the environment. A concern for the education of our children, for the elderly, for the farmers in the state, and the workers who are or want to be part of the labor force. These are the ideals that must be re-emphasized and focused on during this campaign. As a long time party regular, let me say that as Lieutenant Governor I will not forget that I am a Democrat nor will I forget the party principles that make me a democrat. And most of all, I won't forget the ordinary citizen out there who needs to feel a part of the process.

A Lieutenant Governor ought to speak out and express the policies of the executive branch of government. The Lieutenant Governor ought to act as an advocate for the people to the executive branch. Further, the Lieutenant Governor ought to be a visible, active team member with the governor and, as a part of that role, ought to work closely and personally with the legislature to implement proposals of the executive office. These are the reasons I am running. I have

the credentials, the courage, and the comprehensive perspective necessary for the office.

One question that I have been asked is the effect that a high-level primary race will have on the Democratic party. I do not enter this race lightly and have reflected for a long time on that question. I not only feel, I know my candidacy will strengthen the party, since I plan a race based on issues and free of personal attacks. Wisconsin Democrats accept primaries eagerly and handle them well. In 1982 there was a three way race on the Democratic Ticket for Governor and we went on to win back that office. One has to remember that we are the party of diversity, open discussion, and ideas. If incumbents were the only "valid" candidates we would close ourselves to fresh approaches and deny the people a choice. That would fly in the face of the word "democratic".

Finally, on a personal note, I would add that coming up the hard way did not hurt me. I married young to a serviceman, had four children and twelve jobs to help out as my husband, Tom, left the service and went to school. I did a little of everything. I worked in a factory, as a typist, a receptionist, a switchboard operator, and in direct sales. I was a vista-action volunteer for a year and then became the administrative assistant to that program director. Finally, in 1971, on the same day as our oldest son, I was able to begin college. Halfway through I was elected to the assembly. In 1984 I turned 50, became a grandmother, and graduated from college all in the same year. At such a point in life one tends to assess where one is. I saw it as a fork in the road. One path meandered toward retirement. The other path represented the acceptance of a new challenge. I have chosen the latter path and ask the people of Wisconsin to join me with their support, ideas and, of course, campaign dollars. This is a people's campaign that will be based on common sense, hard work, and an exciting dimension for the '86 ticket.

neighbor, it's not always easy. And if you're going to practice your Christianity, this would be a real good place to start!

S: If you had to put what you want to do with the committee in a sentence or two, what would it be?

M: It would be to bring . . . harmony. I would like to promote harmony between Wisconsin state government and the Indian nations within our borders—anything I can do to promote harmony and better understanding.

You know people make it harder than it has to be. For instance, I remember a conversation (where) we were talking about recognizing marriage licenses, and marriage licenses where the people were married in a traditional Indian religious ceremony or by a tribal person. And they would perhaps issue their own marriage licenses. The people got all bent out of shape over in the statistics department, and they said, "Well, how can we recognize them? We don't know if they're married or not."

I said, "What do you do if somebody comes here and says their marriage license is from France." It's the same thing. It's so hard. No matter what it is, we try to fit them in the white mold. If we would just recognize them as different, but valid, you know a lot of our problems would resolve themselves.

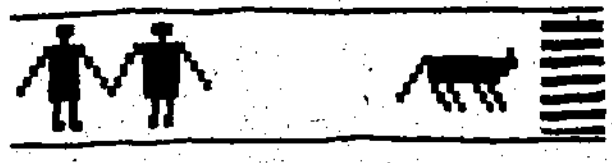
S: . . . could you explain . . . about the relationship between the state and tribes as sovereign nations. I understand that the distinction is between and independent sovereign nation and a dependent sovereign nation. What does that really mean—dependent sovereign nation—and how does it affect the way the state interacts with Indian tribes.

M: Well, it means that, for instance, counties, cities, townships, all of that, are under the jurisdiction of the state. . . . They are entities and they are separate, but when push comes to shove, the state has ultimate jurisdiction over a lot of that. And the federal government has ultimate jurisdiction over the state. And the federal government has a trust responsibility toward the individual nations within the United States. Those individual nations are Indian nations.

So, we have the fifty states, and we have sovereign nations that are under federal trust responsibility. And the state has no has trust responsibility for.

County/Tribal Committee

Strong Possibilities/Some Problems



After an interim of several months, the County/Tribal Committee, which represents Wisconsin counties and tribes, met November 15th in Rhinelander to resume discussions on areas of mutual concern. The mood was positive, with representatives from both tribes and counties appreciating the opportunity to work together and the potential power of such a coalition.

However, Resolution 59, an abrogation resolution passed by the Wisconsin Counties Association once again came to the forefront of discussion. As Jack Miller, Stockbridge-Munsee, indicated to the county representatives, "in order to continue as a committee that Resolution 59 has to be rescinded."

"Proposal On Rescission Of Resolution 59, 1984 WCA Convention"

Resolution 59, adopted by the 1984 WCA Convention, calls for enactment of federal legislation which would limit the exercise of treaty-protected hunting and fishing rights to reservation and other Indian trust lands. The tribes have called upon WCA to rescind that resolution as an indication of good faith in dealing with tribes.

The counties, for their part, urge the tribes to approach the counties in good faith. We believe the tribes should demonstrate their commitment to equity in our relations by indicating their willingness to renounce their right to exercise treaty rights on county forest lands.

We believe a mutual act of good faith--renunciation of tribal rights and rescission by WCA of resolution 59--would clear the air and leave matters open for frank, fair discussion. From the point at which we acted together, we could discuss steps to take toward further improvements in our relations and mutual development.

Submitted by Charles Tollander, Burnett County Board Chairperson and Member of the County-Tribal Committee"

Tollander feels that an abrogation resolution would be rescinded if the tribes would voluntarily abrogate their rights to harvest the resources on county-owned lands.

Ray DePerry, GLIFWC Executive Administrator at

tending the meeting, suggested that since the counties' frustrations are with the Wisconsin Department of Natural Resources' (WDNR) failure to involve them adequately in the negotiating process, the counties should be acting to abrogate the DNR rather than the treaties, indicating that counties' frustrations with the DNR should not be taken out against the Tribes.

Tony Lorbetske, Oneida County, stated that his county has loggers on about 80,000 acres of land. He said the loggers are "not overly enthused about going in there when hunters are there." He said counties are also concerned for the safety of skiers, people using walking trails and bow hunters.

It was also noted that after several seasons, no accidents had occurred. However, Larry Gleasman, Dane County, indicated that should just one such incident happen, a considerable public reaction would result. "This has to do with people's fears," he said.

The counties were not the only ones concerned about the lack of fair representation. Gene Taylor, St. Croix Tribal Chairman, expressed his anger over the lack of fair, tribal representation at the county level, referring particularly to Burnett County meeting to consider an abrogation resolution. "I was not even invited to that Board meeting," he said, "where a decision was made that would affect my people for hundreds of years."

No specific action was made by the committee to resolve the dispute over Resolution 59, although the issue will be taken to the WCA Board of Directors. Tollander indicated that the counties have not, as yet, lobbied the Resolution federally. "We have just alerted our Congressional delegation, that's all," he said.

Gleasman noted that the committee must be cognizant of the fact that Resolution 59 is a symbol which is very significant to people and goes beyond just hunting and fishing rights. It deals with abrogation of treaties. As Miller had commented earlier, "That's strong medicine when talking about treaties and shows a lack of good faith in the committee."

ABROGATE NUCLEAR WASTE?

Also on the agenda was an update on the process of locating a second site for a nuclear waste repository by the U.S. Department of Energy (DOE). Leo LeFemier, RED Cliff Vice Chairman, felt the committee would do better to abrogate nuclear waste than treaties.

LeFemier gave an overview of tribal involvement in the siting process to date, explaining that areas of northern Wisconsin are under serious consideration as a possible second site for a radioactive waste repository. He explained also that treaty protected rights give tribes input into the siting process and that treaty issues will very likely be prominent in the discussion of sites because almost all of the crystalline rock formations being considered in Wisconsin are in

the ceded territories.

LeFemier feels it is time for county and local governments to become involved in this issue before things proceed beyond their ability to react effectively. Although the site in Wisconsin would not be opened until 2006, if selected, LeFemier feels the time to act is now when groundwork is being laid and initial decisions made.

Considerations for citizens to think about include the possible effect of living in a transportation corridor and the ability of the community to handle a "unscheduled incident" (an accident involving radioactive waste.)

He also felt that the County/Tribal Committee, as well as county governments, could play a valuable role in the distribution of information and education of citizens.

pany for funds to be used for business development in Burnett County.

Tollander feels the corporation is unique in having these diverse groups working together towards economic development. Although not everyone will always agree, for instance on the location of an enterprise, Tollander feels it is still necessary to maintain unity to perpetuate economic growth in the area.

He feels that Tribal involvement is a real boon to the corporation and may provide extra impetus needed by the corporation as it seeks further funding.



THE FUTURE

"One Hec of a Formidable Coalition"

Looking to the future, Mark Rogacki, Executive Director of the WCA, suggested there might be a possibility of providing an Indian desk in the WCA office, Madison. It is a matter which will be explored. County representatives are also concerned that they find a source of funding for their trips to communicate meetings.

Rogacki ended the meeting with a comment that the Tribes and the counties would make "one hec of a formidable coalition to use in the legislature."

The next meeting date has not yet been set.

ECONOMIC DEVELOPMENT CORPORATION

Charles Tollander, Burnett County, gave an explanation of the Burnett County Economic Development Corporation, composed of the County, the St. Croix Band, utility companies, private business and financial institutions.

Tollander said the corporation has been designed to strengthen the entire community and provide direction to development initiatives.

The corporation will be seeking financial resources. The County will be contributing \$15,000 and an additional \$15,000 will be sought from JTPA (Jobs Training Partnership Act). The corporation will act as a holding com-

FROM THE EDITORS



MASINAIGAN GROWING

The influx of calls requesting to be put on our mailing list for the Masinaigan has been encouraging, even if it means a bit more work. We more than welcome it if people read our magazine.

As you probably noticed, we've decided to let MASINAIGAN grow a bit. We've shifted from a tabloid to a larger broadsheet format. Hopefully our articles and analysis will grow as well.

MASINAIGAN began as a publication of the Voigt Intertribal Task Force. When the Task Force merged with the Great Lakes Indian Fisheries Commission (June 1984), so did our publications. At the time we were publishing Inokikay which we've since integrated into MASINAIGAN.

We've been publishing MASINAIGAN since the summer of 1984. We now have a monthly feature insert on behalf of our member tribes. (This issue we decided to let the Commission say hello.)

Our focus remains, however, to report on treaty issues particularly the Lake Superior, Chippewa in Michigan, Minnesota, and Wisconsin. With this format change we hope to enhance that reporting.

We want to chronicle our history, as it unfolds. In doing so we must look at the past, at culture, at our adversaries, our

friends, and at all our surrounding communities. If you have ideas, comments, or suggestions, please write, call, or stop by.

Despite two years of existence as an organization, it remains hard to be optimistic. For despite vast amounts of information we've distributed, the level of apathy and ignorance remains high; the degree of anti-Indian sentiment continues; and, politicians use this issue knowing tribes have few votes. However, regardless of these odds, tribal leaders continue the struggle.

Non-Indian supporters must be found; state governments must be held accountable; tribal governments must be strengthened; and, tribal member involvement must be increased.

One way to help these issues is through communication. It is our hope that MASINAIGAN, contributes to this effort.

Thank you for your efforts and support. Have a good solstice, Merry Christmas, and Happy New Year! Peace.

Walt Bréslette, Sue Erickson, Editors

P.S. Please let us know of others who would like to get the paper. If you would like bulk mailings, let us know how many. Megwitch.

Native American Rights Fund

The Native American Rights Fund is a nonprofit organization specializing in the protection of Indian rights. The priorities of NARF are: (1) the preservation of tribal existence; (2) the protection of tribal natural resources; (3) the promotion of human rights; (4) the accountability of governments to Native Americans; and (5) the development of Indian law.

Our work on behalf of thousands of America's Indians throughout the country is supported in large part by your generous contributions. Your participation makes a big difference in our ability to continue to meet the ever-increasing needs of impoverished Indian tribes, groups, and individuals. The support needed to sustain our nationwide program requires your continued assistance.

Requests for legal assistance, contributions, or other inquiries regarding NARF's services may be addressed to NARF's main office: 1506 Broadway, Boulder, Colorado 80302. Telephone: 303-447-8760.

Executive Director: John E. Echohawk (Pawnee)
Deputy Director: Jeanne S. Whiteing (Blackfeet-Cahuilla)



'Tis the season! Tim Andryk examines GLIFWC Christmas tree as part of the Christmas tree needle survey. The tree was hand-chopped and donated by biologist Tom Busiahn.

Legal Updates

SUPREME COURT TO HEAR CATAWBA LAND CLAIM

The U.S. Supreme Court will review the Fourth Circuit Court of Appeals' decision in Catawba Indian Tribe v. South Carolina, which upheld the right of the Catawba Tribe to pursue its claim to 144,000 acres of land in South Carolina. The Fourth Circuit had held that the land claim was extinguished by the Catawba Termination Act which ended the government-to-government relationship between the tribe and the federal government, and was not barred by the state's statute of limitations. South Carolina requested the Supreme Court to review the Fourth Circuit's decision, and the court agreed to do so on June 3, 1985. In the case, the Catawba Tribe is suing the State of South Carolina to recover its ancestral homelands and is asking for a monetary compensation for the past denial of those lands. The parties submitted briefs to the higher court this past summer and are presently awaiting a date to be set for oral arguments.

(From the NARF Legal Review, Fall 1985)

COURT HALTS FOREST SERVICE CONSTRUCTION AND HARVESTING

The Ninth Circuit Court of Appeals in June ruled that the U.S. Forest Service could not harvest timber and construct a road in an area used by Indians for religious purposes and considered sacred for that reason. The Court found that the federal government's proposed actions would seriously interfere with or impair Indian religious practices. NARF filed an amicus brief in the case on behalf of several organizations and tribes.

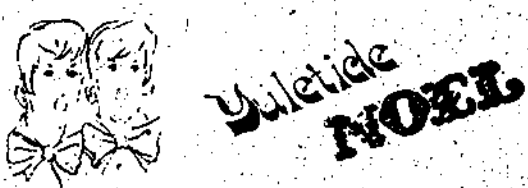
In the case, Northwest Indian Cemetery Protective Association v. Peterson, the Indians alleged that the proposed activities would violate their rights under the First Amendment and the American Indian Religious Freedom Act of 1978. The government argued that protection of the area would create a government-managed "religious shrine" which is prohibited by the U.S. Constitution's Establishing Clause. But, the court disagreed saying that the management of the national forest in a manner which does not burden Indian religion evidences a policy of neutrality rather than an endorsement of the religion. The court also found the Forest Service's plans violated certain environmental laws.

(From the NARF Legal Review, Fall 1985)



WATERFOWL REPORT Tim Andryk, GLIFWC Inland biologist, has been compiling a report on this year's waterfowl season. Surveys will be mailed out to gather information. The final harvest for the early season is 96 duck, 48 coot and 19 geese - that is for the ten day hunt in September.

Tribes Seek Voice in Siting of Nuke Waste Dump



THE CRYSTALLINE WASTE PROJECT

The Crystalline Repository Project, perhaps better termed "Highly Radio-Active Waste Dump in Crystalline Rock Project," is looking for possible sites in our backyards. Although much work has already been done, the Department of Energy (DOE) has recently made allowances for Tribal input from Tribes who may be affected should a radio-active repository be located on or near a reservation or in treaty-protected lands.

The following article is an overview from a meeting between the Tribes and representatives from the Crystalline Repository Project (for highly radio-active waste). Each eligible Tribe will receive \$30,000 to review an initial draft recommendation which has been compiled, thus far without Tribal input. Understandably, the Tribes are concerned, both peeved at the tardiness in seeking Tribal involvement and anxious for assurance that Tribal input will be actively sought throughout the entire process of recommending a second radio-active waste repository site.

Indian Tribes which may be potentially affected by the location of a second radioactive waste repository site on or near tribal lands or in treaty protected areas met with representatives of the U.S. Department of Energy (DOE) Monday, November 25, in Duluth.

A second repository site is being considered in the crystalline rock formations of northern Wisconsin, Michigan, and Minnesota, and may impact on twenty-two Tribes in the North Central Region.

According to the U.S. Department of Energy (DOE), the department has been "charged by federal law with developing technology and facilities for the long-term management of highly radioactive nuclear wastes." Part of that responsibility, as defined in the Nuclear Waste Policy Act of 1982, is to develop relations with the states and Indian Tribes which may be affected.

Consequently, DOE has made available to potentially affected Tribes, a grant of \$30,000 to each eligible Tribe in order that they may review the Draft Area Recommendation Report (DARR) which is to be released by DOE in January, 1986.

The grants will become effective in January, 1986, and run for a period of 90 days, allowing the Tribes to study the DARR and provide further comment on the contents of that report.

Eligible Tribes are underlain by crystalline rock, such as Menomonie, Stockbridge-Munsee and Lac du Flambeau in Wisconsin. Also eligible are Wisconsin Tribes with off-reservation treaty rights, including Bad River, Sokagon Chippewa, Red Cliff, Lac du Flambeau, Lac Courte Oreilles and St. Croix.

Tribal representatives at the meeting expressed open concern over the failure on the part of DOE to incorporate Tribal comment into the DARR before it was drafted. The Tribes felt the DOE had been lax in seeking early involvement considering that the Nuclear Waste Policy Act recognized the Tribes as coequal with the states.

The CPO is only concerned with locating potential sites for the second radioactive waste repository. The first such repository is further along in the planning stages, with nine specific sites under consideration in Oregon, Nevada, Wyoming, Texas, Louisiana,

and Mississippi. The first repository is scheduled to be opened in 1996. The second repository site has a target opening of 2006.

According to Schassbureger the time line for the Crystalline Repository Project is as follows: early 1985 issue final region-to-area screening methalodolgy documents; late 1985 issue final regional characterization reports; mid 1986 issue final area recommendation report; late 1986 begin area phase field work; 1991 nominate and recommend sites for characterization; 1998 recommendation by president of site to Congress; 2006 opening of second repository site.

A geologic repository such as is being considered in the north central region will contain highly radioactive waste which will be placed in mined vaults 1,500 to 3,000 feet below the surface. Above the vaults the facilities will comprise about 400 acres.

The radioactive waste will arrive in solid form and be lowered into the mined vault by remote handling.

The underground working would be about 2,000 acres and have a capacity of 70,000

metric tons. The control zone would be 10,000 to 20,000 acres.

Waste material to be stored on the site would include spent nuclear fuel, reprocessed waste, and high-level defense waste. The repository would be regulated by the U.S. Environmental Protection Agency and licensed by the Nuclear Regulatory Commission.

The DOE has worked with the seventeen potentially affected states since 1983. Dr. Sally Mann, Manager of the Crystalline Repository Project Office (CPO), DOE, said she felt the project was late in reaching the Tribes; however, the task of involving 17 states had, in itself, been difficult.

Tribal spokesmen also felt they needed the assurance that the Tribes would be able to continue to participate following the 90 day grant. For instance, several Tribal representatives felt that Tribes should be involved in the Area Characterization Plan which is currently being developed.

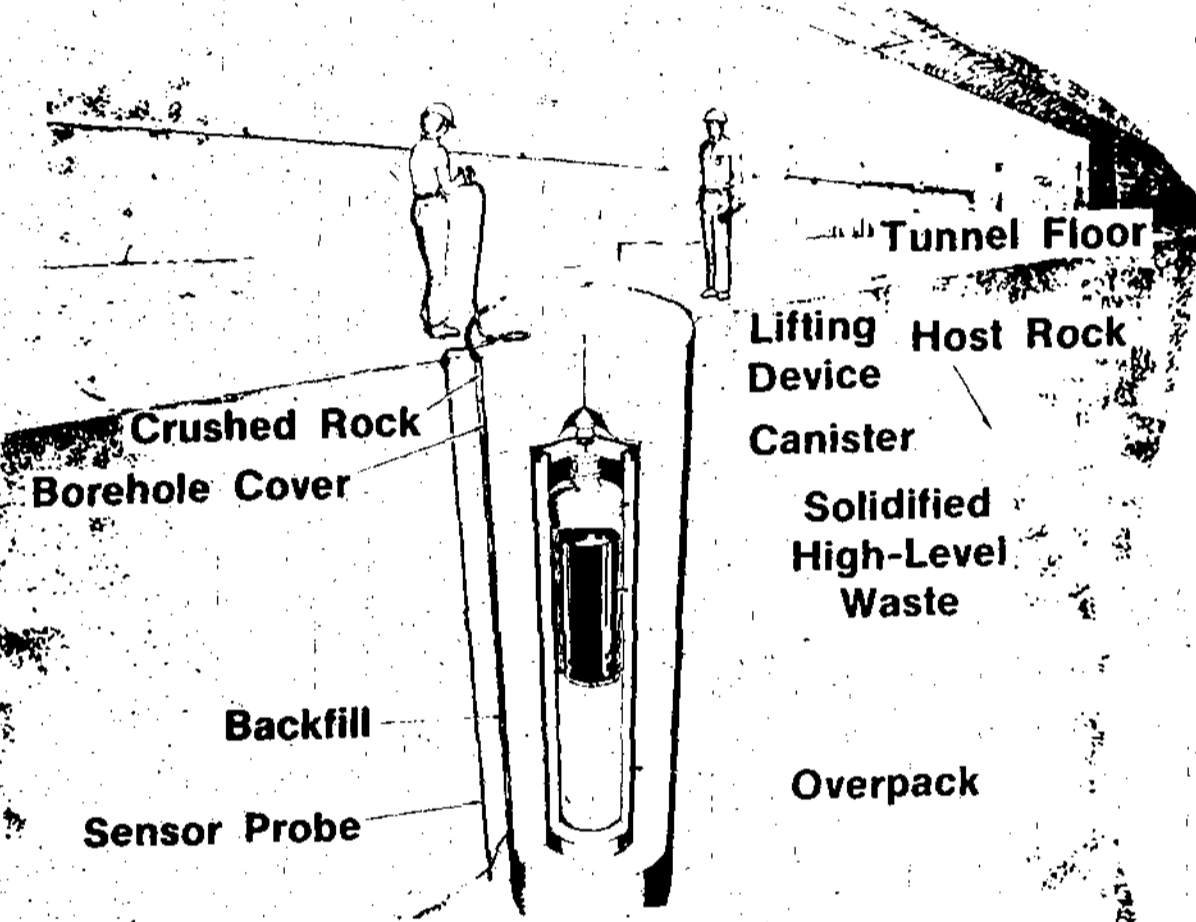
Mann could not assure the Tribes that further funds would be made available for future involvement. However, she said she would relate the concerns

expressed to the proper authorities, and look for further funds and the ability to insure Tribal input.

The Crystalline Repository Project Office (CPO) was established at DOE's Chicago Operations Office in 1982. CPO's mission is "to identify and license sites for the second and subsequent repository in crystalline formations." Crystalline is one of several forms of rock being considered for an underground repository.

According to Richard Schassbureger, Chief, Institutional Relations Branch, CPO the January release of the DARR will contain an introduction, description of region-to-area screening process and the results of the region-to-area screen process.

Tribal representatives met further on Tuesday to discuss the most effective use of the grant monies for review of the DARR. Tribes will be seeking continued involvement in the process of determining a second site for the storage of highly radioactive waste.



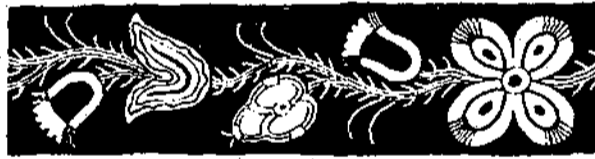
Conceptual Design of Waste Package



DOE Pulling Strings?

DOE PULLING SOME STRINGS Alan Ruger, GLIFWC environmental biologist, suspects that the DOE is being a little less than forthright in dealing with the Tribes' involvement with the siting of a second nuclear waste repository. An invitation to attend a DOE meeting arrived Friday to discuss the areas characterization plan in Denver. Ruger says the invitations were so late that Tribes understandably will have difficulty getting representation to the meetings. Also, they have received no copies of the plan which is supposedly to have been reviewed prior to the meeting. Ruger has been asked to attend to represent both LCO and Bad River.

Deer Hunt Figures Exceed 1300 To Date



Bad River WCC



Variety is the spice of life some say, and the Bad River Wisconsin Conservation Corps (WCC) seems to be taking the adage seriously. This fall the seven member crew has been working on projects with the Wisconsin Department of Natural Resources (WDNR), the Great Lakes Indian Fish and Wildlife Commission (GLIFWC), and the Bad River Tribe.

The projects have taken them from training workshops to the woods, from burning brush to bird-watching on the Kakagon Sloughs.

Once a week the WCC crew members beat the first glimmerings of dawn which light the Kakagon Sloughs. Arriving on site at 5 a.m. with binoculars and notepads in hand, they are ready before the earliest early bird takes to the air. They are there to observe the migratory duck population, assisting in the migratory waterfowl survey which is being performed in both the Sloughs and the Chequamegon Bay.

According to crew leader John Denomie, the crew is responsible for identifying both the species of waterfowl which are sighted and recording the patterns of migration they observe.

The crew was trained to participate in the survey, which is being conducted by GLIFWC biologists and John Verch, ornithologist with Northland College. GLIFWC biologists Jon Gilbert and Tim Andryk trained the crew to identify the various

species of waterfowl and how to determine the migratory pattern of the birds.

Also the crew went through on-location training with Verch, who took them to each of his ten stations strung between Washburn and the east end of Ashland, while he telescoped the entire Chequamegon Bay.

But the birds don't get all the WCC's attention. The WCC has also been in the woods this fall assisting GLIFWC in a deer population survey on the reservation which is designed to determine the deer population per square acre.

And more recently, the crew was trained by John O'lon, WDNR, to assist with

the aging of the local deer population. Denomie says the process requires examination of the deer's jawbone and teeth structure. Crew members assisted WDNR staff Nov. 23-25 with the aging of deer brought into Joy's Place, Ashland, for registration. Determination of deer's age gives wildlife managers an idea of the age and structure of the local deer herd.

When not in the woods or on the water, the WCC crew has been brushing and burning the area on the Bad River Reservation which is to be the new camping and picnic park, located opposite the Pow Wow grounds. This project is being done in conjunction with the Bad River Tribe.

The Great Lakes Indian Fish and Wildlife Commission represents ten Chippewa tribes, all which reserved their hunting, fishing, and gathering privileges on ceded lands through treaties. In recognition of similar interests and needs to manage both fish and wildlife resources on ceded lands, the separate Chippewa bands, from Wisconsin, Michigan, and Minnesota, formed the Great Lakes Indian Fish & Wildlife Commission. GLIFWC is a central agency representing their common interests and providing technical assistance to all member tribes in the areas of policy, enforcement, biology and resource management, and public information.



The Great Lakes Inter-Tribal Council, (GLITC), was really on fire last month. Their headquarters at Lac du Flambeau was literally destroyed by flame. However, Joe Bresette, GLITC director, says they are in new quarters in Lac du Flambeau, are fully operational, and they can be reached at the same phone number (715-588-3324).

U.S.—Canada Pacific Salmon Treaty: Tribal Participation Threatened

(Reprinted from CRITFC News, Vol. 8 No. 2 July/September, 1985)

CRITFC



COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

BACKGROUND TO THE INTERNATIONAL SALMON TREATY

On March 18, 1985, the United States-Canada Pacific Salmon Treaty became law when ratified by President Reagan and Prime Minister Mulroney. Only several days before, with the overwhelming support of Indian tribes, affected states, recreational and commercial fishermen, conservationists, and local business and community leaders, the Senate gave its advice and consent to ratification. Simultaneously, both houses of Congress passed implementing legislation for the treaty, in each instance on a unanimous vote. For CRITFC, this was a hard-won and welcome moment.

Why and how did the treaty come about? In the late 1970s, analysis of Alaskan and British Columbian ocean troll fisheries revealed heavy interceptions of Columbia River chinook. The data were alarming: more than 75-80 percent of the harvest of many Columbia chinook stocks was taking place outside of Washington, Oregon, and Idaho waters. Washington coastal chinook and coho stocks were suffering similar impacts. By the time the fish returned to the Columbia and other area rivers, too few had escaped the troll fleets to maintain population levels or support any significant inriver harvest, Indian or non-Indian. The need for an international conservation and allocation system was imperative.

The United States and Canada had discussed salmon fishery controls since the 1950s and, in formal negotiations, had tried since 1971 to conclude an agreement that would regulate each nation's harvest of the other's salmon. Until the late 1970's, negotiations focused on the sharing of sockeye and pink salmon from British Columbia's Fraser River, but as information was developed on other salmon stocks, showing serious interception problems, the scope of negotiations widened. Begin-

ning at that time, Columbia River and other tribes successfully urged United States negotiators to include protection of naturally spawning chinook stocks in any agreement with Canada.

In late 1982, negotiators for the two countries reached accord on a set of principles and a bureaucratic structure for management of shared stocks. The document establishing these basics also fixed interim ceilings for certain intercepting fisheries, including Alaskan and British Columbian chinook harvests. However, that agreement, produced after 11 years of effort and offered to the two nations' governing bodies with high hopes, went no further: Alaskan interests claimed that it was unworkable and unfair to their state; American fishermen in northern Puget Sound, long dependent on Canada's Fraser River sockeye and pink salmon, also objected, fearing new interception limits on those fish; and aggressive maneuvering by treaty opponents kept the 1982 agreement from reaching the U.S. Senate for consideration. This was a time of despair for the Columbia River, Washington coastal, and Puget Sound tribes, some non-Indian recreational and commercial fishermen, and others who depended on salmon stocks heavily intercepted by Canadian and Alaskan fisheries.

Treaty supporters were at a disadvantage in the hot political contest over the agreement. The so-called southern delegation, from Pacific Northwest states, was divided. Years of combat following the United States v. Washington and United States v. Oregon treaty fishing rights court decisions in the 1970s had caused bitter relations between the tribes and non-Indian fishing groups, which prevented southern delegation members from working together. Split and scattered, the region's political power could not muscle the treaty.

This state of affairs was serious—so serious that in early 1984 a small group of

courageous non-Indian fishermen, led by Mark Cedergreen and Phil Anderson of the Washington State Charter Boat Association and Jerry Pavletich of Trout Unlimited, and joined by tribal leaders from throughout the region, took a bold step to reverse the situation: they sat down together in the same room, around the same table, and they spoke as colleagues.

Thus was born the Pacific Salmon Treaty Coalition, Chaired by Cedergreen and coordinated by CRITFC staff member Tom Jensen, it grew rapidly upon its original core and ultimately comprised more than 100 groups, including Northwest Indian tribes and Washington and Oregon non-Indian sport and commercial fishing interests, state fishery managers, fishery biologists, legal scholars, conservation and environmental organizations, port authorities, towns, counties, and banks. Mobilized by frustration over failure of the 1982 agreement, the coalition's diverse membership was mutually determined that Canada and the United States devise a treaty that would not be scuttled. That treaty, the coalition insisted, would have to contain provisions for rebuilding Pacific Northwest chinook stocks, particularly naturally spawning populations, and for fair international and inter-regional allocation of those stocks. Another specific coalition objective was that the treaty assure sharp reductions in Canadian harvest of Washington and Oregon coho. In its months of intense action, the coalition became a formidable power: the southern delegation was unified, and Administration and Congressional leaders sat up and paid attention to an issue they had thought was insoluble.

Shortly after dawn on December 15, 1985, negotiators for the two countries completed the agreement that would be ratified as the United States-Canada Pacific Salmon Treaty. Credit for that long-awaited mo-

ment belongs in several quarters: United States negotiator Ted Kronmiller proved himself tireless and impressively skilled. State Department counselor Edward J. Derwinski applied deft touches at several critical points. The tribes' plan to extend the allocation principles of United States v. Washington and United States v. Oregon to Alaskan fisheries induced supportive Alaskan participation in the treaty talks. President Reagan's desire to conclude an environmental accord with Canada, on an issue other than acid rain, spurred top-level State Department involvement. Last, but far from least, the Pacific Salmon Treaty Coalition was the generative force that made the treaty happen. As one tribal delegate to the talks put it, "When you don't have to watch your back, you can fight the real enemy out front a lot harder."

The treaty is a clear victory: of key importance, it requires rebuilding of naturally spawning chinook stocks by 1998, and ensures that Pacific salmon will be managed on a coastwide rather than piecemeal basis. With such provisions in the framework of its allocation system, the treaty means that Northwest fishermen can look forward to larger sport and commercial harvest within the next few years.



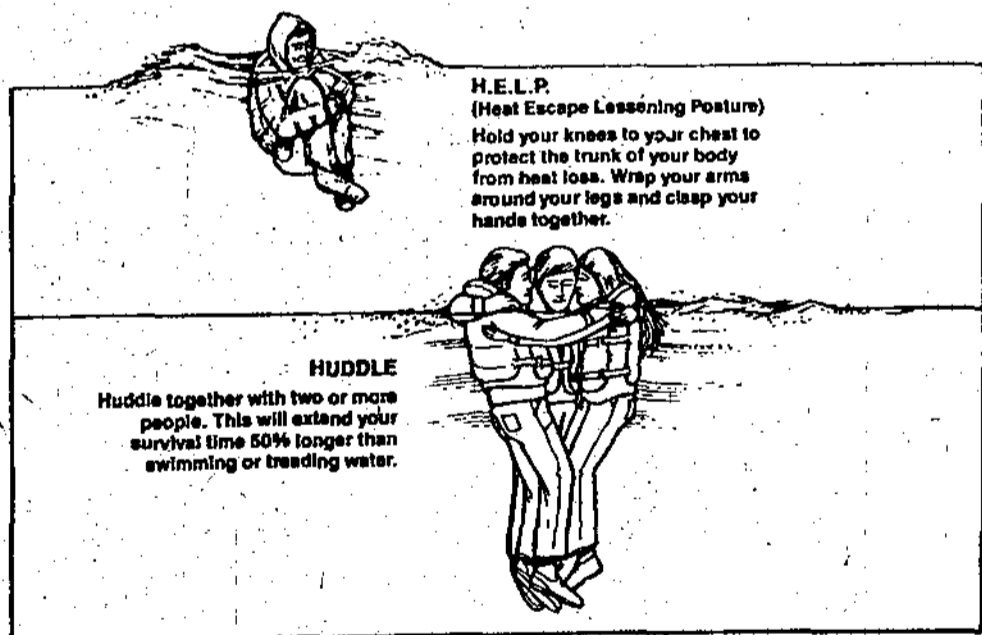
TROUBLE IN THE SENATE

Meanwhile, in the aftermath of treaty ratification, there is one negative amid all the positives: in late July, the U.S. Senate upheld funding requests for state and federal participants in treaty implementation, but deleted \$400,000 from the federal budget that the House of Representatives had earmarked for Indian participation during fiscal 1985. This Senate move was both unexpected and, in terms of activating the treaty Congress had approved, inconsistent. Any decisions on implementation or other matters by the United States treaty commission must be made by unanimous agreement of its three voting members, who represent Alaska, Washington-Oregon, and 24 Northwest Indian tribes. (The fourth member, representing federal agencies, does not vote.) To withdraw funding for tribal participation in treaty management processes, while retaining it for the non-Indian entities, cripples the structure—and perhaps could destroy it. As CRITFC executive director Tim Wapato described the current setback in a release to the news media: "State, tribal, and federal fishery managers for the Northwest and Alaska developed a

joint, integrated program for implementing the treaty this year. We made sure there would be no duplication, no wasted effort. It was like a tripod to hold up the treaty. Congress has pulled the third leg out from under the treaty."

The 24 tribes, as well as non-Indian fishery managers in Alaska, Oregon, and Washington, are pushing for Senate reinstatement of the tribal appropriation in the next budget. The House, led as before by Oregon's Les AuCoin and Washington's Norm Dicks, has already reappropriated those funds. Suspense is keen as the fisheries community waits to learn whether mutual work by all this country's treaty members can begin in fiscal 1986.

As that funding endeavor progresses, Indians and non-Indians who produced the long-sought international agreement are still battling the unresolved problems that threaten Northwest fisheries: pollution, hydroelectric development, irresponsible logging, mining, and roading, other forms of habitat damage or destruction, etc. The Pacific Salmon Treaty Coalition, now named the Pacific Salmon Coalition, will continue its work, building on the foundation of cooperation and trust created by the treaty. CRITFC invites all concerned groups to join this vital effort.



H.E.L.P.
(Heat Escape Lessening Posture)
Hold your knees to your chest to protect the trunk of your body from heat loss. Wrap your arms around your legs and clasp your hands together.

HUDDLE
Huddle together with two or more people. This will extend your survival time 50% longer than swimming or treading water.

Hypothermia
Ever wonder about the chilling effects of a plunge into cold water?

"It's definitely worth thinking about if you spend any time fishing or boating on the Great Lakes," according to UW Sea Grant Advisory Services field agent James Lubner.

In a recent issue of Pennants, the Advisory Services informational bulletin, Lubner

discusses "Hypothermia: Surviving in Cold Water." Cold water, he explains, conducts heat away from the body 25 times faster than cold air. However, the extent and impact of hypothermia (a lowering of the body's core heat) is influenced by several factors—from heat-wasting exertion of the victim to his/her mental outlook under stress,

according to Lubner, who serves Milwaukee and the state's populous southeastern region.

The one-page, illustrated Pennants also lists the telltale symptoms of the mild-to-critical stages of hyperthermia and outlines first aid procedures. (Reprinted from Lihoraldrift, November 1985, University of Wisconsin Sea Grant Institute.)



Tribal members listen as GLIFWC biologists present a workshop on snaring. Biologists Jon Gilbert and Tim Andryk gave the workshop at both Bad River and Lac du Flambeau during December.



WELCOME ABOARD! Robert Bender, recently elected as Bad River's Tribal Chairman, will be working with other Commissioners for the next two years in forming policy & direction for GLIFWC.



NAPA Chartered



"Coming right along" is how the new executive director of the Native American Press Association (NAPA), Loren Tapahe, describes the progress of the recently formed organization. NAPA's official chartering as a corporation was the result of the enthusiastic response regarding the organization at the 1985 convention in Warm Springs, Oregon.

Tapahe, former publisher of the Navajo Times Today,

was selected as the executive director at the first Board meeting and Denver was also chosen as the appropriate site for NAPA headquarters, although an office has not yet been located.

NAPA is submitting a grant for further funding of the organization as well as seeking memberships. For information contact Loren Tapahe at P.O. Box 580, Window Rock, AZ 86515. Phone: (602) 871-5287 or (505) 371-5316.

LFP Supports Treaty Rights

The defense of treaty rights ran front page in the Wisconsin Commonwealth, the newspaper of the Labor-Farm Party (LFP). The paper's coverage of the September 15th Treaty Rally in Madison indicated that solidarity on the issue of treaty rights was evident from a wide array of people.

According to the article, the participants of the rally saw defense of the Chippewa's treaty rights from various perspectives: "fighting corporate efforts to despoil the land, fighting racism, and defending alternative ways of life."

At the Madison rally, LFP Chair Kathy Christensen also made a call for the formation of a coalition of the various interest groups in attendance. They included minority groups, environmentalists, and human rights groups. Her follow-up letter to that call for coalition is also reprinted in this issue of Masinaigan.

Anyone interested in the coalition or more information regarding the Labor Farm Party write P.O. Box 122, Madison, WI 53701, or call Kathy Christensen at (608) 244-5526.

A Call for Coalition

Dear Friends,

I am a long time observer of politics in Wisconsin. In my view the values of fairness and self determination are under severe attack from an Administration and Legislature that possess an ugly paternalism.

I believe that tribal peoples in Wisconsin will bear much of the brunt of this political shift. The racist reactions against Indian treaty rights and the Legislature's punitive action on hunting rules serves as grim evidence of the trend.

But you are not alone in being attacked by the forces of greed. The rights of many people are under attack by a corporate hierarchy devoted to the return of the Robber Baron Era.

Because of the connection of the Tribal Peoples to the traditions of this State, and because of tribal outlooks on preservation of our resources, I call upon you to initiate a discussion on your potential political role in posing positive alternatives in the present crisis situation.

I would like to suggest that it is necessary and proper that you exercise leadership in building a coalition that defends your rights and heritage while also promoting peace and ecology. I believe that you could unite peace, environmental and religious people into a coalition that could put forth a vision of harmony and survival.

I would also like to suggest that you seriously consider your political options in the light of the need of Wisconsin Tribes and other peoples to build a genuinely independent vehicle to represent the unrepresented.

Please consider this an invitation to further dialogue.

Yours In Peace and Justice,

Kathy Christensen, Chair

Labor Farm/Laborista Agrario
Wisconsin's Party of the Rainbow and the Greens



Snow layers trees in front of commission

Defoe Completes Training



Gene Defoe, GLIFWC warden, completed the National Rifle Association's Firearms Instructor School last month. Defoe is now a certified firearm's instructor following the one week course.

Use of and knowledge about all types of firearms, including revolvers, pistols and shotguns are part of the course, which requires passing both written and practical tests in order to be certified.

GLIFWC Chief Warden, Mike Cardinal, says he put Defoe to work immediately during one of the Commission's semi-annual firearms qualifications held in Odanah in October.



Maintaining deer regulation stations on reservations has been an important part of the successful deer hunt on ceded territories. Above, staff at Lac du Flambeau have been kept busy by their active hunters. They have run an efficient registration station throughout the season.

**LAC DU FLAMBEAU
WHITE-TAILED DEER
BIOLOGICAL DATA &
REGISTRATION
STATION**

**HOURS: MON.-FRI. 8:00-4:30
SAT. SUN. 10:00-NOON**



GLIFWC is located in old Odanah, Bad River Reservation.



Getting in the spirit! Commission staff decorate the tree brought in by Tom Busiahn, GLIFWC Chief biologist.

MASINAIGAN



January, 1985

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WRITE OR CALL:**

**GREAT LAKES INDIAN, FISH & WILDLIFE COMMISSION
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MASINAIGAN, is (usually) a monthly publication of the public information office of Great Lakes Indian, Fish & Wildlife Commission, P.O. Box 9, Odanah, WI 54861.
The name is an Ojibwa word for paper. Some of the elders referred to the treaties as glitchi-masinaigan, or big paper. As such, MASINAIGAN focuses on treaty rights issues of the Chippewa around the Great Lakes.
Subscriptions: If you have questions or comments, write the above address or call 715/682-6619.

Co-Editors/Writers: Walt Bresette, Sue Erickson
Typist: Lynn Spreatels



Merry Christmas and a Happy New Year



from

**The Great Lakes Indian
Fish and Wildlife Commission**

GLIFWC History



The Great Lakes Indian Fish and Wildlife Commission (GLIFWC) formed as a result of a common concern of Chippewa tribes in the Great Lakes region for their right to use and responsibility to manage the lake and inland resources to maximum benefit of their members while practicing proper conservation methods.

The GLIFWC, as it is today, is the product of a consolidation of the Great Lakes Indian Fisheries Commission (GLIFC) and the Voigt Inter-Tribal Task Force. The common goal is the sound management and regulation of resource use. The consolidation provides a central body for its member tribes on issues relating to tribal hunting, fishing, and gathering activities.

In June, 1982, six Chippewa tribes concerned with tribal commercial fishing on the Great Lakes, originally formed the GLIFC. They recognized primarily the need for assistance in self-regulation of tribal fisheries and for a voice in decisions which impacted on fishing in their regions.

Original members of the GLIFC were the Grand Portage Band and the Fond du Lac

Band, Minnesota; the Red Cliff Band and the Bad River Band, Wisconsin; and the Keweenaw Bay Band and the Bay Mills Indian Community, Michigan.

One of the precipitating factors leading towards the formation of the GLIFC was an agreement signed between the Red Cliff Band and the State of Wisconsin in September of 1981. The Tribe was in need of a system of regulation for Indian fisheries in order to fulfill the agreement with the State to manage their commercial fisheries. Red Cliff, along with the five other Great Lakes Chippewa tribes, felt it was imperative to seek support for the development and management of the fishing industry, one second only to timber in importance for the area.

Consequently they formed the GLIFC and for the first sixteen months operated with only a director, one Great Lakes fisheries biologist, and a part-time secretary. Their first initiatives included biological assessment of the Tribes' impact on the resource and the provision of essential data to members which would enable them to regulate their fishing industry.

Secondly, they were concerned with obtaining a voice

in the international Great Lakes Fishery Commission, which acts as the policy-making body for Great Lakes commercial fishing activities.

The Voigt Inter-Tribal Task Force was formed in response to the U.S. Supreme Court's ruling which upheld the Voigt Decision, affirming the rights of six Wisconsin Chippewa tribes to hunt, fish, and gather on ceded territories. The Task Force was faced with the responsibility of providing resource management and enforcement systems to affected Chippewa Tribes in order to implement those treaty rights.

In recognition of the common roles of the Voigt Inter-Tribal Task Force and the GLIFC, the two consolidated in 1984 in an effort to prevent duplication of procedures and to provide a common coordinating agency to the member tribes.

Subsequent to the consolidation, five additional tribes became members of the GLIFWC. The Lac du Flambeau Band, the Mole Lake Band, St. Croix Band, Lac Courte Oreilles Band all of Wisconsin and the Mille Lacs Band, Minnesota.

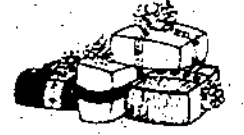
With the expansion of resource management and



Ray DePerry, Executive Administrator Henry Buffalo Jr., GLIFWC's first Executive Administrator

regulation responsibilities, both in terms of area and in the kind and quantity of resources, the GLIFWC has increased its technical staff to provide expertise also in wildlife management inland fishing, and environmental biology as well as policy analysis.

The GLIFWC currently recognizes as areas of primary responsibility the provisions of 1) Fish and Wildlife Manage-



GLIFWC MEMBER TRIBES

- The Lac Courtes Oreilles Band of Chippewa, Wisconsin
- The Bad River Band of Chippewa, Wisconsin
- The Red Cliff Band of Chippewa, Wisconsin
- The Lac du Flambeau Band of Chippewa, Wisconsin
- The St. Croix Band of Chippewa, Wisconsin
- The Mole Lake Band of Chippewa, Wisconsin
- The Keweenaw Bay Indian Community, Michigan
- The Bay Mills Indian Community, Michigan
- The Fond du Lac Band of Chippewa, Minnesota
- The Grand Portage Band of Chippewa, Minnesota
- The Mille Lacs Band of Chippewa, Minnesota

The Commission is governed by the Board of Commissioners, composed of the Tribal Chairman (or a designated representative) from each member Tribe. This body decides the policy of the Commission and established priorities for each fiscal year.

Two committees, the Voigt Committee and the Lakes Committee, advise the Board of Commissioners on policy decisions and make recommendations in the areas of their interest.

The Voigt Committee, or Voigt Inter-Tribal Task Force, represents the member Tribes who are concerned with the issues of hunting and fishing inland on ceded territories. The Lakes Committee directs its attentions to the concerns of fishing in the Great Lakes.

All & all GLIFWC represents a consolidated effort by eleven Chippewa bands to efficiently manage, regulate, and protect the resources which are a valuable & irreplaceable part of their children's inheritance.



Denise Neveau, Executive Secretary



Sue Moore, Secretary



Lynn Spruetels, Secretary and LuAnne Plucinski, Bookkeeper, (left)

BIOLOGICAL SERVICES



Tom Buslahn, Chief Biologist

The Division of Biological Services is largely responsible for providing member Tribes with sufficient data to make informed decisions on the regulation of harvests, be it of fish, wild rice, deer, or other resources.

In order to fulfill this responsibility GLIFWC has biologists working in the fields of inland fisheries, wildlife, the Great Lakes fishery, and environmental biology. Much of their work has been to assess the status of various fish populations, such as lake trout, walleye, and to survey deer herds, waterfowl, and wild rice beds. The information gathered is computerized to provide a data base on the various resources.

The biologists assist in the negotiating process by providing technical information and advise on allowable quotas, seasons, and the effectiveness of various methods of harvest. They assist in monitoring harvests during open

season, keeping up-to-date information, for instance, on the number of deer killed during deer seasons. Reports on seasons as well as biological surveys are also compiled and published.

More recently GLIFWC has added an environmental biologist who is currently working on a grant with the Environmental Protection Agency to determine environmental problems on reservations and look for solutions to those problems. Environmental biology is considered important to the Tribes as part of their responsibility to protect the resource which may be negatively affected by adverse environmental conditions.

In addition to other duties, biological staff work with reservation personnel in gathering data and training, speak to various other organizations, and maintain professional contacts with national and international commissions agencies who are part of the regulatory process.



Robert Williamson, Inland Biologist (left, and Henry (Butch) Melloszyk, Biology Aide



Mike Plucinski, Biology Aide (left) and Mark Ebener, Great Lakes Biologist



Jon Gilbert, Inland Biologist



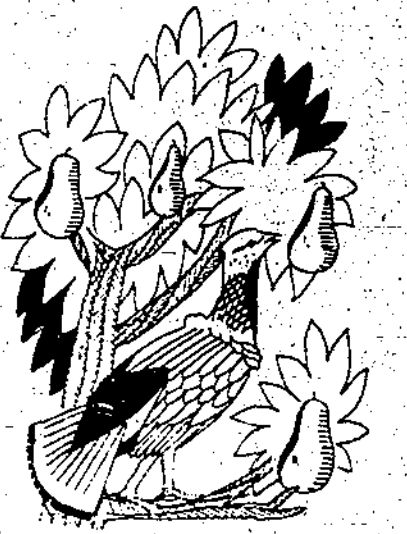
Neil Kmiecik, Inland Biologist



Tim Andryk, Inland Biologist



Alan Ruger, Environmental Biologist



ENFORCEMENT

With the right to use the resources on off-reservation, ceded lands comes also the responsibility to insure that the resources are protected through regulation and enforcement of those regulations, because of this responsibility, GLIFWC maintains a staff of wardens who patrol the ceded areas during hunting, fishing, or gathering seasons.

Wardens assist with the monitoring of commercial catches in the Great Lakes as well as the harvest of resources inland. Most infractions of regulations are cited into tribal courts.

The warden staff are all fully trained and certified officers having passed training courses required by the State and counties. In several counties GLIFWC wardens are cross-deputized with the county sheriff's department, so they can assist with emergencies or problems in their vicinity. They also coordinate their efforts with tribal enforcement personnel.



Mike Cardinal, Chief Warden



Clayton Haskell, Warden,
Mole Lake



Gordon Arbuckle, Warden,
St. Croix



James Chapman, Warden,
Lac du Flambeau



Eugene DeFoe, Warden,
Red Cliff



Kenneth Rusk, Warden,
Lac Courte Oreilles



Maynard Whitebird, Warden,
Bad River



Richard Semansky, Warden,
Keweenaw Bay



David Rantenan, Warden,
Keweenaw Bay

PUBLIC INFORMATION

Public information is concerned both with the education of Tribal members and general public on issues relating to treaty rights and the Tribal use and management of the resources.

Public information publishes the Masinaigan on a monthly basis as one means to disseminate current information to the public. They also produce the GLIFWC Annual Report as well as brochures and fliers regarding the Commission. They maintain contact with the press, coordinate coverage of events and issue press statements. Workshops, forums, seminars at public schools, colleges and universities, or on reservations are also offered by public information staff, who are available either to speak or help coordinate a panel for those who are interested.



Walt Bresette, Director of Public Information

POLICY ANALYSIS

Policy Analyst David Siegler assists the member Tribes in the negotiating processes as they establish either inter-tribal agreements for hunting and fishing seasons or agreements with the State. Much of the work in drafting both agreements and ordinances for the Tribes, as well as preparation for negotiations, comes from this office.

The Policy Analyst also keeps current with both state and national legislative activities, thus keeping the Tribes informed of changes in legislation or policy which may somehow affect them. The office contributes significantly in the areas of resource management negotiations, judicial, administrative and legislative reviews, tribal consultation, and administrative services.



David Siegler, Policy Analyst