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**Special Conference Edition**

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A CHRONICLE  
 OF THE LAKE  
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 CHIPPEWA

JANUARY/  
 FEBRUARY 1990

## Oneidas call county coalition a disguise for treaty abrogation

In a recent press release, the Oneida Tribe of Indians in Wisconsin declared their intention to send a delegation to Salt Lake City, Utah, where representatives from counties are meeting to form a "national coalition on Indian Treaties."

ing the treaties." He continues to explain that "the only way we can successfully get Congress to assume its responsibilities is to organize a national coalition of state associations for the purpose of modernizing Indian treaties and/or resolving outstanding treaty problems."

The release stated that Oneida's intent was to establish communications with members of the Wisconsin Counties Association (WCA). WCA is the county organization which spearheaded the move to form the coalition.

Oneida Tribal Chairman Purcell Powless stated that the Oneidas view this effort as collusion by the counties and their states to abrogate treaty rights. "Mr. Rogacki denies this," Powless said, "but we believe this effort is blatant collusion on the part of the county associations to politically coerce their Congressional delegations into doing their will."

The intent of the coalition, according to WCA Director Mark Rogacki is to "forge a federal policy that brings (Indian) treaties, and the way the federal government deals with tribes, into the 20th century."

Powless continued to state that "Such an act will have long range resounding effects for any coalition of county governments and/or states to abrogate Indian treaties sends a signal of intolerant and intransigent political terrorism to any foreign government involved in a treaty with the United States."

In his letter to the state association of counties and the National Association of Counties (NACo) which invites attendance at the Salt Lake City meeting Rogacki criticizes Congress for "refusing to accept a leadership role in resolving these knotty issues or by moderniz-



Bayfield County Sheriff Rudy Frechette addresses tribal spearers and treaty supporters at a meeting in Red Cliff. Tribal members expressed concern over enforcement procedures during the 1989 spearing season. (photo by Amoose)

## Adequate protection at landings a concern of tribal spearers

Concerns over adequate enforcement on spearfishing landings this spring dominated the discussion at a public meeting for Red Cliff spearers January 9 at the Red Cliff Bingo Hall.

Rudy Frechette, Bayfield County Sheriff, was present at the meeting to provide an explanation of enforcement's role at the landings and address spearers' concerns. Frechette indicated that his county had full intentions of keeping the peace during this spring's season and would be present at the landings.

Victoria Gokee, Red Cliff tribal member who chaired the meeting, stated that she and others were concerned about safety of tribal members and wanted to prevent the harassment and risks which have been apparent over the last five seasons.

from Solon Springs were caught planting pipe bombs. Gokee was also spearing when gunshots were fired in the area. The incident, he said, was downplayed by DNR wardens who reported it as a man shooting from the branches of trees. Gokee, however, stated that he could feel the blasts from the bb's go past his head.

## Tribes, GLIFWC oppose radioactive waste dump

Three Chippewa tribal governments along with the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) have passed resolutions opposing the establishment of a low level radioactive waste dump in the Upper Peninsula.

with the tribes in their efforts to oppose the dump.

Resolutions passed by the Keweenaw Bay, Lac Vieux Desert, Red Cliff Tribal Councils and GLIFWC, site the hazards of radioactivity to humans and long term welfare of the natural resources as concerns of the tribes.

In a letter to GLIFWC Commissioner Ms. Pratt stated that one of the twelve studies undertaken for the proposed sites was to assess the American Indian cultural resource, to include a plant collection of species important to Native Americans.

The tribal governments also are concerned that the proposed waste dump is to be located near the Ontonagon River system which drains into Lake Superior, a resource the tribes utilize for their commercial fishing industry and many use as drinking water.

"This is impossible to do," Pratt said, "because they have to have it done by spring, so they'll be trying to collect the various plant species during the winter."

In addition, the resolutions site the possibility of irreversible damage to the integrity of the environment and the Great Lakes ecosystem because of the potential for earthquakes. The proposed location for the radioactive waste dump is near a known land fault and any shift in the fault could drastically disrupt the radioactive waste contained in the facility, regardless of safety measures.

She suggested the study allow for time for a proper collection of species and that tribal elders meet with representatives from the University of Michigan, the organization assigned to do the study.

Judy Pratt, GLIFWC Environmental Biologist, has been working

"Another important aspect of the area is the Indian village which existed near the Ontonagon River," Ms. Pratt said.

"This is culturally important and is a sacred site to the tribe."

The proposed radioactive waste dump is located within the territory ceded in the 1842 Treaty with the Lake Superior Band of Chippewa. Under that treaty the Chippewa Tribe reserved the right to fish, hunt and gather within the ceded territory, a right that has been reaffirmed by the courts.



Thomas Maulson, Voigt Inter-Tribal Task Force Chairman (left) and Walter Bresette, Red Cliff tribal member, expressed concern for the safety of tribal members and their property at spearfishing landings. They were among about 30 people who attended a Red Cliff sponsored meeting on the upcoming spearing season. (Photo by Amoose)

Frechette stated that dealing with the crowds at the landings has not "been a pleasant experience for anybody." He alluded to rumors that some county enforcement departments may refuse to enforce law and order on the landings, stating that "Bayfield County law enforcement will be there to keep peace. Our job is not to determine treaty rights, but to keep peace," he said.

Tom Maulson, Lac du Flambeau spearer and Voigt Inter-Tribal Task Force Chairman, spoke of incidents where families of tribal spearers at the landings were put at risk due to positioning in the vicinity of protestors. He also mentioned damages to spearers' vehicles which enforcement has insisted be left in totally unprotected areas.

Frechette also reaffirmed Bayfield County's commitment to working with the tribes, both through cross-deputization of tribal and GLIFWC wardens and through continued communication with tribal spearers and leaders.

Concern was also expressed over the continued throwing of rock and firing of wrist rockets despite massive enforcement presence. Frechette said that difficulties in making arrests and pressing charges stemmed from inability at times to identify the individual in the crowd who committed the act.

Frechette said that he may be sending a deputy from Bayfield County to accompany Red Cliff spearers even though they may not be fishing in the county in order to provide additional protection and to act as a buffer in areas with other enforcement officials.

Spearers from Lac du Flambeau and Bad River also expressed concerns over the attitudes from Ashland and Vilas County Sheriff's Department which were antagonistic to tribal spearers.

The lack of adequate protection at landings in previous years was stressed as tribal spearers recounted experiences from the 1989 season.

Eugene DeFoe, GLIFWC Director of Enforcement, noted that David Enblom, Ashland County Sheriff, was going to have GLIFWC wardens removed from (see Protection, page 19)

### 1989 Off-reservation treaty deer season preliminary totals

Tribe	Bucks	Antlerless	Total
Bad River	71	318	389
Lac Courte Oreilles	311	694	1,005
Lac du Flambeau	319	981	1,300
Mole Lake	85	213	298
Red Cliff	91	245	336
Mille Lacs	54	73	127
St. Croix	83	212	295
<b>Total Deer</b>	<b>1,014</b>	<b>2,736</b>	<b>3,750</b>

### Enforcement needs during the spring spearing season

This list was devised by GLIFWC with input from the Red Cliff, St. Croix, Bad River and Lac du Flambeau tribes. The first two items were concerns repeated by everyone interviewed. The list was provided to Bayfield County Sheriff Rudy Frechette at his request.

- Keep protestors off the landings. If this is not possible, keep opposing groups segregated. Mixing of pro and anti-treaty groups increases potential for violence and jeopardizes the safety of tribal members and spearers' families.
- GLIFWC wardens should be deputized in all counties and empowered to arrest both on and off the water.
- Decrease or limit the amount of warnings; increase arrests for threatening or disorderly behavior.
- GLIFWC wardens and biological personnel have legal responsibilities which require their presence at the landings. This should not be an issue in any county. A GLIFWC public information staff present to record events should also be allowed access to the landings.
- Police lines/barriers should be far enough away from creel work areas to prevent possibility of contamination of fish. (This was threatened at Lower Eau Claire Lake.)
- The landings should be cleared in the interest of public safety as soon as one incident of violence or crossing of barriers occurs. (Tribal members should be allowed to remain.)
- Arrests should be made for verbal threats and abusive language.
- Signs which promote use of violence should be removed and persons carrying such signs should be arrested for inciting a riot when the potential for such violence exists.
- Officers should patrol perimeter (shorelines) of lakes.
- If firearms are discharged, immediate arrest should be mandatory and firearms confiscated.
- Vehicles belonging to spearers need to be guarded more diligently and parked in an area accessible to spearers.
- Sheriffs of each county should follow the example of Bayfield County and meet with the spearers of each reservation to discuss security concerns prior to April 15.

# Courts favor tribe in jurisdiction case

With 120 cases pending his decision United States District Judge Robert Holmes Bell, presented the opinion of the court in favor of the Keweenaw Bay Indian Community concerning the issue of jurisdiction within the boundaries of the Keweenaw Bay Reservation in Michigan.

The Keweenaw Bay Indian Community located in Baraga, Michigan has been at odds with local law enforcement and the non-Indian local government for a number of years over who has jurisdiction within the boundaries of the checkerboard Keweenaw Bay Reservation.

While the State of Michigan has said that land owned by non-Indians within the original boundaries of the reservation is within their jurisdiction, the Keweenaw Bay Tribal Council has contended that jurisdiction over tribal members on all lands within the original boundaries of the reservation belong to the tribe.

In a twenty-two page opinion, Judge Bell stated that "... it must be concluded that the boundary created by the treaty township description defined the Indian community

reservation in 1854 and has done so continuously 'Indian country', then pursuant to 18 U.S.C. Sec. 1151, must encompass this bounded land mass so described."

Bell's opinion also stated that "Checkerboarding" of land ownership whereby today Indian titled land is adjacent - or even surrounded - by non-Indian owned land is of no legal consequence to the proper interpretation of 'Indian country' because 18 U.S.C. Sec. 1151 is concerned with tribal jurisdiction over only Indian or tribal members."

Judge Bell went on to say that, "It does the public a great disservice to require law enforcement officers to consult elaborate maps describing the precise 'checkerboard' to be enabled to effectuate lawful arrests. The resultant confusion frustrates the community and enables lawless individuals to evade criminal justice responsibility. This was neither the government's or the Indians' intentions when making the treaty nor the intent of Congress when enacting 18 U.S.C. Sec. 1151."

"This is a landmark for our tribe" said Myrtle Tolonen, Chairperson for the Keweenaw Bay Indian

Community. "The tribal council has said all along that the tribe has jurisdiction within the reservation boundaries."

"Our next step," she went on, "is to set up a meeting with the local village officials to discuss cross-deputization between our police officers."

Garfield Hood, Keweenaw Bay tribal attorney and tribal prosecutor also felt that cross-deputization is important and that Judge Bell's opinion would provide a grounds to "facilitate cross-deputization."

Mr. Hood stated that the opinion defines the area of tribal government authority and expands both the power and authority of the tribe thereby strengthening the tribal government.

As tribal prosecutor, Hood said that his next step will be to meet with the local court system to review the 120 cases pending this decision and decide which cases actually fall within the jurisdiction of the tribal court.

The original boundaries of the Keweenaw Bay Indian Community encompass the entire town of Baraga and approximately one-third of the town of L'Anse.



Eighteen students participated in and graduated from the first Hunter Safety Course offered on the Bad River Reservation. Above students receive their patches for successful completion of the course. Pictured above, from the left, front row are: Vernon Stone, GLIFWC warden and assistant instructor, Kris Arbuckle, Steve Nelis, Tom O'Conner, Ed Rolad, Brian White, and Jack Lemieux, GLIFWC warden and chief instructor. Back row, left to right: Andy Maday, Guy Arbuckle (both GLIFWC wardens and assistant instructors), Amy Peters, Diana Oza, Francis Tutor, Lawrence Perry, Ron Wilmer and John Wilmer. Students not pictured include: Chris Lemieux, Jackie Lemieux, Nikki Wallow, Susan Peters and Mitch Crowe.

# Washington county association and Utah reject WCA's coalition

The following letter was sent to WCA Executive Director Mark Rogacki in response to his letter inviting counties to the Salt Lake meeting. The letter is from the Washington State Association of Counties and clearly tells WCA to work within the framework of the law rather than plot to circumvent or change it.

Dear Mr. Rogacki:

The Washington State Association of Counties (WSAC) wishes to respond to your memo dated November 17, 1989 regarding the formation of a national coalition on Federal Indian treaties. Our concerns are many, not only on behalf of county governments in Washington State, but also on behalf of national policies and perceptions of county government.

I would like to give you a perspective on this issue from a county association located in a state that has run the gamut of political proposals to solve the Indian problem. These proposals ranged from attempts to abrogate the treaties and do away with the reservations, processes to help all parties find solutions that will work within the framework of the court decisions, the constitution, federal laws, and get us on the road to solving problems. I hope this is not the case but fear from the efforts of your citizens attempting to sell the treaty in Washington State in order to fund the fight with the Wisconsin tribes over their rights recently sustained in the courts, that the political situation currently extant in your state will preclude consideration of the latter type of process.

Washington State (in the 1960's and 70's) has been to the United States Supreme Court numerous times on the Indian Treaty issues, the most contentious of which is now referred to as, the "Boldt Decision" which upholds the treaty right

of certain Washington State tribes, to take up to fifty percent of the anadromous (salmon and steelhead) fish at the tribes traditional usual and accustomed fishing grounds. The court procedures and political process that followed was very divisive and very expensive with little to show for it other than the ability to say we learned from the experience. What we learned that the fight on principles over who was going to take the last fish was the wrong way to deal with the issue. There is not any political base in Washington, D.C. to alter or abrogate the treaties.

In fact, many people learned from the members of the House and Senate that it took two parties to negotiate the Indian treaties, and that no changes would be possible without the Tribes concurring and negotiating the exact changes. The Tribes let it be known that there was about as much chance of opening negotiations on the content of the treaties as there was for this country to re-write and agree on the content of the United States Constitution. Hence, in spite of the few sympathetic ears in the congress, the influential doors, and most importantly enough doors to pass a measure, were not open to addressing the Indian treaty issues in a negative manner.

The efforts in our state then shifted to a recognition in the early 1980's that if solutions to the Indian problems were to be found, we needed to include the Indians in the search, discussions, and implementation of the proposals. It was much better to jointly define the issues, questions, and potential solutions with the tribes at the table, in the context of inter-governmental problem solving than it was to proceed as mentioned above. These efforts have over the last five or six years proven to be the solutions that are beneficial for the Tribes, the

local governments, the state and even the United States because federal dollars have been allocated for natural resource management, land claims disputes, and human service concerns on Indian reservations and their surrounding areas in Washington State.

WSAC recommends that you and your efforts in the national coalition on federal Indian treaties concentrate on the latter experience of Washington State. If that is possible, WSAC would be willing to commit at the NACO level some staff assistance that is experienced in these issues.

As stated at the beginning of this letter, I have some concerns for counties on the national level. That concern is, in this effort that you propose in your memo of November 17th, and the proposed agenda, is as Yogi Berra would say "This is Deja Vu, all over again". The efforts of several groups, in earlier efforts to find a congressional solution to the Indian problem, resulted mostly in the groups receiving the label of being racist, anti-Indian organizations. Whether or not that is fair is beside the point. It will be a perception that is not in the best interests of counties that operate as governments and that is not a label that I wish the counties of Washington State to receive from your efforts or be associated with.

Copies of this letter are being forwarded to all those listed on the heading of your memo. The purpose is to inform them that there are areas of this country, in which states and local governments have experienced the very same situations that exist in the State of Wisconsin. And in the search for solutions to those dilemmas of the inter-governmental relationships between the tribes, state and local governments there are mechanisms that have worked that are consensus oriented to solving the problems in a positive manner. Efforts, such as the Timber Fish and Wildlife program, have been well received at the state, tribal and local government levels in our state. In fact there has been substantial state and federal dollars allocated to implement this very innovative program. If your effort would be interested, WSAC would be glad to assist in putting together a discussion related to the Timber, Fish and Wildlife program at your conference.

Lastly, I am concerned about an implication in your memo. In the second paragraph I infer that there was some concurrence by the National Council of County Association Executives (NCCAE) that this issue be elevated to the creation of a national coalition to modernize Indian treaties or resolve outstanding treaty problems. There was no such position or concurrence on this proposal by the NCCAE at the Miami meeting by the entire group.

(The above letter was signed by

# County coalition meeting careful to control press, Indian access

Odanah—Masinaigan's editor Sue Erickson contacted the Wisconsin Counties Association (WCA) when first hearing of the upcoming meeting to form a "Coalition on Federal Indian Treaties."

Three questions were asked of WCA, according to Erickson. They were: 1) Was press allowed? 2) Were any tribal leaders invited since the topic was Indian treaties? 3) Was a final agenda available?

WCA's Director Mark Rogacki answered the questions through his secretarial staff, stating: 1) No press was allowed. 2) Indian leaders were not going to be involved at this time. 3) No final agenda had been set.

However, she noted that WCA apparently changed its mind slightly on the press, because "certified, wire" press is to be allowed at the meeting. Erickson commented that failure to allow non-wire press effectively eliminates most Indian press because the cost of subscribing to wire service is prohibitive to most small newspapers.

Also, she said, the agenda indicates three major areas with asterisks standing for "no press allowed."

These areas include: "Discussion of Pending Litigation and Legal Options" "Status of Indian Issues in Washington, D.C." and "Definition of Coalition Goals," which will include a specific statement development.

Obviously, she stated, WCA doesn't want the real "agenda" revealed to public media. While privacy during discussions of pending litigation is understandable, Erickson said, "the other two areas are certainly not of secretive nature, unless some plot is underway that the counties wish to present publicly in more palatable terms."

Modernizing" Indian treaties sounds less blatant than abrogating them.

Erickson expressed concern also about other items on the agenda which indicate an extensive lobbying program, both to the general public and to Congress. She cited as

an example on WCA's agenda "Work with Washington press to keep issue in public eye" and also "work with local press."

WCA seems to be building a coalition intent on inciting rather than resolving, Erickson commented.

As to their frustration with the role of the federal government as expressed in WCA Director Mark Rogacki's letter of November 21st, Erickson said, "The counties and other anti-treaty organizations are simply refusing to accept legal rights as legal rights. They are digging in their heels and saying we will create a problem. They want to 'modernize,' change, or abrogate Indian rights in order to protect their interests. That is unjust a direct affront to the law of this country and injustice to the rights of Indian people."

Congress doesn't have to resolve anything. They know and accept the law. The counties and anti-treaty groups simply have to accept the law as well," she said. "That will resolve the issue."

# Honor objects, Madison treaty support groups protest

Wisconsin treaty support organizations have reacted to the WCA's role in spearheading the county coalition to alter Indian treaties, objecting to Wisconsin's involvement in "modernizing" treaties.

The Madison Treaty Support group organized protests to be staged both at the Wisconsin Capitol rotunda on Thursday, January 18th and also at the site of the meeting in Salt Lake City.

HONOR, a coalition of organizations which recognize and support Indian treaties, strongly objected to the WCA's lead role in organizing the national county conference in a letter to Thomas Ament, Milwaukee County Board Chairman.

Sharon Metz, spokesperson for Lutheran Human Relations and HONOR, told Ament that "this method of dealing with the self-determination status of Indian Tribes is anything but progressive and is in fact, embarrassing."

She continued to say that "the very actions that are being advocated by the Wisconsin Counties Association are the same ones being advanced by anti-Indian groups such as PARR and STA."

"It is also on the national agenda



Sharon Metz, Lutheran Human Relations Association of America

of the Citizens Equal Rights Alliance, an umbrella group of these types of organizations from all over the United States. Must the Coun-

ties association, led by Wisconsin buy into the agenda and work? do the work for organizations such as this?"

James Metcalf, Executive Director and copies were sent to: State Association Executives and Presidents, Western Interstate Region President, NACO President, NACO First Vice President, NACO Executive Director, NACO Public Lands Steering Committee Chair, NACO Subcommittee Chair on Indian Affairs Task Force, NACO Co-Chair on Indian Affairs Task Force, NACO Co-Chair on Indian Affairs Task Force, NCCAE President R. Harris, and Les Eldridge,

Chair, NACO Intergovernmental Relations Committee

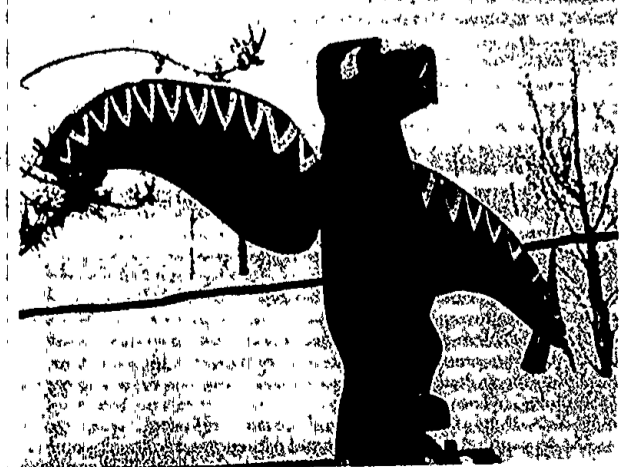
Utah rejects county effort to undermine treaties

Department heads in the State of Utah have been told to stay away from WCA's meetings to discuss modernization of Indian treaties, according to an Associated Press article in the Milwaukee Journal, Jan. 12.

Utah Gov. Norm Bangerter is

quoted as saying in a memo that "... Utah is not a party to that organization (coalition) and does not condone any efforts to alter the status of Indian treaties."

The article continues to quote Bangerter's memo to his department heads: "Therefore neither you nor any representatives from your departments should participate in any meetings directed at undermining status of Indian tribes and their treaties with the federal government." □



An eagle tops a totem on Madeline Island. (Photo by Amoose)



# Ruffe threatens commercial fish populations

by James H. Selgeby, USFWS, Ashland Biological Station

The ruffe is a small fish that comes from northern Europe and Asia. It reaches a maximum size of about 8 inches in some lakes but is usually only about 4 inches long. In its native range the ruffe is found in running and standing water that is fresh or even brackish (mixed with salty sea water).

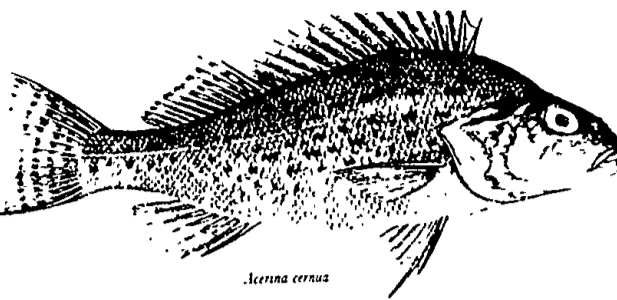
In 1987 the Wisconsin DNR caught several ruffe in the St. Louis River between Duluth and Superior and these fish were identified during the winter of 1987-88. When this finding was reported in March 1988, it caused a great deal of worry among state, federal, and provincial fisheries people. A task force made up of the U.S. Fish and Wildlife Service and the Wisconsin and Minnesota Departments of Natural Resources began an investigation to learn as much as possible about this fish from the published literature and to begin to study the ruffe in the St. Louis River.

The results of a survey of the literature on the ruffe were not encouraging. Although ruffe generally eat

small animals like freshwater shrimp and insect larvae, they may eat large quantities of eggs of fish such as smelt and whitefish. Several Russian studies found that after ruffe entered their lakes, whitefish harvests were cut in half. In another lake yellow perch were greatly reduced within five years after ruffe appeared. Whitefish and yellow perch are two of the most important commercial food fishes in the Great Lakes and sustain multi-million dollar fisheries.

As this information became known, the U.S. Fish and Wildlife Service intensified its studies of the ruffe in the St. Louis River while the states of Wisconsin and Minnesota began searching for means of eliminating the species or at least controlling its abundance to stop or slow its spread through the lakes and into inland waters.

During 1988 the Fish and Wildlife Service committed its small (22 foot) trawler and 3 people to capture the study ruffe. The results of this summer's work were that over 4,000 fish of about five ages were caught. The fish were found mainly in the St. Louis River but a few were



*Acerina cernua*

The river ruffe (artist's rendering)

taken out in Lake Superior and one was found 40 miles east of Superior, WI, at Comucopia. The early results showed that ruffe live in groups on bottom. They were at shallower depths (mainly 3 to 10 feet) in summer but moved into the deeper trenches and holes (up to 25 feet deep) as temperatures fell in the fall. Results from the first summer suggested that the ruffe was capable of spawning at one year of age and it appeared the species was rapidly increasing in abundance.

Based on the survey of the literature and the results of the 1988

study, the Wisconsin and Minnesota Departments of Natural Resources felt it was critical to try to control the ruffe. The literature suggested that walleye, northern pike, and burbot (lawyer) would likely eat ruffe and the two states decided to try to control the abundance of ruffe by increasing these predators in the St. Louis River. To increase predators the states put into effect emergency rule changes to cut angling catches in half so that those fish saved would remain in the river. Daily limits were cut, size limits were initiated and seasons

were shortened. In addition the two states planned heavy stocking of walleye and northern in fall and winter of 1989-1990. These plans were developed in the winter of 1988-89 and put into effect at the start of the 1989 fishing season.

During 1989 the Fish and Wildlife Service committed its 22 foot trawler with a full time four-person crew to the study of ruffe and in addition put its 57 foot research vessel into the system for 10-day long cruises in the spring and the fall. The Wisconsin and Minnesota DNRs joined in the field studies as much as possible and volunteers from the Staples Technical Institute (Fond du Lac)—Natural Resources Program assisted with field activities during the intensive spring and fall efforts when as many as 12 to 15 people were working on the river. Results in 1989 confirmed the 1988 findings and added much new information. Large samples of ruffe, ruffe stomachs, and pumped contents of predator stomachs were obtained to find what the ruffe ate and what, if any, predators were eating ruffe. A graduate student at the University of Minnesota is pres-

ently analyzing these samples and has already found ruffe in the food of northern pike and burbot. A small-scale winter study is currently underway, funded by Wisconsin Sea Grant, to collect burbot from under ice to see if they eat ruffe in winter.

At this time the ruffe appears to be firmly established in the St. Louis River where the Fish and Wildlife Service estimates that its 1989-90 overwintering population is between 1/4 and 1/2 million fish. State efforts to plant predators have been hampered by severe losses of walleye in 1989 but about 7,000 northern pike were recently planted. Because the ruffe appeared so suddenly and the responses by all agencies were needed immediately, it has been very difficult to obtain the needed funding to conduct the preliminary studies.

In 1990 and beyond it will be critical to continue to study the impact of the expanding ruffe populations on valuable native species to track the spread of ruffe and to measure the effectiveness of the efforts to control ruffe populations with predators.

## Preventing ballast water introductions in the Great Lakes

by Margaret A. Dochoda, Great Lakes Fishery Commission

(Reprinted with permission from FOCUS, November/December issue)

Ballast water of ocean-going K vessels has often been presumed to be responsible for certain plant and animal species introductions in the Great Lakes in recent years. Such introductions are largely innocuous and difficult to attribute with certainty to ballast water. Three recent European arrivals, however (ruffe, spiny water flea or BC, and zebra mussel), are different in that they have the potential to be extremely damaging to the ecosystem. Further, it is difficult to conceive how, other than in ballast water, the ruffe could have traversed the Atlantic—certainly not on bird's feet as has been suggested for some other exotic species found in the Great Lakes.

The potential risks posed to the Great Lakes by these three recent arrivals are several. The zebra mussel (*Dreissena polymorpha*) firmly attaches itself to any solid surface such as spawning reefs, boats and water intake pipes, impairing their use. Its filter feeding pattern may remove algae from the water, thus impacting the food chain at the lowest levels. The mussel is spreading rapidly from its current range in lakes St. Clair and Erie, and threatens to be costly to remove from pipes and other surfaces for indus-

tries and cities that draw their water from the Great Lakes.

The probable impact of the BC or spiny water flea (*Bythotrephes cederstroemi*) remains the subject of study and debate among scientists. As a predaceous planktonic crustacean that preys on smaller organisms such as *Daphnia*, the flea has the potential to reduce the food supply for larval fish, and to reduce water clarity. BC has been found throughout the Great Lakes.

The ruffe (*Gymnocephalus cernuus*), a European relative of the perch, has little sport or commercial value. In Europe the ruffe preys on the eggs of whitefish, significantly depressing the abundance of the latter in some instances. Like the zebra mussel and BC, the ruffe is a prolific animal and can rapidly dominate yellow perch populations through competition. The ruffe's range is currently limited to the western end of Lake Superior.

The potential for eradicating exotic organisms, once established in large systems such as the Great Lakes, is next to nil. The experience of the Great Lakes Fishery Commission (GLFC) in such efforts provides a good example. Established in 1955 with responsibility to eradicate or minimize the exotic sea lamprey, the GLFC has only been able to achieve reasonable control of the lamprey's numbers and range. The ruffe, zebra mussel and BC will still be causing problems and will likely spread beyond the Great Lakes basin long after nature

has repaired the damage from another contemporary shipping catastrophe, the Exxon Valdez oil spill. Thus with exotic the best medicine is prevention.

### Ballast Water as a Vector

One reason why the role of ballast water in transporting organisms was not clearly established earlier is because the water is taken on and, for the most part, discharged below the waterline. Ocean-going ships

carry as much as 4.75 million litres (1.25 million gallons) of ballast water when they are travelling without cargo. In the last ten years, as many as 1,100 ocean-going vessels have entered the Great Lakes annually; of these, as many as 600 per year are "in ballast," or carrying water in place of cargo. Researchers believe that the zebra mussel was introduced into the Lake St. Clair system in 1986, and the ruffe into Duluth Harbor in 1983. BC was

first noted in Lake Huron in 1984, but when and how frequently it was introduced before then is difficult to determine.

### Preventing Introductions via Ballast Water

The most effective effort to date to prevent further introductions of harmful exotics came from the US and Canadian Coast Guards, acting under the amended 1978 Great Lakes Water Quality Agreement. The Canadian Coast Guard, in consultation with the US Coast Guard, the St. Lawrence Seaway Authority, shipping associations, Fisheries and Oceans Canada, Environment Canada and the Great Lakes Fishery Commission, established voluntary guidelines effective May 1, 1989.

These guidelines request that ships entering the seaway first exchange their ballast off the continental shelf (i.e. at depths greater than 2,000 m or 2,186 yards). If this is not possible for reasons of safety or because coastal ships have not left the shelf, the ballast water may be exchanged in the Laurentian Channel in the Gulf of St. Lawrence. Prior to the 1990 shipping season, Fisheries and Oceans Canada will review the advisability of exchanging ballast in the gulf. It is believed that little mixing occurs between Laurentian Channel waters and the rest of the Gulf of St. Lawrence. Ship masters are expected to confirm the exchange in writing, and the Coast Guard has agreed to spot test incoming ballast

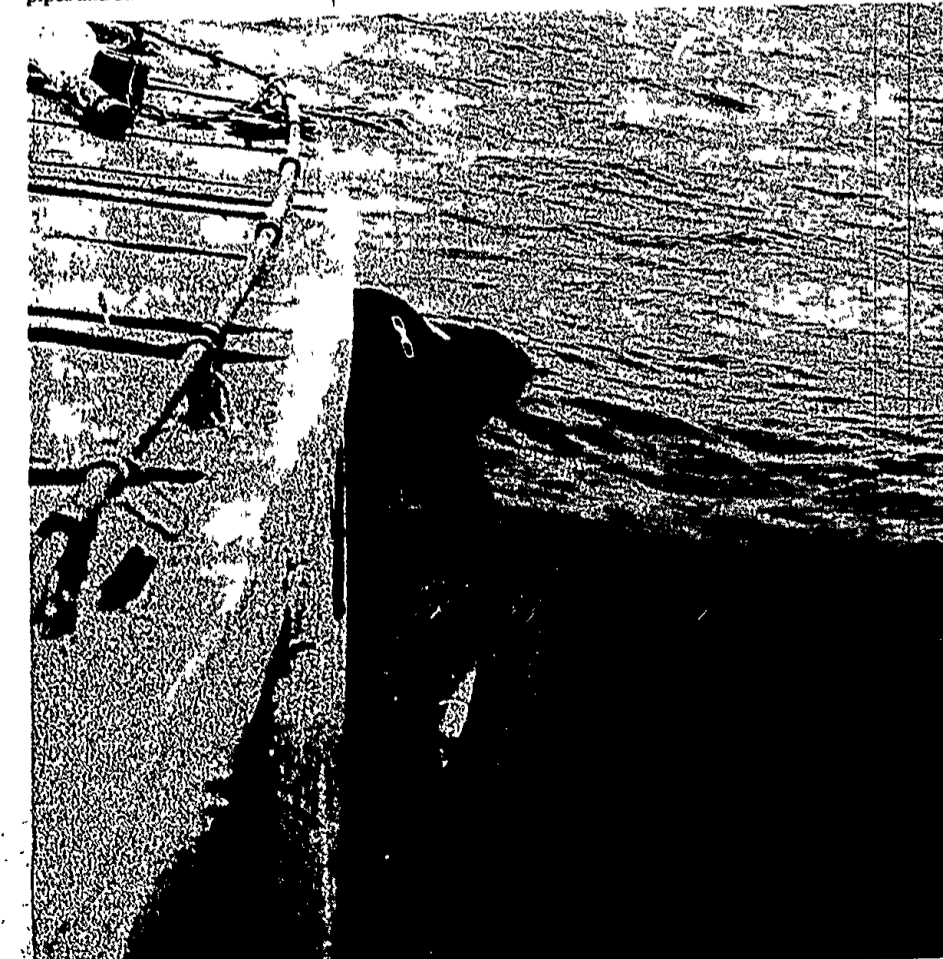
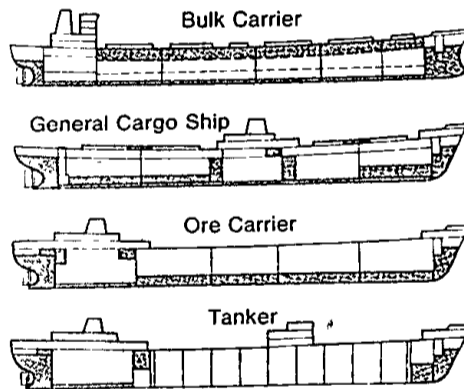
water. The primary objective in exchanging ballast water for open ocean water is not to increase salinity; all but four percent of unexchanged ballast has been found to contain salt already, and many coastal organisms are tolerant of both salt and fresh water. Rather, it is to exchange coastal organisms for those which are less likely to survive and reproduce in the Great Lakes due to their intolerance to fresh water, their adaptation to open water, and their relative lack of abundance in terms of both species and absolute number. Mid-ocean ballast exchange is a relatively safe and cost effective procedure, which already has been occasionally practiced by shippers.

Several Great Lakes agencies are concerned that the area protected by the guidelines (the seaway, upstream from Montreal) is not sufficient to protect the Great Lakes from invasion. Obviously, primary introductions which occur in the Great Lakes themselves must be a first concern, and these are addressed in the guidelines.

In addition to primary introductions, however, migration and secondary ballast water transfers from downstream ports such as Montreal, Quebec City and Halifax are also possible. Three and four spine sticklebacks are believed to have recently invaded the Great Lakes via ships traversing the St. Lawrence River. Certainly ruffe, BC and the zebra mussel could have made

### Ballast Water Capacity of Ocean-Going Vessels Frequenting the Great Lakes

(from Lloyd's Registry of Shipping)



Dick Gurnoe, Red Cliff Tribal Chairman and Commercial Fisherman hauls a lake trout into his commercial fishing tug.

## Inter-Tribal Commercial Fisherman's Conference

Sponsored by the Great Lakes Indian Fish and Wildlife Commission

**LOCATION:** Red Cliff Convention Center/Bowling Lanes  
**DATES:** FEB. 20TH, 1990 9:00 A.M. - 5:00 P.M.  
FEB. 21ST, 1990 9:00 A.M. - 12:00 P.M.

### INFORMATIONAL AND DISCUSSION ITEMS:

- National Issues Impacting Tribal Commercial Fishermen
- Status of Tribal Fishing Agreements Wisconsin, Michigan, and Minnesota Waters of Lake Superior
- Business issues including quality control and grading of fish, IRS Regulations, Tribal Marketing and New Safety Regulations
- Biological information on Fish Stocks, Harvest Trends, and Stocking rates and diseases
- Impacts of lamprey and other exotic species on Lake Superior fish stocks and tribal control efforts
- Addressing public misconceptions regarding the Tribal Commercial Fisheries

This is an opportunity for both Small Boat and Big Boat Tribal Fishermen to get the latest information on issues which impact their livelihoods and discuss issues of mutual concern with Fisheries Biologists, Tribal Council members and Tribal Conservation Committees interested in Lake Superior Fishing issues are also welcomed to attend.

If you have any questions feel free to contact Jim Thannum at 715-682-6619. By returning the registration form you can insure an information packet and space will be made available for you.

I would like to attend the Inter-Tribal Commercial Fisherman's Conference and am submitting my FREE registration form. Please send more information regarding the Conference to

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Return the above from to: GLIFWC, Attention: Jim Thannum, P.O. Box 9, Odanah, WI 54861

# GLIFWC conference brings together tribes, educators and state legislators

## Introduction

GLIFWC's 6th Annual Conference, held this fall in Madison, aimed at providing the information required for people to understand issues relating to the Chippewa treaty rights controversy as well as looked at alternatives to the current, confrontational situation. The panel presentations are presented in the following pages.

Entitled "Facts and Fictions of Chippewa Treaty Rights," the conference provided factual information regarding legal history, the nature of treaty rights, the impact of treaty rights as well as the nature of the protest which has been leveled at the Chippewa people.

Faced with the violent protest at landings during the spring as well as social problems in schools and communities, GLIFWC felt it was imperative to seek better understanding and look for solutions.

Representatives from the Northwest, where similar controversy raged in the 1970s, related how tribes and non-Indian communities moved from conflict into co-management. Their story was told from the perspective of the state, the tribes and sport groups.

The conference targeted state educators and legislators, recognizing that these community leaders are often faced with questions on the subject of treaty rights and are involved in the search for solutions.

Each day of the conference was opened and closed with a brief, traditional tobacco ceremony presented by St. Croix Tribal Elder, Ben Skinaway. His words, translated from Chippewa, reflect the spirit of the conference and are printed below:

"I've been asked by the Great Lakes Indian Fish and Wildlife Commission to open this Conference by calling upon the Great Spirit for his blessing and Guidance.

To call upon all the spiritual powers of the universe for assistance. We ask for guidance for our Tribal leaders of the six Chippewa bands, and the non-Indian people who guard and protect our treaty rights.

May the Great Spirit look favorably at our neighbors who have come to join us from the Northwest. Let no evil enter the thoughts of the people present here today and the following two days of this meeting.

May the Great Spirit look upon us and bless us with everything that is good, that we are not blocked by any unseen forces. That everyone shares the benefits from the fruits of the discussions here.

The Great Spirit has provided our Indian people with the Natural Resources for our livelihood, let no man rob us from the liberties that we've enjoyed over the years, even before the white man came to these shores.

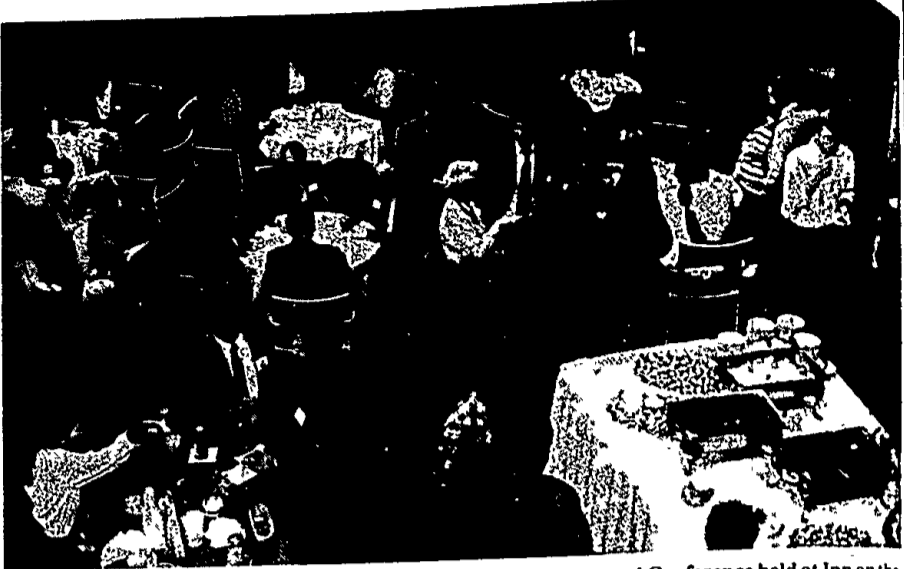
May the tribal people be given the right direction to take, and not be blind to the challenges that threaten treaty rights of our people.

Peace be with you."

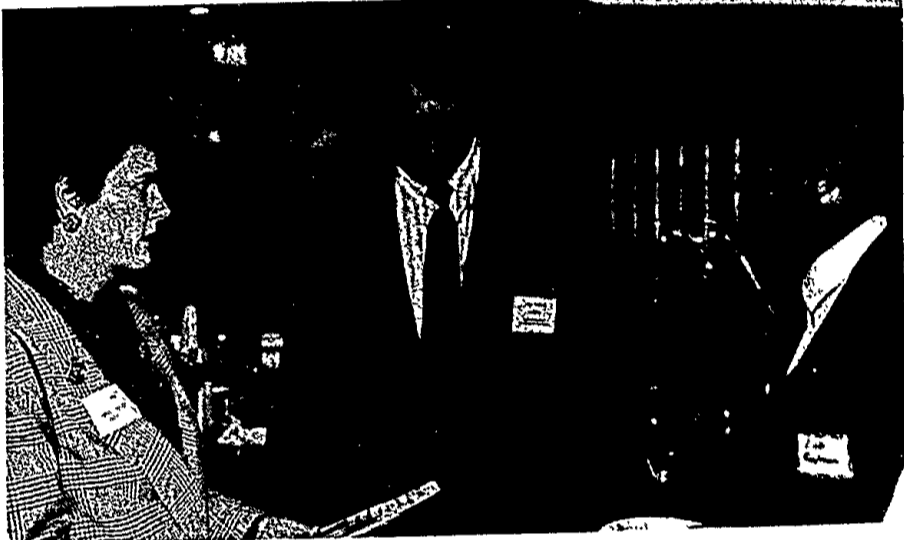
The conference opened with a look at the impact of Chippewa treaty rights, particularly in the state of Wisconsin. Panelists regarded the subject from economic, biological, political and tribal points of view.



Ben Skinaway, St. Croix Tribal Elder.



A legislative reception followed the first day of GLIFWC's 6th Annual Conference held at Inn on the Park, Madison, Wisconsin.



Jim Thannum, GLIFWC Natural Resource Development Specialist, center, chats with Representative Judith Klusman, 56th Assembly District, left, and Dick Hartman, St. Croix tribal planner during the legislative reception.

# Impact of Chippewa Treaty Rights

## Biological Impact

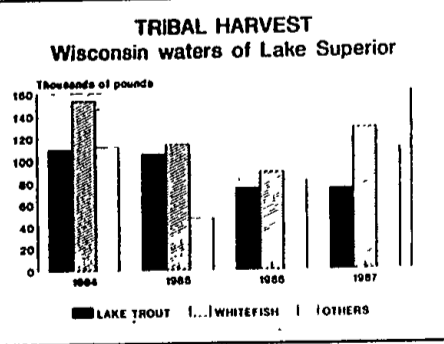
Presenter: Tom Buslahn  
GLIFWC Biological Services Director

### Introduction

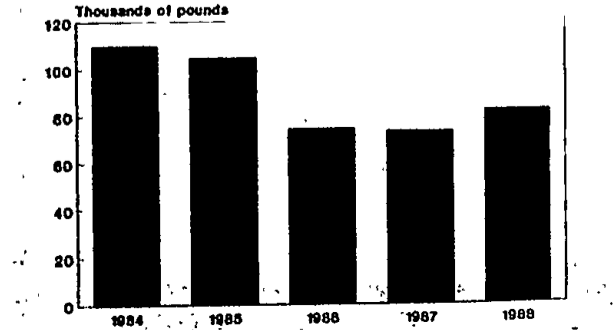
There are many species of fish, mammals, birds, and plants that are harvested under treaty rights. This paper discusses four species whose harvest by tribal members is potentially intensive enough to have significant biological effects. These are species that are under "direct" management — that is, the numbers of animals harvested by tribal members is directly controlled by quotas. The four species are lake trout in Lake Superior, walleye in inland lakes, white-tailed deer, and a valuable furbearer, the fisher. These are the only species where tribal harvest is actually or potentially intensive enough to cause significant effects on the resource populations.

### LAKE TROUT

The Wisconsin waters of Lake Superior are shared by Chippewa treaty fishermen, and state-licensed sport anglers and commercial fishermen. There is a substantial tribal commercial fishery near the Red Cliff and Bad River Reservations, and fishing for home use is also important to the tribes, especially in the fall months when fish tend to be in shallow water. As you can see on the above graph



### TRIBAL HARVEST - LAKE TROUT Wisconsin waters of Lake Superior



which depicts tribal harvest from 1984-87, whitefish dominate the tribal harvest, but lake trout and other species are also taken.

Focusing just on lake trout, the graph, bottom left, shows that the annual tribal harvest from Wisconsin waters exceeded 100,000 pounds in the early 1980's. The noticeable drop in harvest in 1986 was due to reduced quotas negotiated as part of a ten-year state/tribal agreement on Lake Superior fisheries. The agreement also called for reductions in state-licensed harvest of lake trout.

Harvests were reduced because biologists from the tribes, the DNR, and the U.S. Fish and Wildlife Service unanimously agreed that the harvest levels under a previous agreement were too high, exceeding mortality guidelines established by the Lake Superior Technical Committee, which also includes tribal, state, and federal biologists, as well as Canadians. Fishing is only one of several biological problems facing lake trout in Lake Superior, but it is one problem we can do something about. It is a credit to the negotiators from the DNR and the tribes that they were able to develop a co-operative process that was responsive to the needs of the resource.

Wisconsin waters have been divided into two lake trout management zones. The quotas on the graph to the right shown by zone, are based on a negotiated 50/50 allocation between the treaty fisheries of the two tribes, and the sport and commercial fisheries licensed by the state. The quota for the western zone is much smaller because that zone is smaller and less favorable habitat for lake trout. Unfortunately we may expect more reductions in quotas in 1991, due to diseases that have killed millions of hatchery lake trout intended for stocking in the Great Lakes.

To sum up for lake trout: a substantial tribal fishery co-exists with a substantial state-licensed fishery. Either fishery has the potential to overfish the lake trout stocks, but both operate under a state/tribal agreement, which was negotiated to comply with lakewide guidelines for managing lake trout in Lake Superior.

### WALLEYE

In contrast to the low-key, business-like way that lake trout have been managed, walleye in inland lakes have been at the center of a terrific controversy.

The harvest of walleye in northern Wisconsin as depicted on page 15 is overwhelmingly dominated by the angling fishery licensed by the state. Treaty harvest at its peak in 1988 comprised only about 4% of the total estimated extractions.

(see Biological Impact, page 15)

## Economic Impact

Presenter: Dr. David Wrone  
Professor of UW-Stevens Point

Chippewa treaties have impacted the state of Wisconsin and the nation in an overwhelmingly positive fashion from the economic perspective and can continue to do so, according to Dr. David Wrone, professor of history, UW-Stevens Point.

Wrone opened his remarks with a review of the wealth that the treaties originally brought to the citizens of Wisconsin in terms of accessible resources and the resulting industries.

The treaties opened the way to mining approximately 13 billion pounds of copper, logging 100 billion board feet of timber, and 150 billion tons of iron ore, Wrone explained. Other resources such as wildlife and water reserves have also been tapped as a result of the cession treaties.

Essentially, the treaties provided, Wrone remarked, "a wonderful economic base" for the state and also played a key role in the development of several of the nation's backbone industries, such as the copper, steel, and lumber industries.

Although today some believe and state that treaties have had a negative impact on Wisconsin, Wrone noted that there is no substantiation for the claims. He said he has been unable to locate one business or institution that has been hurt.

No businesses are named when speaking of negative impact and no certified public accountant is able to analyze the problems of the business if they are a result of Chippewa treaties, he said.

On the other hand, reports indicate that it has been a "banner year for tourism ... a banner year for fishing guides ... and pizza sales are up

in the North," Wrone commented.

The impact from an era of change may be confused with Chippewa treaties, Wrone added. The change brought about in part by the expanding influx of vacationers from urban areas and new demands on the tourism industry, has left many businesses outdated and catering to a declining clientele.

Northern Wisconsin's tourism system is antiquated, outdated, he said. Problems resulting from the changing industry are sometimes unfairly blamed on the Chippewa treaties.

"Treaties should be perceived as an ingredient for our future prosperity," Dr. David Wrone

Wrone described another benefit of the treaties which is often overlooked. The treaties, he said, developed six distinct sovereignities in the northern part of the state — the Mole Lake, St. Croix, Lac Courte Oreilles, Lac du Flambeau, Red Cliff and Bad River Bands of Chippewa. These sovereignities have brought substantial amounts of federal dollars to the North.

Wrone provided \$250,000 annually as a rough estimate of federal dollars which come to northern communities because of the Chippewa Bands. This income, he stated, must be analyzed in light of the multiplier effect, or the spread of those dollars into the surrounding community in terms of school systems and businesses.

The potential for economic growth which lies in these sovereignities has not yet been exploited, Wrone stated, suggesting the ability to establish duty free ports and airports as one untapped potential. Jobs which come from such development, he said, but for all citizens. (See Economic Impact, page 5)



# Impact of Chippewa treaty rights continued

## Economic Impact (continued from page 4)

The potential within the tribes is included, "and if looked at properly, can be a great boom."  
"Treaties," he said, "should be perceived as an ingredient for our future prosperity."

## Political Impact

Presenter: Representative Frank Boyle (D), 73rd District, WI

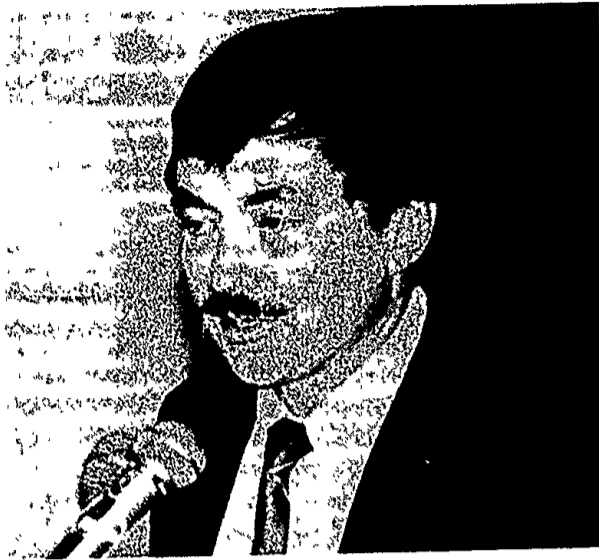
Speaking of the political impact of Chippewa treaty rights, Rep. Frank Boyle (D), Superior, noted that treaty rights is the most pressing political issue throughout the state of Wisconsin. However, Boyle sees positive solutions to the issue through co-management.

Boyle noted that several of his constituents from Solon Springs were recently indicted by a federal grand jury for the planting of pipe bombs during spring spearing. Both persons face up to \$750,000 in fines and up to 35 years in prison.

According to Boyle the message which needs to "be driven home" to all the constituents of the State is "that Indians are citizens, and treaties granted certain rights which have been court interpreted and constitutionally protected. There is no one that ought to stand in the way of exercising those rights."

Rep. Boyle, who also chairs the Native American Legislative Study Committee, identified the acts of violence during spring spearing as racist, similar to those he witnessed in Milwaukee during the 1960s.

"You tend to become complacent," he said, "until you see it all



Representative Frank Boyle.

again." Boyle's reaction to the situation as he described it was to approach colleagues in the Democratic Caucus of the Assembly and attempt to find solutions that would not deny Indians their constitutional rights.

**"Indians are citizens, and treaties granted certain rights which have been court interpreted and constitutionally protected. There is no one that ought to stand in the way of exercising those rights." Rep. Frank Boyle**

His suggestions were threefold. First, he suggested that monies be allocated to replace the 15,000 fish

that the Chippewa take annually. The replacement of 15,000 fish, he noted, would be much less costly than the millions spent on protection at the boat landings.

His second solution related to education. Boyle feels that the reaction to Chippewa treaty rights is racist rather than a resource issue and that education regarding Indian culture, heritage and contributions could alleviate much of the ignorance which breeds racism.

Working with Indian educators and personnel from the Department of Public Instruction, an \$800,000 proposal to institute a statewide educational component was developed. While it was reduced to \$300,000, the component did pass with a mandate that Indian culture and heritage be taught at elementary, middle school and high school levels.

Thirdly, upon the advice of Indian friends, Boyle visited the Northwest, which underwent similar treaty struggles over the salmon fishery a decade ago.

"I went to Washington State," he said, "and I was totally impressed by what I saw!" There was a sound fishery. The tribes were managing the fishery, producing one out of every two fish caught, he noted.

"The protection provided by treaties is a lesson to all of us in turning what appears to be chaos into a positive environmental concept," he said.

In the Northwest, treaty rights are the protectorate of that environment, Boyle commented, not only in terms of the fishery, but in relation to other resources. He commented on the success of the recent international timber management plan which stopped industry from strip logging the timber resource.

"I went away feeling there could be a better environment ... a better resource," he said.

Based on his experiences in the Northwest, Boyle said he feels treaty rights could be the most positive influence affecting Wisconsin ever. "I hope for a new beginning, a beginning based on decency and human respect for one another, on joint co-management of a very valuable environment and resource," he concluded. "I hope someone will seize the opportunity to forge this next step."

## TRIBAL IMPACT

Presenter: Gaiashkibos, LCO Tribal Chairman

Lac Courte Oreilles (LCO) Tribal Chairman Gaiashkibos identified both positives and negatives

when looking at the impact of the treaty controversy on the tribes, particularly LCO.

Despite controversy and conflict, Gaiashkibos was definite in stating that LCO's "rights are not for sale, not for lease," whatever direction other tribes may choose to take.

Gaiashkibos commented on the rock-throwing and racial incidents which have marred the Chippewa spring spearing seasons. Although these incidents did not occur in relation to LCO, Gaiashkibos noted that Lac du Flambeau, St. Croix and Mole Lake tribal members were all victims of such racist actions

**"Because of a joint effort in problem-solving, a level of peace prevails in the Hayward area that is not witnessed elsewhere." —Gaiashkibos**

However, in a more positive vein the dignity of the Chippewa people prevailed throughout the season because they did not descend to the level of behavior exhibited by the protestors.

Gaiashkibos indicated that despite the trouble and threats to the tribes on various levels, the effort involved in seeking solutions adds a brighter dimension to an otherwise dark scene.

Noting the LCO experience, he remarked that tribal and business leaders in the Hayward community began to communicate, take the time to sit and talk. Because of a joint effort in problem-solving, a level of peace prevails in the Hay-



Gaiashkibos

ward area that is not witnessed elsewhere.

An anti-Indian group, Equal Rights for Everyone (ERFE), once headed by Paul Mullaly, no longer exists in the area, Gaiashkibos noted. This was because both the tribal and non-Indian leaders were able to respond to the group's accusations with factual evidence that refuted ERFE's accusations of resource depletion.

He also noted that effective public education has been instrumental in easing the conflict in the LCO-Hayward area. The role of WOJB Radio and the Indian Country Journal in dispelling myths and providing accurate information to the public has been vital.

Similarly, the tribe working with the schools, churches, treaty support organizations and providing a speakers bureau have all been part of lessening the power of anti-Indian groups and quelling the fears of neighbors.

While the controversy still exists and new problems continue to arise, Gaiashkibos sees a pathway to solutions. Part of that challenge is for the Anishnabe people to remain intact with their traditions, values and language while using the tools of the white society to forge new and better directions for the total community.

# Potentials of co-management: the Northwest story

## From confrontation and court battles to co-management

Robert Herbst, national president of Trout Unlimited Inc., opened the panel emphasizing that cooperation and alliances are preferable to court cases and confrontation.

His own organization, Trout Unlimited, moved from a position of totally opposing Indian rights to one which supports cooperative management. Members of the organization were among those "shaking fists at the tribes," he related.

However, Herbst noted that the road to such change was not littered with roses. Personally he had to endure threats on himself and his family and the organization lost about 1000 members in the process. The result, however, was worth the struggle because the Northwest now has a workable agreement which benefits the resources.

Herbst is a veteran of several conflicts similar to that being experienced in Wisconsin in regard to Chippewa Treaty Rights: the Boldt



Robert Herbst, national chairman of Trout Unlimited (left) and Bill Wilkerson, private attorney and former director of Washington State Department of Fisheries, listen as other panelists speak on the Northwest Story.

3.) have cool and persistent leadership which can withstand pressure. Herbst emphasized the need for factions to look toward cooperation, which though not easy, has proved more beneficial for all and should be expanded to include more resource issues.

Issues such as global warming, ocean pollution, depletion of the ozone layer and soil loss create "the greatest crisis that humanity and the nation have ever faced," Herbst said.

"The magnitude of problems that we jointly face make it imperative that we act as partners for the good of the resource itself and not for the selfishness of each of us," he concluded.

## A New Game Plan: Co-Management

The fact that an attorney was the most qualified individual to direct the Washington State Department of Fisheries in the 1970s is itself a commentary on the status of the situation in Washington, according to Bill Wilkerson, attorney and former director of Washington State's fisheries.

Fisheries management was playing second fiddle to legal battles.

being played out in opposition to tribal treaty rights during a decade of strife. Consequently, Wilkerson, who helped implement the move from court confrontations to cooperation, found the fisheries resource being ignored and degraded.

As director of the fisheries, he had been in and out of court seventy-five times, while simultaneously watching the decline of the salmon and steelhead fisheries.

**"The court managed the fisheries. We were playing ego games about 'my' power, 'my' resources over 'their' power, 'their' resources." —Bill Wilkerson**

Essentially, Wilkerson said, "The court managed the fisheries. We were playing ego games," he said, "about 'my' power, 'my' resources over 'their' power, 'their' resources."

Frustrated with a situation that continued to detract from the resource, and as a result benefited neither Indian or non-Indian, Wilkerson proposed a game plan. The plan called for co-management of the resources.

His plan called for acknowledging

ment that the tribes have co-management responsibility. It called for resolution of disputes over negotiating tables rather than in court. It called on all sides to explore common interests in protecting the resources rather than allocation. It called for working with the tribes as governments.

Announcement of the co-management plan brought "rain on my parade," Wilkerson recounted. It wasn't popular at first. Effigies of him were hung in the state, and he had to endure the onslaught of a bitter angry reaction. Likewise, tribal leaders had problems within their particular communities.

However, within three years great leaps were made in terms of resource management. For one the Pacific-Salmon Treaty was in place after 20 years of "piddling around."

Working together they were able to stop the cut and run of timber through the Timber, Fish and Wildlife Agreement. The Centennial Accord was also signed with all Indian tribes.

"We negotiate first, then litigate," Wilkerson concluded, because "we like peace better than war" and because negotiated agreements have the necessary support of all parties which make them effective.

(See Potentials, page 6)

President George Bush wrote the following letter to all participating tribal chairs after the Centennial Accord was signed MASINAIGAN is reprinting from Northwest Indian Fisheries Commission NEWS.

THE WHITE HOUSE  
September 22, 1989

Dear Chairman Lopeman:

I am pleased to extend congratulations to you and the members of your tribe on the signing of the Centennial Accord between the State of Washington and tribal governments in the region.

This historic accord, formalizing a cooperative government-to-government relationship between state officials and the federally recognized Indian tribes of Washington, is more than a reflection of the wisdom and determination of its signatories. It is also a model for the entire nation.

As you know, the Federal Government has long had a policy of government-to-government relations with Indian tribes working with and through tribal government to provide appropriate programs and services. Formal recognition by the state of Washington that it, too, has such a relationship with the tribes will help all levels of state and tribal governments to work together to solve problems of mutual concern. This will benefit everyone.

Confident of your commitment to achieving the worthy goals of this accord, I am pleased to offer my encouragement and warmest wishes for the future.

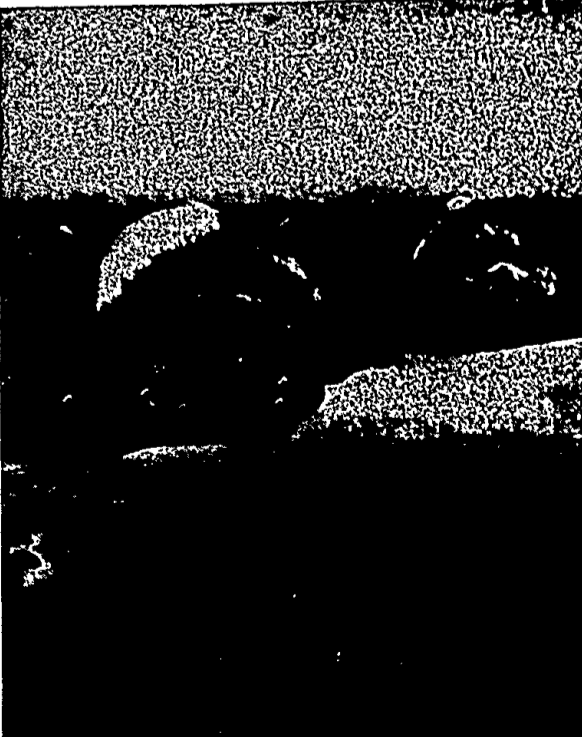
George Bush

**"The magnitude of problems we jointly face make it imperative that we act as partners for the good of the resource itself and not for the selfishness of each of us." —Robert Herbst**

Decision in Washington, the Leech Lake agreement in Minnesota, and the Alaska land agreement. In all instances, he witnessed seemingly irresolvable conflicts become effective cooperative management when all parties decided to work together rather than fight and recognize their common concerns rather than differences.

In actuality, Herbst stressed that the resources benefit from a cooperative endeavor. The major objective, he said, is to "protect and enhance the natural resources for all... with respect to native rights which have always been held."

Herbst cited three ingredients to effective conflict resolution: 1.) separate fact from fiction, and not just for safe audiences; 2.) keep emotions diffused and tempered;



A winter scene.

# Management continued

blending tribal culture, tradition and heritage with technological lifestyles of non-Indian people to perpetuate the Creator-given abundance on earth." He noted that the first order of priority given to Indian people was to respect the environment.

He continued to state that tribes see co-management as "a potential framework for future generations of Indian and non-Indians to live in harmony toward humanitarian goals."

Strong noted that he, as an Indian, has been subjected to too much anti-Indian sentiment to want the children to feel the hatred which sometimes exists.

Effective co-management by tribes requires a "spiritual presence," according to Strong, a presence which keeps the focus on preservation and conservation of the resources rather than exploitation.

"It is hard to co-manage what somebody else wants and would take away if they had the opportunity," he stated.

The technological aspects of resource management in the modern world are not always understood or accepted by traditional people either, Strong noted.

Native people, he said, existed for thousands of years in a land that was natural and with an understanding that what was natural was perfect. Human intervention and manipulation did more to degrade nature.

It sometimes creates a conflict with traditional people, he said, when they see what the tribes are doing in the fisheries, like tagging and clipping and artificially reproducing fish.

It is somewhat ironical, Strong pointed out, that today people are harvesting less fish using modern methods, than they did in early years using traditional methods.

Concluding, Strong emphasized



Billy Frank Jr., Director, Northwest Indian Fisheries Commission.

that co-management means having "respectful differences" as decisions are made and solutions are sought. And for the tribes, it requires unity and common action. While not easy at times, "keeping tribal unity is very critical," he said.

### When the going gets rough, keep going anyway

The tribal equivalent to the "Unsinkable Molly Brown," Billy Frank Jr. knows personally the meaning of "hanging in there when times get tough." Currently the executive director of the Northwest Indian Fisheries Commission representing 20 member tribes, Frank's insistence on exercising his tribal right to fish landed him in jail over 80 times.

If Frank is bitter because of numerous injustices, it doesn't surface as he recounts the struggles both of himself, his family and his tribe over decades of time. Frank's father was first arrested in 1935 for fishing on the Nisqually River, he said. For himself, he was known as the head barber in the county jails; he was arrested time and time again for being in contempt of court for exercising treaty rights.

This process continued, Frank recounted, until 1979 when federal courts finally confirmed the treaty right to fish.

The court decision, however, did not resolve the problem entirely. Hostilities flared in the communities, anti-Indian groups fought the decision. "We even had banks and industries get together to abrogate treaties," Frank related.

But when those things happen, you don't get scared, you get tough. The tribes decided to approach the problem by boycotting one of the banks involved in the abrogation effort. With tribal monies totalling

\$15 million in Washington and \$80 million in Alaska being withdrawn from the bank, the tribes found officials more interested in talking about the situation.

The tribes, Frank said, told officials that they wanted to sit down and start the process of co-management. With the bank's influence, things began to move down the right track and the movement towards cooperation rather than conflict began.

Today, Frank noted, the tribes regulate themselves. Several agreements have improved the resources, and currently the tribes and state are working on a comprehensive game plan to address tribal hunting rights. Conflict still exists but a vehicle is in place to seek solutions.

Frank emphasized that many challenges still confront resource managers in Washington. "Pudget Sound is poisoned," he said. "We need a new agenda together; we need a plan to address water issues." These are projects for the future, demanding immediate attention.

"Wisconsin doesn't have an 'Indian Problem,'" Frank said. "Washington doesn't have an 'Indian Problem,' but the blame is put on us." The act of scapegoating tribes for resource problems misses the real and important issues.

With a coalition of interests between tribes and states, Frank said you can go to Congress and get funding to address the real problems, if you are unified. "If we are not together, nobody will ever hear us and the resource will decline."

Frank concluded his presentation by applauding the efforts of Representative Frank Boyle in seeking coalition and looking towards co-management. He also noted, with an eye trained to milestones on the circuitous path to large and small victories, that it has been two years with no anti-Indian bill being passed in the legislature.

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# Potentials of co

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no important focuses were  
by Wilkerson in summary.  
was the "people issue," which  
for state, tribal and federal of-  
is to mutually respect each  
The other is the "resource  
which he defined as the real  
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## Co-management: Possibilities in power-sharing

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# Chippewa treaty rights: An overview

## Legal history: Why the treaty rights exist today

James Schlender, GLIFWC Executive Administrator, speaking on the legal history of treaties, pointed out that in earlier treaties between the United States and the Tribes, the United States carved out reservations for itself within Indian lands, whereas in the final treaties signed in this area the tribes were carving out reservations for themselves.



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he said, "accelerated the policy of western removal of Indians."

Schlender also went on to discuss the removal policies and eventual ending of the Indian treaty making policy of the United States.

"In the earlier years of the fledgling country," he concluded, "Indian tribes were treated as potential military allies, possessed of all the sovereignty and title required to effectuate the transfer of millions of acres of lands to the hands of the federal government and in turn to its citizens. Comparing that stance with the act ending the treaty making era, we see that tribes are relegated to the inferior position of lost sovereignty in so far as external status is concerned."

**Negotiations and litigation: The process of implementation**  
Kathryn Tierney, Lac du Flambeau Tribal Attorney, the second panel speaker, stated that the history of treaties is important in understanding court decisions.

"The basic foundation of the analysis that courts utilize to interpret Indian treaties," she said, "is to interpret terms, interpret phrases, and interpret concepts as the Indians would have understood them at the time the treaty was negotiated."

Tierney proceeded to give a history of the case behind the Voigt Decision with the appeals. Negotiations between the tribes and the State of Wisconsin have resulted in over 40 agreements, she stated, for fishing seasons, migratory bird, hunting seasons, and trapping.

"This has been done, she said, "because everyone thought it was in their best interest to define for all people, tribal members and non-

tribal members alike, what the rules are going to be for the exercise of off-reservation rights, pending a determine from the courts."

This led to the formation of the Voigt Inter-Tribal Task Force as the negotiating body with the state.

Tierney said that through this process, with signatures of approval from tribes and the state, these agreements were entered into court a consent orders by the court.

She went on to discuss the various past hearings to determine what the tribes were allowed to harvest.

"It was determined," Tierney said, "that the treaty itself does not impose a practical limit on the amount of resources the tribe can harvest."

The next phase of the case, she said, was to determine what the rules were going to be concerning who's going to harvest, what are they going to harvest, and what methods are they going to use.

"The state told the federal court that 133 species of fish, game, birds, plants needed regulations."

Due to the length of required regulations, she stated, it was decided to keep the focus a little smaller, and to focus on certain resources at a time that are somewhat similar.

According to Tierney, each trial has specific questions to answer. One addresses the scope of permissible regulation by the State of Wisconsin of tribal harvest.

There are two ways that scope is determined, she continued. One is to determine if those regulations are reasonable and necessary for conservation purposes or to protect public health and safety.

The second question asks whether the tribal regulatory system governing that same activity is adequate to protect the protect the resources and to protect the public health and safety."

After the regulatory phase is

complete, the next phase addresses damages and is scheduled for trial in September 1990.

"Remember," she said, "all these years when the state has sought to regulate, Indian people either were being fined, having their equipment confiscated, their fish and game taken away, or they were afraid to go, for fear of being subjected to state court penalties. That's the damages we're talking about."

"The whole focus of this has been a basic concept which the United States Supreme Court has been utilizing in dealing with Indian cases since the first time one ever came before them in 1819. 'Great governments like great men keep their word,' and that's what this is all about," she concluded, "You made a deal, now we're holding you to it and since that doesn't seem to be possible without a court order directing it, that's why there's litigation."

## The Significance of treaty rights to tribal people

**"When we're talking about treaty rights, we're talking about the future."**  
—Joseph Bresette

Talking on the Significance of Treaty Rights to Tribal People, Joseph Bresette, Director, Great Lakes Inter-Tribal Council, said, "we're talking about the future."

"The tribes in the future are no longer going sit back and allow other entities to define things for them," he said, "Indian policy is not going to be set by people sitting in Madison, nor will it be set by the people sitting in Washington without the concurrence and agreement of Indian tribes."



Joseph Bresette, executive director, Great Lakes Inter-Tribal Council.

"When your talking about treaty rights," he added, "you're not talking about fish, you're not talking about treaties—your talking about governmental units and who's authorized and recognized to do what."

"These days the Indians are saying, and they are going to demand," he said, "that any solutions, any relationships are going to be on equal basis."

Bresette talked about the misconception that people have about the ideology of the United States. The history they remember that has forgotten about the Indians and the fact that they wrap themselves up in the "crazy history" they created.

"What makes this country great is the perception that we're a fair, democratic society that lives by rules," he said.

The Chippewa are requiring this country and the state abide by those rules, he added.

The tribes have contracts and are going to hold the state and federal government to them. It's as simple as that.

"The myth of America" he concluded, "is much different than the actual realization of what the Indian people went through and what this country promised those Indian citizens."

# Treaty Rights and Racism

Racism and solutions to the problems of racism evidenced in Wisconsin, particularly in regard to Chippewa treaty rights, was discussed by several angles on the closing day of the conference.

The first panel detailed the problem, defining through experience or through observation, why much of the anti-treaty activity is actually anti-Indian and racist. The panel, "Looking for solutions," looked at the role various major institutions can or should play in confronting racism.

## Treaty rights and racism in Wisconsin

The Rt. Rev. William Wantland, Archbishop of the Episcopalian Diocese of Eau Claire, minced no words on the subject of racism in the state of Wisconsin. "Of all the states I've lived in in this Union, Wisconsin is the most racist. I grew up in the South. And I said that before the Voigt Decision was handed down. It is obvious—the racism, the hatred, the bitterness, the prejudice."

While condemning the obvious racism he has witnessed in the state, and also recognizing it as a problem that is nationwide, Wantland feels that racism is based on ignorance. That ignorance, he said, also frequently involves "an ignorance of ignorance," pointing to individuals failure to understand their own misconceptions which breeds racist sentiments.

## The legal status of treaty rights

In order to understand why anti-treaty is actually anti-Indian and racist, Wantland detailed the nature of treaty rights. The principles of law which pertain to treaty rights, Wantland sees as basic legal rights which we all expect to have upheld in other circumstances.

Wantland noted that historically the United States assumed the government-to-government relationship with tribes that had been established by European nations prior to formation of the United States.

During the treaty period of U.S. history over 600 treaties were made with Indian nations and 350 were ratified by the U.S. senate. "There always has been a recognition that tribal governments are sovereign governments," he said. Wantland called attention to the 1832 Supreme Court decision written by Chief Justice John Marshall which recognized that Indian nations are "dependent, sovereign nations."



The Rt. Rev. William Wantland.

Further defining the status of treaties in the United States, he noted that the U.S. court system declares that the Constitution of the United States, the Acts of Congress and the treaties ratified by the U.S. Senate are the "Supreme Law of the Land."

That status of treaties is upheld in the Constitution which says that the Supreme Law of the Land is binding on the states, any provisions of state constitutions or statutes to the contrary notwithstanding.

"Treaties are the supreme law of the land and all states are controlled by the terms of treaties either made with dependent nations, such as the Indians nations, or foreign nations, such as Africa, India or Europe," Wantland stated.

## Treaty rights as property rights

Further defining the nature of treaty rights, Wantland pointed out that treaties are governed by the principles which govern real property law.

When the Ojibwa Nation ceded land and reserved certain rights, this reservation of rights is guarded by a principle of law which apply to all citizens of the United States, he said.

This points to a popular misconception—that treaty rights give special rights to a particular category of citizens. "That's simply not true," Wantland said.

Reservation of rights, such as mineral rights, is something that non-Indians do all the time when they reserve minerals or an interest in land and sell only a partial interest in that land, he explained.

The Chippewa sold only a partial interest in the ceded land. These are the reserved rights as defined by the Voigt Decision.

"This has nothing to do with being Indian, but the principles of real property law. That needs to be understood in Wisconsin. It is not. That's part of the tragedy," Wantland stated.

## Anti-treaty vs. anti-Indian

After defining the nature and status of treaty rights, Wantland went on to state that opposition to the principles which underlay treaty rights is possible. It would be a philosophical opposition to principles of law as they are applied to all citizens of the United States. This is not racist.

For instance, persons could object to anyone having the right to reserve partial interest in land, whether it be mineral rights, water rights, fishing rights and soon. Or certain persons could philosophically object to multi-level governmental sovereignties and argue against the sovereignty of tribes and states, preferring the establishment simply of a central national government.

These are instances when individuals or groups could object to the treaty rights of the tribes without being involved in a conflict of races or culture. Wantland feels.

However, what has happened in Wisconsin, he said, is the issue of treaty rights has become a vehicle for making overt, a covert racism which has existed in the state since its inception.

Racism, he noted, is far more than simple racial prejudice. Prejudice against other racial groups are common among all cultures, he noted. But racism involves the coupling of power with the prejudice, which gives some groups the power to inflict that prejudice.

"It means racism is going to be the activity of those who control the institutions of power," he said. So, for the most part in the United States, racism is a white disease. Where another culture is dominant in Japan for example, racism would be an oriental disease.

In Wisconsin, Wantland states, we have seen large groups of non-Indian people attempting to use the structures of the state to punish, push down, and oppress people who are different from them basically because they are different.

## This is racism

"99 percent of the people involved are involved because of racist reasons," Wantland said. "I didn't see anyone at the boat landings saying I am philosophically opposed to multi-layered sovereignties. There are people saying 'Timber Nigger,' 'Spear an Indian, Save a Walleye,' ... rocks being thrown, boats swamped, fists waving, shouting."

These are people trying to intimidate and oppress those who were exercising their legal rights. "This is racism," Wantland declared. "It is open. It is cruel. It is vicious. It is sinful and it exists. It is growing in Wisconsin, and it has become a blight on this sovereign state's history."

Wantland continued to criticize the failure of government leaders to recognize publically the racism that is apparent.

He said that the role of racism has been "downplayed by everyone from

(See Treaty, page 8)

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Wantland pointed to the status of Puerto Rico as a comparable situation. Puerto Rico, he said, possesses full sovereignty in regulating internal affairs but is subject to the ultimate authority of the federal government in regard to the right to raise standing armies and to enter into agreements with foreign nations.

This is much the same as Indian nations today within the borders of the United States. "In that sense Indian nations and states are really on an equal level," he commented.

In regard to the treaties made between the United States and Indian tribes since the 1820s, Wantland also noted that they were made with every advantage on the side of the federal government. "When you read the treaties, it is obvious that most benefit flows to the federal government."

However, Wantland also feels it is important to note that treaties provide a grant of right from Indian governments to the United States. The rights held by Indian nations are those which have been reserved in the treaties.



Kathryn Tierney, attorney for Lac du Flambeau, spoke on "Negotiations and Litigation."

# Management continued

blending tribal culture, tradition and heritage with technological lifestyles of non-Indian people to perpetuate the Creator-given abundance on earth." He noted that the first order of priority given to Indian people was to respect the environment.

He continued to state that tribes see co-management as "a potential framework for future generations of Indian and non-Indians to live in harmony toward humanitarian goals."

Strong noted that he, as an Indian, has been subjected to too much anti-Indian sentiment to want the children to feel the hatred which sometimes exists.

Effective co-management by tribes requires a "spiritual presence," according to Strong, a presence which keeps the focus on preservation and conservation of the resources rather than exploitation. "It is hard to co-manage what somebody else wants and would take away if they had the opportunity," he stated.

The technological aspects of resource management in the modern world are not always understood or accepted by traditional people either, Strong noted.

Native people, he said, existed for thousands of years in a land that was natural and with an understanding that what was natural was perfect. Human intervention and manipulation did more to degrade nature.

It sometimes creates a conflict with traditional people, he said, when they see what the tribes are doing in the fisheries, like tagging and clipping and artificially reproducing fish.

It is somewhat ironical, Strong pointed out, that today people are harvesting less fish using modern methods, than they did in early years using traditional methods.

Concluding, Strong emphasized



Billy Frank Jr., Director, Northwest Indian Fisheries Commission.

that co-management means having "respectful differences" as decisions are made and solutions are sought. And for the tribes, it requires unity and common action. While not easy at times, "keeping tribal unity is very critical," he said.

### When the going gets rough, keep going anyway

The tribal equivalent to the "Unsinkable Molly Brown," Billy Frank Jr. knows personally the meaning of "hanging in there when times get tough." Currently the executive director of the Northwest Indian Fisheries Commission representing 20 member tribes, Frank's insistence on exercising his tribal right to fish landed him in jail over 80 times.

If Frank is bitter because of numerous injustices, it doesn't surface as he recounts the struggles both of himself, his family and his tribe over decades of time. Frank's father was first arrested in 1935 for fishing on the Nisqually River, he said. For himself, he was known as the head barber in the county jails; he was arrested time and time again for being in contempt of court for exercising treaty rights.

This process continued, Frank recounted, until 1979 when federal courts finally confirmed the treaty right to fish.

The court decision, however, did not resolve the problem entirely. Hostilities flared in the communities, anti-Indian groups fought the decision. "We even had banks and industries get together to abrogate treaties," Frank related.

But when those things happen, you don't get scared, you get tough. The tribes decided to approach the problem by boycotting one of the banks involved in the abrogation effort. With tribal monies totalling

\$15 million in Washington and \$90 million in Alaska being withdrawn from the bank, the tribes found officials more interested in talking about the situation.

The tribes, Frank said, told officials that they wanted to sit down and start the process of co-management. With the bank's influence, things began to move down the right track and the movement towards cooperation rather than conflict began.

Today, Frank noted the tribes regulate themselves. Several agreements have improved the resources and currently the tribes and state are working on a comprehensive game plan to address tribal hunting rights. Conflict still exists, but a vehicle is in place to seek solutions.

Frank emphasized that many challenges still confront resource managers in Washington. "Pudget Sound is poisoned," he said. "We need a new agenda together; we need a plan to address water issues." These are projects for the future demanding immediate attention.

"Wisconsin doesn't have an 'Indian Problem,'" Frank said. "Washington doesn't have an 'Indian Problem,' but the blame is put on us." The act of scapegoating tribes for resource problems misses the real and important issues.

With a coalition of interests between tribes and states, Frank said you can go to Congress and get funding to address the real problems, if you are unified. "If we are not together, nobody will ever hear us and the resource will decline."

Frank concluded his presentation by applauding the efforts of Representative Frank Boyle in seeking coalition and looking towards co-management. He also noted with an eye trained to milestones on the circuitous path to large and small victories, that its been two years with no anti-Indian bill being passed in the legislature.

# Potentials of co

Legal (continued from page 5)

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**"The policy of peace and alliance with Indians dwindled in proportion to the gathering strength of the new country."**  
—James Schlender

Schlender stated that, "From the period of 1800 to 1817 the policy of the government was to extend the national domain."

"During that time," he continued, "the policy of peace and alliance with Indians dwindled in proportion to the gathering strength of the new country. America saw its population increase and a growing land hunger rumbled in the belly of the nation."

The Federal government policy changed in response to citizens' needs by effectively extinguishing native title to desired lands, he added.

"The treaty makers of this period," he said, "may be said to have a single objective - the acquisition of more land."

From 1817 to 1846, Schlender pointed out, the policy of the country changed again.

"The increasing appetite of the country and its citizens for more land, and the increasing reluctance of the Indians to appease that appetite through land cession treaties,"



James Schlender, GLIFWC executive administrator.

he said, "accelerated the policy of western removal of Indians."

Schlender also went on to discuss the removal policies and eventual ending of the Indian treaty making policy of the United States.

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**Negotiations and litigation: The process of implementation**  
Kathryn Tierney, Lac du Flambeau Tribal Attorney, the second panel speaker, stated that the history of treaties is important in understanding court decisions.

"The basic foundation of the analysis that courts utilize to interpret Indian treaties," she said, "is to interpret terms, interpret phrases, and interpret concepts as the Indians would have understood them at the time the treaty was negotiated."

Tierney proceeded to give a history of the case behind the Voigt Decision with the appeals.

Negotiations between the tribes and the State of Wisconsin have resulted in over 40 agreements, she stated, for fishing seasons, migratory bird, hunting seasons, and trapping.

"This has been done," she said, "because everyone thought it was in their best interest to define for all people, tribal members and non-

tribal members alike, what the rules are going to be for the exercise of off-reservation rights, pending a determine from the courts."

This led to the formation of the Voigt Inter-Tribal Task Force as the negotiating body with the state."

Tierney said that through this process, with signatures of approval from tribes and the state, these agreements were entered into court consent orders by the court.

She went on to discuss the various past hearings to determine what the tribes were allowed to harvest.

"It was determined," Tierney said, "that the treaty itself does not impose a practical limit on the amount of resources the tribe can harvest."

The next phase of the case, she said, was to determine what the rules were going to be concerning who's going to harvest, what are they going to harvest, and what methods are they going to use.

"The state told the federal court that 133 species of fish, game, birds, plants needed regulations."

Due to the length of required regulations, she stated, it was decided to keep the focus a little smaller, and to focus on certain resources at a time that are somewhat similar.

According to Tierney, each trial has specific questions to answer. One addresses the scope of permissible regulation by the State of Wisconsin of tribal harvest.

There are two ways that scope is determined, she continued. One is to determine if those regulations are reasonable and necessary for conservation purposes or to protect public health and safety."

The second question asks whether the tribal regulatory system governing that same activity is adequate to protect the public health and safety."

After the regulatory phase is

complete, the next phase addresses damages and is scheduled for trial in September 1990.

"Remember," she said, "all these years when the state has sought to regulate, Indian people either were being fined, having their equipment confiscated, their fish and game taken away, or they were afraid to go, for fear of being subjected to state court penalties. That's the damages we're talking about."

"The whole focus of this has been a basic concept which the United States Supreme Court has been utilizing in dealing with Indian cases since the first time one ever came before them in 1819. 'Great governments like great men keep their word,' and that's what this is all about," she concluded, "You made a deal, now we're holding you to it and since that doesn't seem to be possible without a court order directing it, that's why there's litigation."

## The Significance of treaty rights to tribal people

**"When we're talking about treaty rights, we're talking about the future."**  
—Joseph Bresette

Talking on the Significance of Treaty Rights to Tribal People, Joseph Bresette, Director, Great Lakes Inter-Tribal Council, said, "we're talking about treaty rights, we're talking about the future."

"The tribes in the future are no longer going sit back and allow other entities to define things for them," he said, "Indian policy is not going to be set by people sitting in Madison, nor will it be set by the people sitting in Washington without the concurrence and agreement of Indian tribes."



Joseph Bresette, executive director, Great Lakes Inter-Tribal Council.

"When your talking about treaty rights," he added, "you're not talking about fish, you're not talking about government units and who's authorized and recognized to do what."

"These days the Indians are saying, and they are going to demand," he said, "that any solutions, any relationships are going to be on equal basis."

Bresette talked about the misconception that people have about the ideology of the United States, the history they remember that has forgotten about the Indians and the fact that they wrap themselves up in the "crazy history" they created.

"What makes this country great is the perception that we're a fair, democratic society that lives by rules," he said.

The Chippewa are requiring this country and the state abide by those rules, he added.

The tribes have contracts and are going to hold the state and federal government to them. It's as simple as that.

"The myth of America" he concluded, "is much different than the actual realization of what the Indian people went through and what this country promised those Indian citizens."

# Treaty Rights and Racism

**Racism and solutions to the problems of racism evidenced in Wisconsin, particularly in regard to Chippewa treaty rights, was discussed by several angles on the closing day of the conference.**

The first panel detailed the problem, defining through experience or through observation, why much of the anti-treaty activity is actually anti-Indian and racist. The panel, "Looking for solutions," looked at the role various major institutions can or should play in confronting racism.

## Treaty rights and racism in Wisconsin

The Rt. Rev. William Wantland, Archbishop of the Episcopalian Diocese of Eau Claire, minced no words on the subject of racism in the state of Wisconsin. "Of all the states I've lived in in this Union, Wisconsin is the most racist. I grew up in the South. And I said that before the Voigt Decision was handed down. It is obvious—the racism, the hatred, the bitterness, the prejudice."

While condemning the obvious racism he has witnessed in the state, and also recognizing it as a problem that is nationwide, Wantland feels that racism is based on ignorance. That ignorance, he said, also frequently involves "an ignorance of ignorance," pointing to individuals failure to understand their own misconceptions which breeds racist sentiments.

## The legal status of treaty rights

In order to understand why anti-treaty is actually anti-Indian and racist, Wantland detailed the nature of treaty rights. The principles of law which pertain to treaty rights, Wantland sees as basic legal rights which we all expect to have upheld in other circumstances.

Wantland noted that historically the United States assumed the government-to-government relationship with tribes that had been established by European nations prior to formation of the United States.

During the treaty period of U.S. history over 600 treaties were made with Indian nations and 350 were ratified by the U.S. senate.

"There always has been a recognition that tribal governments are sovereign governments," he said. Wantland called attention to the 1832 Supreme Court decision written by Chief Justice John Marshall which recognized that Indian nations are "dependent, sovereign nations."

**"This has nothing to do with being Indian, but the principles of real property law. That needs to be understood in Wisconsin. It is not. That's part of the tragedy."**  
—The Rt. Rev. William Wantland

Wantland pointed to the status of Puerto Rico as a comparable situation. Puerto Rico, he said, possesses full sovereignty in regulating internal affairs but is subject to the ultimate authority of the federal government in regard to the right to raise standing armies and to enter into agreements with foreign nations.

This is much the same as Indian nations today within the borders of the United States. "In that sense Indian nations and states are really on an equal level," he commented.

In regard to the treaties made between the United States and Indian tribes since the 1820s, Wantland also noted that they were made with the advantage on the side of the federal government. "When you read the treaties, it is obvious that most benefit flows to the federal government."

However, Wantland also feels it is important to note that treaties provide a right of right from Indian governments to the United States. The rights held by Indian nations are those which have been reserved in the treaties.



The Rt. Rev. William Wantland.

Further defining the status of treaties in the United States, he noted that the U.S. court system declares that the Constitution of the United States, the Acts of Congress and the treaties ratified by the U.S. Senate are the "Supreme Law of the land."

That status of treaties is upheld in the Constitution which says that the Supreme Law of the Land is binding on the states, any provisions of state constitutions or statutes to the contrary notwithstanding.

"Treaties are the supreme law of the land and all states are controlled by the terms of treaties either made with dependent nations, such as the Indians nations, or foreign nations, such as Africa, India or Europe," Wantland stated.

## Treaty rights as property rights

Further defining the nature of treaty rights, Wantland pointed out that treaties are governed by the principles which govern real property law. When the Ojibwa Nation ceded land and reserved certain rights, this reservation of rights is guarded by a principle of law which apply to all citizens of the United States, he said.

This points to a popular misconception—that treaty rights give special rights to a particular category of citizens. "That's simply not true," Wantland said.

Reservation of rights, such as mineral rights, is something that non-Indians do all the time when they reserve minerals or an interest in land and sell only a partial interest in that land, he explained.

The Chippewa sold only a partial interest in the ceded land. These are the reserved rights as defined by the Voigt Decision.

"This has nothing to do with being Indian, but the principles of real property law. That needs to be understood in Wisconsin. It is not. That's part of the tragedy," Wantland stated.

## Anti-treaty vs. anti-Indian

After defining the nature and status of treaty rights, Wantland went on to state that opposition to the principles which underlay treaty rights is possible. It would be a philosophical opposition to principles of law as they are applied to all citizens of the United States. This is not racist.

For instance, persons could object to anyone having the right to reserve partial interest in land, whether it be mineral rights, water rights, fishing rights and so on. Or certain persons could philosophically object to multi-level governmental sovereignties and argue against the sovereignty of tribes and states, preferring the establishment simply of a central national government.

These are instances when individuals or groups could object to the treaty rights of the tribes without being involved in a conflict of races or culture. Wantland feels.

However, what has happened in Wisconsin, he said, is the issue of treaty rights has become a vehicle for making overt, a covert racism which has existed in the state since its inception.

Racism, he noted, is far more than simple racial prejudice. Prejudice against other racial groups are common among all cultures, he noted. But racism involves the coupling of power with the prejudice, which gives some groups the power to inflict that prejudice.

"It means racism is going to be the activity of those who control the institutions of power," he said. So, for the most part in the United States, racism is a white disease. Where another culture is dominant in Japan for example, racism would be an oriental disease.

In Wisconsin, Wantland states, we have seen large groups of non-Indian people attempting to use the structures of the state to punish, push down, and oppress people who are different from them basically because they are different.

## This is racism

"99 percent of the people involved are involved because of racist reasons," Wantland said. "I didn't see anyone at the boat landings saying I am philosophically opposed to multi-layered sovereignties. There are people saying 'Timber Nigger,' 'Spear an Indian, Save a Walleye,' ... rocks being thrown, boats swamped, fists waving, shouting."

These are people trying to intimidate and oppress those who were exercising their legal rights. "This is racism," Wantland declared. "It is open. It is cruel. It is vicious. It is sinful and it exists. It is growing in Wisconsin, and it has become a blight on this sovereign state's history."

Wantland continued to criticize the failure of government leaders to recognize publically the racism that is apparent.

He said that the role of racism has been "downplayed by everyone from

(See Treaty, page 8)



Kathryn Tierney, attorney for Lac du Flambeau, spoke on "Negotiations and Litigation."

# and racism continued



Statement written in 1927 by the Grand Council Fire of American Indians, read by Vicky Ackley, Mole Lake Home School Coordinator, at the conclusion of her presentation during GLIFWC's 6th Annual Conference.

"We do not know if the school histories are pro-English, but we do know that they are unjust to the like of our people, the American Indian. They call all White victories 'battles' and all Indian victories 'massacres.' White people who rise to protect their properties are called 'patriots.' Indians who do the same are called 'murderers.'

White men call Indians 'savages.' What is civilization? Its marks are: a noble religion, philosophy, original acts and stirring music, rich story and legend. We have these.

We sang songs that carried in the melody all the sounds of nature - the running of waters, the sighing of winds and the calling of the animals. Teach these to your children so that they may come to love it, as we love it.

We had our statement, and their oratory has never been equaled. Why not teach children more of the wholesome proverbs and legends of our people? Tell them how we loved all that was beautiful that we killed game only for food, not for fun. Tell your children of the friendly acts of Indians to White people who first settled here.

Tell them of our leaders and heroes and their deeds. Put in your history books the Indians' part in WWII. Tell them how the Indian fought for a country of which he was not a citizen, for a flag for which he had no claim, and for a people which had treated him unjustly. We ask this to keep sacred the memories of our people."



Leonard Zeskind, Center for Democratic Renewal.

Hockings spoke about the comfort he found in seeing people in support of the tribal spearers present at the landings...people from a variety of organizations as well as races. "I never felt so good as to know those people were out there, waiting. If something were to happen, I felt that at least there were witnesses," he stated.

Hockings continued to speak of an Anishinabe prophecy which was told prior to the migration from the Northeastern seaboard to Madeline Island. The prophecy, he said, talks about a time in the 7th Fire, the last fire in the prophecy, "not unlike what is happening on our reservations today when we are just beginning to get our culture back after 100 years of oppression."

There is a cultural renaissance throughout the United States and the world for indigenous people, he said. The juxtaposition of hate and violence on the landings with the peaceful supporters as well as the misunderstanding and conflict between tribal people over treaty rights remind Hockings of the 7th Prophecy.

"With all the hatred, there is still a spark of something very beautiful out there...People from all over the country are out there," he said. The prophecy talks of a new people which will arise, Hockings explained, and to him it was like a new people was born where all races stood together at the landings.

Hockings also emphasized that the indigenous people must hold to their land and their rights. "People are beginning to see the validity of treaties," he said. "It will benefit everyone because there is going to be more cooperation between states, more understanding and more cooperation among people."

"I hope that some Anishinabe does not have to leave his blood on the landing," Hockings stated. "I hope some of the white race does not have to leave his blood on the landing and I hope none of the black race or yellow races has to leave their blood on the landings."

Rather Hockings believes that it is time to stand up and stand together as a new people and begin to address the sicknesses which have been tolerated by Mother Earth for centuries. Those, he feels, represent the mutual challenges.

## White rights groups nationally and in Wisconsin

In order to combat racism, people have to "rip masks off white supremacists to see what's underneath the robe," according to Leonard Zeskind, research director for the Center for Democratic Renewal, Kansas City.

To assist in this process, the Center for Democratic Renewal operates as a clearinghouse on hate group activities. In order to understand the white supremacist movement, you have to understand how it works, what it thinks, he said. "Like every other political movement, it has a notion of itself."

While the Center was originally formed as the National Anti-Klan Network, it expanded its focus to include various white supremacist groups in the past decade, largely because white supremacist movements are not confined to the South, nor are their activities aimed only at Blacks.

Zeskind's office is located in Kansas City and recently the Center opened a new office in Seattle because issues are also arising in Wyoming, Oregon, Montana, and Idaho, he said.

In looking at white supremacist groups, Zeskind commented that it is important to understand their notion of "disguising racism with a patina of other issues." While not a new strategy, it can be effective.

He mentioned sloganeering around 'states rights' in the 1960s, and more recently KKK and other groups' efforts to disguise their white supremacy with a veneer they call opposition to immigration and/or 'white rights.'

In recent years, also the Posse Comitatus tried to organize bankrupt farmers. Their purpose, however, was to break what they considered to be an "international Jewish banking conspiracy" that was taking farmers' lands.

In looking at racist, anti-treaty activity, Zeskind feels that it is operating at two levels: a core or cadre level and the mass level.

The core level is composed of individuals who are ideological racists, he said. They are white supremacists who come to this issue

posed primarily of "ordinary racists" who are working at the mass level in order to recruit for their particular groups.

Zeskind cited an example of a mass attack composed of 600 persons on a small group of people in North County, Georgia during a walk in celebration of Mr. Luther King's birthday. Of the 600 involved in the attack, about 40 to 50 were Klansmen - hard core, ideological racists.

People need also be aware that there are new white supremacist groups which are not the traditional KKK and Nazi groups.

Skinheads are one such group which Zeskind defined as a "self-perpetuating, sub-cultural youth phenomenon." The Skinheads were organized out of Dallas and while they may look and act ignorant, they have their own strategies, he said.

The Skinheads are also a national movement. "In fact," Zeskind noted, "members from Milwaukee and Minnesota appear at some Klan meetings in Georgia and Tennessee."

Zeskind also commented that a Nazi group does exist in Milwaukee, which moved there from Arlington, VA. While a small group, Zeskind feels it has been active in propagandizing anti-Indian groups

## Wisconsin's own white supremacists

While the Center for Democratic Renewal has tracked small groups of Skinhead and Nazis in Wisconsin, another larger grouping of which to be watchful is those who describe themselves as "Christian Patriots." This group, which originated in Wisconsin, rose out of the John Birch Society in the late 1970s and subscribe to several particular notions, Zeskind said.

This group recently moved their national headquarters from Arlington, VA to Appleton, WI, Zeskind stated. He feels it is probable that we will see more of them in the state in the coming years.

One notion common to Christian patriots is that of an international plot against America. Another is that of

# Treaty rights

(continued from page 7)  
the Governor's Office on down" and the role of a possible philosophical opposition has been upgraded far beyond those who would embrace them.  
"I dare say that most of those people involved in this issue have no real concept of real property law. I dare say the vast majority have only the slightest idea of political understanding, much less to develop comprehensive theories of political development," he stated.

## Solutions to racism

Wantland suggested a two-prong attack on racism in Wisconsin. One would be directed against the overt displays of racism at the landings, and one would be directed towards ignorance which produces it.

For the first, Wantland feels the spearfishing lands should simply be declared off limits to anyone except the spearfishermen and those involved in regulation of the spear fishery.

Similar problems arose in the Oklahoma oil fields, he said, and the oil fields were simply declared off limits. If the landings are off limits, there would be no rows and no confrontations.

Secondly, Wantland prescribed an intensive dose of public education, beginning with kindergarten and up through the educational system. The education should address such things as stereotypical images of Indian people, he said. The popular images of the "Magnificent Savage" of the past or the "Drunken Bums" of today are stereotypes which continue to prevail.

Schools should teach about great leaders of all people in Wisconsin and the contributions that were made. Government classes should address all governments—county, state, federal, tribal and city.

## Challenge to move beyond Selma

Wantland concluded with a challenge to move beyond the racism which we have typically identified with times past and places elsewhere.

"I felt I was caught in a time warp this spring in Wisconsin," he said. "I thought I saw the 50s and 60s. I thought I saw Selma and Little Rock and Montgomery. And we ought to have gone beyond that."

## Experiences with racism

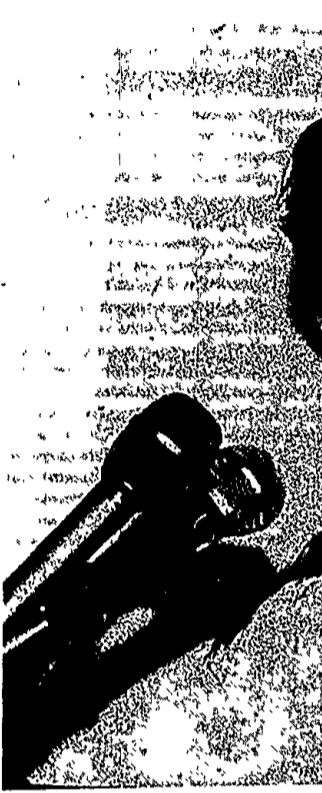
"Sometimes the tension is so thick, it can literally be cut with a knife," said Vicky Ackley, Mole Lake Home School Coordinator, as she described the Crandon school atmosphere during the Chippewa spring spearing season.

"Experiences with racism" was the topic addressed by both Vicky Ackley, Mole Lake Home School Coordinator and Nick Hockings, Lac du Flambeau spearer.

Ackley described the flow of events which led to the closing of Crandon Schools on May 6th following a bomb threat. The scenes at school mimicked the scenarios of racial conflict and violence being played out by adults on the spearfishing landings.

On May 2 Ackley said students from both Mole Lake and the Potawatomi Tribe were verbally harassed by non-Indian students.

On May 4 non-Indian students



Vicky Ackley, Mole Lake Home School Coordinator.

came to school wearing anti-treaty tee-shirts. An act which further heightened already tense feelings among students. Indian parents began having their kids sent home from school that day rather than expose them further to anti-Indian sentiments. The school acted to ban the tee-shirts.

On May 5th Forest County law enforcement officials were at the school helping to deal with "unruly, non-Indian parents" who were angry because their kids were sent home to change their garb.

On May 6th enforcement officials again returned to the school, which had received a bomb threat at 11 a.m. While Ackley stated she felt the threat was largely aimed at the principal of the school, schools were closed that day out of concern for health and safety of the children.

The following week saw few Indian students from either the Mole Lake Chippewa or Potawatomi Tribes present at school, she said, primarily because parents were fearful for the safety of their children.

Besides working directly with Indian students throughout the season, Ackley was at the Trout Lake boat landing when over 100 arrests were made. "These were very ugly scenes," she said, "whether at boat landings or schools. And our children are the innocent victims of a controversial issue."

She was also at Butternut Lake the evening of May 6th following a Solidarity Rally at Lac du Flambeau. Over 300 vehicles carrying tribal people and treaty supporters caravaned to the Butternut landing that evening.

Having arrived prior to the main caravan, Ackley stood with several friends from Lac du Flambeau on the landing. She and her friends had to tolerate racial slurs from the mob of non-Indians who had already



stantly telling to be killed. You are worried you have people hanging, throwing... feared for his... had to... could not give... by treaties be... and threats.



# Racism continued

(continued from page 8)  
oppose the National Council of Churches. A third notion cited by Zeskind is opposition to the federal reserve system.

Christian Patriots are essentially a marriage of a group called the Christian Identity Movement and the John Birch Society, he said. That marriage created a philosophy of not only a "one world conspiracy," but a "racial one world conspiracy." It not only opposed the federal reserve system and income tax, but also what they identified as the Jewish control of society that created the federal reserve and tax, Zeskind explained.

Not only were they opposed to migration, but it is considered as in to be for pro-integration because the Bible teaches the races should not mix.

A theological system of belief is core to the movement, according to Zeskind, and is based on a conception that white people are pre-Adamic and that Jews are a result of the mating of Eve and Satan. North America is the promised land and the Aryan people are the "Lost Tribes of Israel." The final battle, Armageddon, as described in the Bible will take place in America and will be a war of the races, with the white people defined as the forces for good and the other races the forces of evil.

Christian Patriots also draw a distinction between statutory and Christian common law, regarding statutory law as illegal. Common law, Zeskind said, descends from Anglo-Saxon institutions and puts members at odds with statutory law.

"Therefore, things like treaties are just another bunch of statutory law for these folks. That's a core belief," Zeskind said. This belief leads some hard core members to totally sever relations with the state, turning marriage licenses, social security cards, drivers licenses and finally birth certificates back to the state.

They also draw a distinction be-

tween 14th Amendment citizens and sovereigns, he said. They regard white people from northern Europe as organic sovereigns of this society to whom all rights are reserved; whereas the 14th Amendment, which gave slaves their rights, created another class of citizens who had rights bestowed on them by the Constitution.

For them this creates two distinct classes of citizens, Zeskind said. One which is a state-sanctioned citizen and another which is composed of the organic sovereigns.

**"This is not the kind of movement that dons white robes. It requires certain understanding in order to rip off the masks because they are cleverly disguised."  
—Leonard Zeskind**

Zeskind said there are about 30,000-50,000 hard core believers in the Christian Patriot Movement with about another 100,000 who subscribe to a softer version.

However, the Movement was considered so significant that the National Council of Churches published a booklet on the group which was prepared by the Center for Democratic Renewal.

"This racial theology does not show up as white robes and swastikas," Zeskind noted, "but informs the white supremacist movement, none-the-less."

Another organization which wears a more "political face," according to Zeskind, is the Populist Party. The first leader of this party was also a charter member of the Posse, he said.

The Center for Democratic Renewal sees the Populist Party as reorganizing and possibly using the treaty rights issue for recruitment.

Zeskind says they have "been bringing PARR to meetings and plan to run a PARR member for the

Attorney General's office in the 1990s.

While the Populist Party has not been successful in getting candidates into office for the most part, a few have been elected.

"This party has at its core long-term, hard core neo-Nazis like Ralph Forbes, David Duke, Van Loman, who the Invincible Empire Grand Dragon, Cincinnati," Zeskind commented.

The Populist Party is national and shows up across the northern tier of states. They use issues to oppose Indian rights, such as water rights in Montana where the draught has put farmers in difficult circumstances.

They seize the issue to make it appear they are talking about water, not race, he explained.

Zeskind identified Senator Jack Metcalf, Washington as a politician who has long used the "anti-federal reserve bandwagon" and opposed Indian rights. Metcalf, he said, spoke at a Populist Party meeting, which is rare for an already-elected official.

Metcalf has also been in Minnesota, stumping on anti-federal reserve and "you can bet he's stumping anti-Indian rights because he's the leading opponent of Indian rights in the Washington legislature," Zeskind said.

There is an alliance between these various groups across the northern states, Zeskind continued, and they are building on it. "This is not the kind of movement that dons white robes. It requires certain understanding in order to rip off the masks because they are cleverly disguised."

## Institutional racism as it impacts the Chippewa

Institutional racism is a "subtle" area, according to Dr. Thomas Vennum, Smithsonian Institute, Washington, D.C., however it invades all areas of our lives including government agencies schools,

and law enforcement agencies.

In order to illustrate the manner in which institutional racism works, Vennum chose the area of sports, particularly the game of Lacrosse. The fact that La Crosse is an Indian game is not fully appreciated by those who play it, he noted. Neither is it appreciated that the game is at the basis of team sports, which had not evolved for Europeans who first witnessed Indians playing the game.

By the mid-19th century, however, whites had totally usurped the game and in 1880 Indians were ban from playing International Lacrosse. This ban was broken, Vennum said, only last year when Indians were recognized by the international Lacrosse community and are being allowed to compete in their own game. It took over a century to remedy that, he noted.

As a museum employee, Vennum also pointed many of his comments to the attitudes and policies of museums towards Indians which reflect prejudice.

While problems have and do still exist, Vennum does believe that the situation is improving, particularly in the Smithsonian Institute. He noted that the last available space on the Mall in Washington, D.C. has been earmarked for a much-needed Native American museum. He pointed out that the current Museum of American Indians in New York has "been languishing for years in a crime-ridden neighborhood" with a declining visitorship.

When Native American collections were first begun, Vennum noted, it was from a perspective that Indian culture may become extinct. The Bureau of Ethnology recognized that it needed to be saved, like saving the buffalo, he said.

Researchers went out to collect artifacts and materials on all aspects of culture, including sports, music, medicines and material culture. Published information, however, was not entirely correct, so corrections on those early observations are needed.

Also, he noted that questionable ethics were used in obtaining collected artifacts. Vennum cited Walter Hoffman's study of the Grand Medicine Society which exposed Midewin secrets not meant to be printed.

During this period of history, Vennum said, the national policy was to "Americanize" the Indian and get rid of the primitive and savage part of the Indian culture. Acts of Congress, such as the Dawes Act, allowing allotment of Indian lands, further contributed to the breakdown of Indian society.

Likewise, activities of the Smithsonian at the time, particularly in the area of physical anthropology, reflected racist attitudes. Vennum cited the example of one anthropologist who did experiments regarding blood quantum at the White Earth Reservation, MN.

The scientist collected hair



Thomas Vennum, Smithsonian Institute, Washington, DC

samples, took skull measurements of the people in order to come up with data which could determine blood quantum. One method that Vennum described as "a particularly odious and confusing technique" was scratching fingernails across the chests of Indian people. The anthropologist thought that he could determine whether an individual was half or full blood by how fast the blood came to the surface.

Another area which reflects that attitude of historians and anthropologists of the time is the photo collection in the National Indian Archives.

Indian delegates who came to Washington, D.C. on business were scurried over to be photographed. Photos were taken of the unwitting subjects from the front, back, side - obviously for the purposes of anthropological study, Vennum noted.

If delegates did not arrive in traditional dress, a costume room was available to accommodate the lack. However, items used did not always reflect the individuals tribe, nor were they properly used. Pictures in the collection have individual's from four different tribes wearing the same headdress, he noted.

In the photo entitled "Winnabago Scribe," an Ojibwa chief is wearing a feather duster for headdress. He is posed on the floor scratching something on birch bark. Around him are Ojibwa Medicine Drums with the wrong sticks and an Honor Medicine Bag wrapped around him like a fur muffler. "If you look closely, each item still has museum I.D. tags hanging from little strings," Vennum related.

Vennum also alluded to the period when Indian skeletal remains arrived at the museum by the boxload after skirmishes. "U.S. army surgeons were responsible for collecting the remains and were involved in grave robbing and decapitating corpses. Sacred objects such as Medicine Drums and Gods carved by the Zuni were also taken," Vennum said.

In the area of written history, "strongly ethnocentric viewpoint

was applied to many of these cultural items being described," he indicated.

He used early writings on music as an example. Harmonic music was considered superior to "primitive music" which was melodic, and considered on a lower level of the musical evolutionary scale. Therefore, for entertainment purposes, such as in Hiawatha pageants, Indian people were taught to sing their songs in four part harmony, rather than use the traditional melody.

While the methods of the past disregarded the integrity of the Indian people and reflected ethnocentric attitudes, changes began to occur around the 50s and 60s, Vennum said.

There is more folk emphasis and a willingness to allow people to describe themselves, particularly at the Smithsonian. The movement is away from the scientific analysis of objects by white scientists, for instance, towards an effort to bring artists, musicians and craftsmen on the scene to be heard.

In the Department of Anthropology no Indians were on staff until 1986. This has changed. There is more Indian staff, more contributors authors Vennum said. Now there is a movement to increase the number of internships available for Indian people. There is a public education program working on breaking down stereotypes and efforts to correct errors in prior writings. There is a shift from using Indian people as entertainment to letting them speak for themselves, Vennum said.

The methods employed in the past by historians and museum staff reflect a then accepted disregard and disrespect for Indian people in their "scientific" pursuits. This serves as an example how a major national institution can reflect the racism of a society and how it can perade.

However, Vennum feels that at least within the Smithsonian recognition of that racism has begun as well as the slow process of correction and re-education.



One of the break-out workshops discussed tribal enforcement and tribal courts. Presenters included, from the left: Pat Zakovec, 1854 Authority Coordinator; Jim Thannum, GLIFWC Natural Resource Development Specialist; and Myrtle Tolonen, Keweenaw Bay Indian Community Tribal Chairperson.

# Solutions to racism addressed

While the first panel addressing racism and Chippewa Treaty Rights identified the problem confronting Wisconsin in terms of racism, the following panel looked at the role of several major institutions in finding solutions. Representatives spoke from the perspective of the church, education, political leaders and the tribes.

## Role of the Church

Father James Dolan, Holy Family Episcopal Church, Oneida, challenged conference participants and especially Christians to follow the radical example set by Christ in support of peace and justice.

Dolan, a proponent of Christian activism, described Christ as a "radical and rabble-rouser" as well as a rabbi and teacher who called the common people.

Dolan also defined the church as a multitude of people from all races, a brotherhood not by blood, but through baptism. That baptism, he said, brings individuals into a new way of life and living which reaches far beyond one hour in church on Sunday.

In relation to societal problems such as racism, Dolan feels that the church should be at the forefront, showing Christ as the radical he was when he tipped over tables and

tossed moneychangers from the temple.

"I didn't realize until recently that John Birchers lives just twenty miles from my house," Dolan commented. "That tells me what I must do."

The Church, he said, must educate. Dolan advocates education by Christians at the grassroots level. "Start with one or two people," he said. "Take your minister aside or other people in your congregation. Tell them what you have learned here." He encouraged the initiation of education on a one-to-one level and the courage to take a stand for justice.

**"Stand right; be peaceful; don't be pushed around; be firm in the conviction that Jesus Christ stood for peace and justice."  
— Reverend Father James Dolan**

While the northeast sector of the state is not as directly effected by Chippewa hunting and fishing rights, Dolan noted that in 1986 a similar dispute over land arose in relation to the Oneida Tribe.

At that time the church was approached for support of the tribe and stepped forward with a press con-

ference advocating for the Oneida's claim. Headlines resulted. Dolan explained "Episcopalians to back Oneidas in land dispute" and similar headlines hit the press across the state, he said.

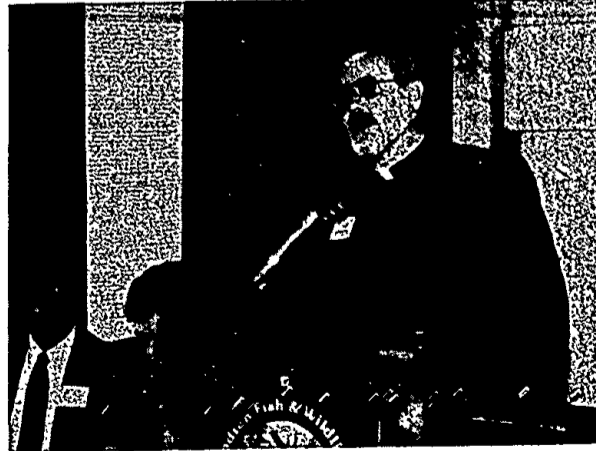
"The Church," he said, "must stand for what is right, not by man-made law, but by the law of the Creator." This stand, he feels, must be made despite unpopularity or criticism.

Dolan noted the conflict felt by many ministers with congregations in the ceded areas, congregations to which PARR members belong. The role of those ministers, Dolan said, was to "Stand right; be peaceful; don't be pushed around; be firm in the conviction that Jesus Christ stood for peace and justice."

The role of the Church, he noted, "has become sloppy in the last several years." Following the Churches active role in the civil rights movement, he said, it "sat back on its haunches for the last several years," thinking everything was now all right.

"That is not so," he said, adding that "the issues are not just race issues, but minority issues."

Dolan emphasized the need for activism by the church members. "The core of the church is people," he explained. "The Church is the



Reverend Father James Dolan.

body of Christ. Individuals must be in the forefront."

While clergy have their own role as facilitators and initiators, the people will be the educators, he said.

"Christianity," he concluded, "is a way of life, not just a label. If we understand this, will be well on the road to bring about change in relationships with all people."



## Role of Educators and Schools

William Gollnick, Assistant Chancellor, UW-Green Bay, began his presentation on the role of education commenting that "there is no doubt that racism is alive and well in Wisconsin. The fruits of our labor," he added, "will be the children."

Gollnick stressed the need to look at one another as individual mem-

bers of different cultures, different religions, and different races. "Yet we must realize we are all members of the same human race and need to do something cooperative and as a whole."

He began by defining some of the "enemies" which are at the roots of problems relating to racism. He described them as:

- Ethnocentrism: the feeling the "we" are right and "they," the other group are wrong;

- Egocentrism: the belief that "we are superior or the best in comparison to them"

- Cognitive dissonance: a view point and/or worldview shaped by our own experiences which creates and understanding of "how life is supposed to be," limited vision and acceptance of differences.

- Nationalism: an affirmation of our country, right or wrong.

While many of these phenomena have positive aspects to them, Gollnick pointed out that they can be very harmful and the basis and/or justification for social problems.

He noted that at the boatlandings protesters were commonly seen waving American flags, a form of nationalism and pride of their country. But despite the show of flags, the protest against Indian rights "is (See Solutions, page 10)

# Solutions to racism continued

(continued from page 9)

not what this country is all about," Gollnick said, noting also that many atrocities have been committed in the name of nationalism.

The problems surrounding treaty rights have affected the schools and those problems are not confined to the northern region, Gollnick said. They have affected schools as far south as Milwaukee.

**"The education process has never attempted to educate about things that are Indian or from other cultures. Rather the opposite is true. It has sought to diminish the culture."**  
—William Gollnick

Educators can help address these issues with factual information, dispelling misinformation and myth, he said. They can help by promoting more understanding of tribal histories and treaties as well as culture. Indian culture, Gollnick noted, is important in order to understand why Indian people stand up for these rights.

"The education process has never attempted to educate about things that are Indian or from other cultures," he said. "Rather the opposite is true. It has sought to diminish the culture."

In the quest of the melting pot, Indians as well as other minority cultures have been stripped of their identities. However, Gollnick commented, "If the 'melting pot' was to work, Indians would have melted by now."

The traditions and culture of Indian people, he said, direct us to maintain certain responsibilities within our culture. Educators need to understand this and understand that Indians are in a state of transition in order to begin to address the issues affecting Indian people, he said.

### Positive directions in education

Noting progress in relation to recent legislation which mandates inclusion of Indian sovereignty in the state curriculum by 1991, Gollnick felt steps are being taken in the right direction.

The legislation which passed in 1989 provides for tribal sovereignty to be taught at least twice in the elementary years and once at high school level, Gollnick said.

In addition, training and technical assistance monies were made available for development of appropriate curriculum which will relieve teachers of researching the topic independently.

Two conferences for educators were also included in the legislative package, one for each biennium. The conferences will be designed to provide educators with background on tribal issues, Gollnick concluded.

### Role of Political Leaders

Robert Wallace, aid for Representative Marcia Coggs, presented the following statement prepared by Rep. Coggs. Coggs was unable to attend due to a death in the family. The statement is reprinted below:

I must first apologize for my not being at your wonderful event, but I must excuse myself to a death in the family. I would however, like to extend to you a few thoughts I have regarding the role of a politician in finding solutions to racism



William Gollnick addresses the conference as Sharon Metz, Lutheran Human Relations Association (left) and Father James Dolan concentrate on his presentation.

and Indian treaty rights.

I think we should first establish what I believe the role of a politician is. As we all know there are as many different kinds of politicians as there are people. I, like many of you, believe a legislator should be a leader in clear and progressive ideas, a coalition builder, a voice for the underdog and a person who acts on behalf of what he or she knows to be good for their constituency, the state and in some cases, the country.

I feel I had to outline for you what I feel a legislator should be so that we had some reference point to work from. While I understand that my viewpoint is ideological, it is what I aspire to achieve.

But alas, there are a number of policy makers that have other agendas. So often we hear of policy makers destroying coalitions so that their own designs may be met; muffling the cry of the underdog and distorting the "Truths that we know to be self evident" until they are twisted fragments of what they once were.

Taking into consideration the dynamics I have outlined and then considering the volatile issues of race and treaty rights tossed into the political arena, one can easily understand why these issues have not been resolved within the various chambers of the capitol both here in Madison and in Washington D.C.

Race and treaty rights bring along with them not only issues fraught with economic ramifications to all involved, but it has the specter of political survival or suicide.

Racism in the state of Wisconsin, as in every other state of the union, has been maintained for economic as well as social reasons.

In years gone by this state and this

country reveled in bounty at the expense of the underclass, which unfortunately has consistently constituted a disproportionate number of minorities. Now we all are paying for those years of plenty for some with increasing crime, drug abuse, teenage pregnancies and medical expenses. The rebelling underclass has been blamed for inflicting these problems upon our society. We fail to see these conditions as the harvest of a crop we planted long ago.

**"Racism is a tricky thing to try to reform in the political ranks. It lends itself not so much to the good of the people, but the will of the people; the two, unfortunately are not always synonymous."—Rep. Marcia Coggs**

Since so many individuals in the political arena as well as outside of it, fail to recognize racism for the complex economic and social animal that it is, it continues its reign of terror of some, while sacrificing the future livelihood of all.

Until many more political figures in this state take it upon themselves to teach their constituency, to whom they are reported to serve, and explain to them that it is in their own best interest to eliminate racism there will be no change.

Racism is a tricky thing to try to reform in the political ranks. It lends itself not so much to the good of the people, but the will of the people; the two, unfortunately are not always synonymous.

I have watched the course of the

treaty rights negotiations in this state for some time. While many opponents of treaty rights try to argue that it is an environmental depletion issue, they are masking the real economic agenda that is smoldering beneath the racial slurs and harassment.

We are not naive enough to believe that all of the commotion over treaty rights is merely about tourism or the ability of individuals to catch five fish as opposed to four; we know that the Governor has to satisfy the people that got him into office: namely big business and the status quo. They have money-making schemes that the Chippewa's are impeding. Concessions are apparently being made, but they are not true concessions; it's worth far more than \$50 million dollars to the corporation of this state to have treaty rights either altered or abrogated.

I am in no way commenting on the Chippewa's decision to deal with the State; it is their lives that will be directly affected and I respect whatever decisions they make. I still cannot conceal my displeasure with the pressure the state is placing on the Indians.

The Indians have had so much taken away from them. It seems preposterous that they should have to fight once again for something that was and is their birthright. This is their land and we are at best tenants; history has documented that and no subsequent deliberations by any power can change that fact.

Political figures and constituents must learn that the denial of rights to any people is the denial of rights to all. As long as various constituents and politicians cling to their denial of what is really going on in this state and this country as far as basic human rights are concerned the seeds of hope will remain nestled between the rocks of chaos and self-destruction never reaching the light of common good and plenty for all.

Many of my colleagues have grown weary of the battle for equality as may some of you here today. But I always keep the thought that although things are as they are now; there will be a day of reckoning. The real is not instigating change, it is waiting for it to become a reality.

### Role of the Tribes

The concluding panelist of the conference was Dr. Earl Barlow, Director of the Minneapolis Area Office of the Bureau of Indian Affairs. Barlow emphasized the need

for tribes to actively exert sovereignty in his presentation on the tribal role in looking for solutions.

Barlow reminded listeners that society can only exist if communications between its various members continues to flourish. He questioned whether U.S. society has through failure to effectively interact and communicate with some segments, excluded many people in their concept of this society.

While the Constitution guarantees every citizen a republican form of government, Barlow had to ask "How does a minority get representation in a democracy?"

While the challenges facing modern day tribes are awesome, Barlow contends that the role of tribes in finding solutions is "most important and offers the greatest hope."

**"How does a minority get representation in a democracy?" Dr. Earl Barlow**

To Barlow the "future of indigenous people hangs in balance and lies in the hands of tribes and tribal leadership." History, he said, sadly relates the story of indigenous populations succumbing to the pressures of colonization. The challenge facing the tribes is one of continued survival amidst that pressure.

In regard to the relationship of the BIA and tribes, Barlow used the story of Jim Thorpe. Thorpe's coach, Pop Warner, knew his player's strength and his decision as a coach was to "just let him run." That's what the BIA is telling tribal leaders of this state, Barlow said "We're going to let you run."

He noted that tribal governments were established 55 years ago under the Indian Reorganization Act. The Act provided for the election of business councils for the tribes. At the time of this Act Indian people were faced with implementing a system of government which was foreign to them and have "done their level best to make it work," he said.

While Barlow is aware that many criticize the tribal governments as being "primitive" because there is no division of power, he also noted that traditionally tribes never had such a system. They were governed by consensus, he said, and leaders earned that role.

Barlow also noted that a "back-

lash against Indians," similar to the one being experienced today occurred in the 1970s as well. At that time non-Indians and a few Indians organized to oppose Indian interests. An organization entitled Montana Opposing Discrimination (MOD) was formed. Out of MOD grew the national organization the Interstate Congress for Equal Rights and Responsibilities (ICERR).

Bills were introduced to Congress at the time abrogation bills which would remove Indian jurisdiction and the like. The executive and judiciary branches of government were silent and Congress backed off, Barlow noted.

The only support came from a group of Eastern legislators who acted on principle to maintain tribal status, he said, adding that Indian people have always had to look to that region for support because legislators in other regions won't be re-elected if supportive of Indian issues.

Barlow described three principles of federal Indian law with which tribal leaders must be conversant and understand. Those principles include: 1. tribal sovereignty which extends from aboriginal rights 2. federal power and obligation, the trust responsibility 3. reserved rights. Of these Barlow believes tribal sovereignty to be the key element for the survival and strengthening of tribes.

Along with the exertion of sovereignty, education will play a key role, Barlow said. The purpose of public education is to transmit the culture of the dominant society he said. On the reservation, Indian culture is dominant and, therefore, schools should be emphasizing Indian culture. Tribal government and federal government for instance, should take precedence over city government, because they ultimately will be more important to the children.

Lastly, Barlow called for unity among Indian people. "Indian people have never really united," he said. "We have never really had a cause to unite us."

However, that unity should never extinguish the individual identity of each tribe. Unity is needed to preserve the identities, customs and cultures of each unique tribe, he said.

In conclusion, Barlow reiterated the need for tribal leaders to exercise in sovereignty, pursuing and exerting tribal self-determination.



Bob Wallace, Legislative Aide for Rep. Marcia Coggs.



Dr. Earl Barlow, Minneapolis Area Director, Bureau of Indian Affairs.

# Co-management continued

(continued from page 6)

consist until the Voigt decision. The DNR has no wild rice management program, so tribal contributions to management will be significant. Co-management for wild rice has required gathering very basic information on the resource and harvest.

The management history of inland fisheries falls somewhere between deer and rice. The DNR has little detailed or timely information on specific fish populations, but claims that its information base was sufficient to manage an intensive angling fishery. Setting quotas for efficient harvest methods and achieving a perception of equity between treaty and state fisheries requires more and better information on the resource and the angling harvest. This presents a challenge to the DNR's fishery management

philosophy and program, and some DNR managers get very defensive about this. This defensiveness, along with the distribution of the resource over the hundreds of discrete waters, has made co-management of inland fisheries difficult to develop.

Most inland lakes are surrounded by private lands with homes, cottages, and resorts. Many owners think that their property rights extend to the fish in the lake. While this is not true, their property values and livelihoods may be related to the quality of fishing. Many of these people are willing to invest their time, energy, and money in protecting their personal economic interests and their way of life. Guides, bait shops, and other businesses are in a similar situation, but would generally have an economic stake in

all lakes in a region, rather than just one lake. Co-management of inland lakes should take into account the attitudes and potential contributions of these economic stakeholders.

How will co-management really work on a northern Wisconsin lake? Lessons from the Pacific Northwest stress the importance of starting with small projects and building upon success. For example, a local lake association might use its development fund to purchase a work boat and fyke nets. During the spring spawning season, volunteers from the lake association, along with a trained technician from a tribal conservation department, might lift the nets to capture and mark walleye and collect other data. Later in the spring, a GLIFWC or DNR crew electrofishes the lake to

recover marked fish for a population estimate. (The resort owner can now tell his guests about the 10-pound walleye he personally handled and marked during the spring. He is also satisfied that the walleye population is healthy, because he has seen it with his own eyes.)

DNR fish managers might learn from DNR deer managers that the harvest is a valuable source of information, and that harvesters should shoulder some responsibility for the effects of their harvest. The State should require muskies to be registered because of their value and scarcity. Guides should be required to report their catches as they are required to do on the Great Lakes. The growing number of angling tournaments should be used as a source of information. Resorts and

lake associations should protect their personal interests in a lake's fishery by developing ways to monitor catches, in cooperation with DNR.

The future of a fish population is in its young fish, so tribes and other stakeholders should take an active interest in reproduction and stocking. Volunteers from resorts or lake associations can assist GLIFWC or DNR in reproduction surveys, to reduce agency costs and satisfy themselves that reproduction is occurring. In waters where stocking is beneficial, tribes and other stakeholders can participate in all aspects of a stocking program, from taking eggs from speared or netted fish to hatching, rearing, stocking, and evaluation of success.

The power of the tribes to set harvest quotas and the personal and economic interests of local stakeholders set up a dynamic situation where creativity and leadership can produce results that meet everyone's needs. Direct commu-

nication must take place at the local level, between tribal governments and lake associations, chambers of commerce, county governments, or other responsible parties. The great number of fishing waters and the diversity of local concerns makes it essential that co-management of the fisheries be a flexible system for interaction on the local level, not a rigid formula. Thus co-management can be a process for meeting the diverse needs of each of the Chippewa bands and their neighboring communities.

Proposals should be written for cooperative assessment, monitoring, and stocking programs that are jointly funded by state and federal dollars. These programs will only become a reality if there is broad agreement about the need for co-management and its potential benefits. GLIFWC staff has had many in-house discussions, and we are prepared to offer specific programmatic suggestions as to how co-management can be achieved. (See co-management, page 15)



# Tribal resource management

Tribal resource management, including a discussion of regulating off reservation treaty harvest and co management, was discussed by panelists on the second day of the conference. The panel was composed of biologists currently working in some capacity with tribal resource management.

## Biological management of off-reservation harvests

Neil Kmiecik, Inland Fisheries Biologist, Great Lakes Indian Fish and Wildlife Commission, provided an overview of strategies used by the Chippewa in managing off-reservation treaty harvests of various species.

Two regulatory strategies were identified by Kmiecik, including "direct" and "indirect" regulation. Species under direct regulation for the tribes are walleye, musky, antlerless deer, fisher, otter, bobcat and lake trout.

Kmiecik gave examples of how these species are directly regulated. For instance, walleye and musky are harvested under regulations which require predetermined lake quotas for each lake that has the species and through the use of a nightly permit system. Total monitoring of the catch each night on each lake also occurs.

For antlerless deer, tribal regulations are based on unit quotas, comparable to lake quotas, Kmiecik explained. A tagging and registration system is in effect which is identical to the state system for regulation of antlerless deer.

Fisher, bobcat and otter are also harvested under a quota system and tagging and registration is required.

The lake trout harvest is regulated through a unit/inter-tribal/fisherman quota—a three-tiered system, Kmiecik said. Tagging and catch reports are also part of the regulatory process.

The system employs forms for use during the various seasons, tags for deer, otter, bobcat and lake trout. The spearing permit, Kmiecik explained, also includes gillnetting, fyke netting and seining. Another form is required for tribal off-reservation angling and winter spearing.

Indirect management is typically used by the state in regulating angling, Kmiecik said. Tools of indirect management include bag limits,

size limits, seasons and refuges.

The tribes, he said, have adopted indirect management for pike, bass, panfish and trout. Hunting methods and seasons are also used to indirectly manage the harvest of antlerless deer and waterfowl, where a bag limit is also employed.

For whitefish, closure during spawning, regulation of mesh size and size limit of harvestable fish are management techniques.

## The spring spearfishing scenario

Kmiecik went on to describe in detail what is required of tribal spearfishermen during the spring fishing season. First, he said, the fisherman/woman must obtain a permit each night. Permit stations are located on each reservation.

That permit requires they fill in the month and date, provide tribal identification, name of reservation, name of lake to be speared, the county, and the bag limit for walleye and musky. Any other restriction is also cited, he said, such as if an experiment is being performed on the lake. The permit must be signed by both the fisherman and the staff person who issued the permit.

Explaining how the permit system works, Kmiecik gave an example of ten lakes being selected for one particular night. Bag limits are set for each lake for the night and permits determined. For instance, if the total quota of fish on a lake was 100 with a bag limit of 20 fish, then five permits would be issued. Once those are issued, the lake is closed.

Unissued permits can be obtained on the landings or at a warden office later in the evening, he said.

At Lac du Flambeau, most spearers meet on the reservation and groups caravan together to a given lake. Creel clerks and wardens are also assigned to each lake.

In 1989, an increased amount of enforcement was also present at most landings and landings were generally blocked off by enforcement. Enforcement personnel included GLIFWC and state wardens as well as local law enforcement officials and the state police, he said.

Adding to the crowd of enforcement, protestors, treaty supporters and tribal spearers are the ranks of media from throughout the state. Reporters were usually given a roped off area designated for the



Lac du Flambeau tribal spearers are issued nightly permits.

press, he said.

Frequently, he said, there is a lot of congestion and considerable time is taken to simply launch the spearer's boats and park their vehicles due to the crowded landings.

On the water, spearers faced DNR patrol boats which separated them from protestor boats. Usually two DNR boats would follow a spear boat in order to prevent protestors from interrupting spearing.

Kmiecik went on to describe the spears used by the fishermen and the use of either hand-held lights or spotlights on head gear. The light, he said, is used to scan the water and is reflected back by the walleye's eyes, which aids in locating the fish.

When fishing for the night is completed, spearers are required to return to the landing where their boat was launched. There, creel clerks monitored the catch by entering the number of fish, lengths, sex and register them by species. That information is later computerized for final harvest reports, Kmiecik added.

Fish statistics are called into an administrative assistant at GLIFWC's office each night. The assistant computes totals for each night's harvest and has the information available to release to the DNR and the media by 10 a.m. the following morning.

## Safe harvest level figures explained

The conservative nature of spring spearing as it is based on safe harvest level statistics was explained by Kmiecik in conclusion of his presentation.

Choosing the Turtle-Flambeau Flowage, a 13,000 plus acre lake in Iron County as an example, Kmiecik described the determination of safe harvest level and the resultant tribal quotas.

In 1975 the DNR performed population estimate on the Flowage, he said, which resulted in a calculation of 93,700 walleye in the flowage. In a creel census taken during the '75-'76 season, the DNR estimated about 35,500 were harvested by state anglers.

In 1986 the tribes took 2,560

from the Flowage, in '87 they took 5,700, and in '88 they harvested 6,000. In 1989 the Flowage was closed to pulse fishing because the tribes had speared more than 68% of the safe harvest level for previous years.

In 1989 the DNR also performed another population estimate, calculating that there are 83,600 walleye in the Flowage. If the Total Allowable Catch (TAC) were to be calculated that population estimate of 83,600 would be multiplied by the exploitation rate of 35% and a TAC of 29,266 fish would result, Kmiecik explained. Since the flowage was closed to tribal harvest, those fish were available for state-licensed anglers.

In 1990 the tribes can harvest the Flowage. The Safe Harvest Level, however, would be determined by a different system. Under the Safe Harvest system, the Safe Harvest Level would be calculated by multiplying the TAC by an additional 35% entitled the "safety factor," Kmiecik said.

The new figure, or Safe Harvest Level, would then be 10,443 fish available to both tribal spearfishermen and state-licensed anglers.

In 1991 the safety factor will be changed to 30% and the Safe Harvest Level would be 8,780 walleye for both tribal and state fishermen.

If the tribes were to harvest the Flowage in 1992, a two-year old population estimate would not be used to determine Safe Harvest Level, rather the system would automatically revert to a "regression formula" which would calculate a harvest level of 4,382 walleye available for all user groups.

## Tribal resource management nationally

The need for inclusion of tribes as resource managers at the federal level was stressed by Dewey Schwalenberg, Director of the Native American Fish and Wildlife Society (NAFWS). While over 90 million acres of land is owned by tribes nationally and with the development of natural resource programs by tribes in the last several decades, the continued exclusion of tribes in planning and decision-making is both unwarranted and unwise, according to Schwalenberg.

NAFWS is a national organization representing 38 tribes in six regions, he said. The Society was formed originally because tribal resource managers recognized "a complete void of interaction with the federal government and national fish and wildlife organizations."

To seek to provide a forum for interaction, tribal resource managers formed the NAFWS as an organization that can "talk the same language as national fish and wildlife organizations," Schwalenberg explained. The Society, which formed eight years ago, set up a national office two years ago in Denver, Colorado.

Six or seven years ago little was known about tribes involvement in resource management in the state, Schwalenberg noted. "People were aware of hatcheries or timber programs operated on and by reser-

ervations. In reedy management programs on reservations have been operating for years. Schwalenberg alluded to the Lac du Flambeau Fish Hatchery, which has been operating since 1937 and annually stocks reservation lakes.

At the national level, tribes have been traditionally represented through the Department of Interior The Bureau of Indian Affairs and the U.S. Fish and Wildlife Service put together programs for tribal resource management, Schwalenberg explained.

However lack of proper funding and the number of people required to manage over 9 million acres of land tribes currently control in the country, required that tribes establish their own management programs.

Currently, the federal government is looking for alternative management initiatives and is being advised by organizations nationally, particularly tribal, non government organizations such as NAFWS, he said.

NAFWS, in turn, is trying to organize other tribal organizations across the country who have vested interest in the resources, such as the Native American Rights Fund (NARF), Council for Energy Resources Tribes (CERT), the Inter-Tribal Timber Council and the National Congress of American Indians (NCAI).

This effort is aimed at establishing a clear understanding of what tribal resources are capable of providing to the tribal governments, Schwalenberg said. This is in terms of economic opportunity as well as meeting social and cultural requirements of tribal members.

In the past, economic opportunities, such as those in fish and timber, have been seen from the viewpoint that "somebody ought to go in there and market those resources and make some money for the tribal governments and assist in the management of the resources," Schwalenberg said.

However, this perspective created problems, he continued, because the resources are finite and tribal governments have to look to future needs of the tribe, then economic development.

Schwalenberg criticized the omission of tribal resource management programs in many of the federal acts which have provided assistance and incentive to state programs. He cited the Fisheries and Wildlife Enhancement Programs

which provided a three to one federal match of state dollars to manage resources. However these acts, he noted, made no allowances for participation of tribal governments. Similar Acts were passed in 1937 and 1954, both overlooking the tribes as resource managers.

"Tribes have the responsibility for managing resources, but have not been included in the mainstream of the financial picture which is supposed to allow management to occur," Schwalenberg said.

"What good is management authority, if there is no mechanism for movement of funds to those management purposes so the job can be done?" he queried.

The real demand tribes are placing on the federal government is to be included in a government to government relationship, Schwalenberg said.

He noted several major initiatives in resource management on the federal level, citing the North American Waterfowl Management Planning Act as one.

The decline of waterfowl has prompted federal and state management agencies to compose a comprehensive management plan for waterfowl, he said. This has surfaced in Congress as the Wetland Conservation Act, with \$26 million as the driving force behind waterfowl management. However, the Act is passing Congress practically devoid of tribal language, he said.

Tribes are included only as ex officio advisors to a nine member committee, he stated, while those same tribes control 90 million acres of land in the nation.

Similarly, the Wildlife Coordination Act, which is largely shore line zoning, contains no tribal language.

While Schwalenberg is pleased that problems are being addressed at the national level, he feels recognition of tribal managers at the appropriate level is being sadly overlooked. Comprehensive planning, such as is being enacted at the federal level, should also be initiated at the state level, he said but with more participation from all managers in the planning process.



## Co-operative management: A Vision for the Future

(The following was written by Robert R. Jackson, Section Chief, Fish, Wildlife and Recreation, Bureau of Indian Affairs, Minneapolis Area Office and presented as part of the Tribal Resource Management Panel.)

"Co-management" is an emerging concept that encompasses a variety of agreements and interactions for managing local common property resources (Pinkerton 1989). The term is relatively new and does not evoke a well-defined image. As a first step towards understanding co-management, consider the more widely understood term — "co-operative management." Whether in planning and organization, or in operation and implementation, co-operation is the starting point. Government and non-government agencies, users and other groups may join together and cooperate in the management of the resource for a variety of reasons, and that co-operation may produce a wide range of benefits.

It is co-operative action by two or (See Tribal page 12)



Neil Kmiecik, GLIFWC inland lakes biologist.



Lake trout eggs hatch in Bad River Hatchery Bell jars. Both Lac du Flambeau and Bad River operate fish hatcheries.



Dewey Schwalenberg, NAFWS executive director.

# Tribal resource management continued

(continued from page 11)  
 more groups with some degree of shared authority and responsibility for the resource which constitutes co-management.

Co-operative management is made possible by an increased sense of awareness on the part of individuals and agencies associated with a resource. Among those who use the resource, there is a growing awareness that commitment and involvement are not only possible but necessary, if complex initiatives such as conservation and allocation strategies are to be successful. Resource managers are realizing that shared decision-making, even if some authority and responsibility must be delegated or vested with the other party or parties, can produce benefits for the resource, as well as for those who use it.

Co-operative management can be effective as a response to legal, social and fiscal imperative references. That the biological imperative is also well served by cooperative management is clear. However, another imperative is of growing importance, and can be affected by participation in co-operative management: the psychological imperative.

Many individuals in today's society feel alienation and a lack of control over their day-to-day lives and environment. Although it can be argued that mental health is not the concern of a resource manager, participation in co-operative management can give people an opportunity to have some control, some direct impact on an aspect of daily life. This is especially true in situations where an individual is heavily dependent upon a resource for his livelihood, or where there are traditional or cultural use patterns.

### Benefits of co-operative management

A wide range of benefits may be derived from co-operative management:

1. *The resource is given top priority by all parties. Conservation of the resource forms the bond between all participants within the co-operative management.*

The formulation of a detailed management plan may require a great deal of time. Giving first priority to conservation facilitates the implementation of the basic conservation measures necessary to protect the resource. This can be a major step for a new co-management group, since early agreement on even one issue can set a positive tone for discussion and negotiation of more difficult issues.

2. *Diversity of ideas and methods can create an innovative and efficient problem-solving and decision-making unit. A wide range of experience and educational backgrounds will enhance the ability of a group to deal effectively with complex issues.*

Today's managers face an ever-increasing number of difficult issues. In addition, they have become more aware of the need to be prepared to deal with uncertainty, and to continue to pursue objectives in spite of it. A co-operative management structure can provide an enriched pool of experience, cultural values and education, which can be effective in mitigating the potentially adverse effects of uncertainty. The diversity inherent in its structure puts co-management into the forefront of management directions for the future.

3. *Financial and human resources can be combined to achieve common goals.*

One of the most widespread trends in resource management seems to be reduced funding. Resource managers are being asked to deliver programs and provide services with lower budgets. But, while funding is being reduced, public expectations do not diminish; if anything, the users are expecting more. A co-operative management structure can maximize the effect of the government dollar or person year by teaming it with contributions of labor, funds, experience, and ingenuity from the community of stakeholders.

4. *Stewardship can be encouraged among users.*

In order to avoid the "tragedy of the commons," users must be encouraged to develop a sense of responsibility toward a common property resource. While some see no solution, participation in a form of co-operative management is a step in the right direction.

5. *An appreciation of different values and cultural perspectives can be developed.*

Cultural differences have in the past been major impediments to communication between user and manager, particularly between traditional natives and professional government employees. If cross-cultural understanding can be fostered, trust can be developed and communication improved.

6. *Conflict can be diffused, minimized or eliminated by adopting a co-operative approach to solving common problems.*

The development of open communication is a critical step towards the resolution of conflict. Clear and honest communication is essential if cooperative management is to be successful.

Natural resources shared by native people and the non-Indian majority culture have produced the most contentious co-operative management situations. Deep-rooted differences exist between the development-oriented majority culture and native groups who seek to maintain a homeland and a sustainable local economy. Tribal rights to harvest fish, game and gather under tribal law, using traditional methods which may be illegal for non-Indians, arouses antagonism among those who see this as a violation of the principle of equal rights among individuals. Yet the tribal rights are legally property rights similar to mineral rights or other easements, and are considered by the native people to be essential to the survival of their cultures. Beside the cultural conflict is the usual argument about allocation among competing user groups. Faced with the white man's tools of law and science, native peoples organizations have developed sophistication in those fields themselves, while retaining the unique



Robert Jackson, biologist, Minneapolis Area Office, BIA.

aspects of tribal culture. Many tribal governments in the United States have developed capabilities for a co-equal management of their natural resources with state agencies.

### Co-operative management in action

Co-operative management involving Indian tribes in the Minneapolis Area, which encompasses the states of Iowa, Michigan, Minnesota and Wisconsin, occurs in a variety of activities, both on reservations and within territories ceded to the tribes by treaties with Governments of the United States.

To understand a "Vision for the Future" in the Minneapolis Area, we need to look back to our past and see how far we have come, where we are today and our direction for the future.

There is a tremendous tribal resource base in the Minneapolis Area occupied by the 30 reservations encompassing:

Natural, Inlands Lakes	900,000	acres
Impoundments	15,000	acres
Rivers and Streams	1,000	miles
Wetlands and Marshes	227,000	acres
Forest Land	1,220,000	acres
Great Lakes	— Lake Huron, Lake Michigan, Lake Superior commercial fishing rights	

Lets then go back to 1983—just six short years ago and the year of the now famous "Voigt Decision." The Great Lakes Indian Fish and Wildlife Commission was just being organized, approximately 1.6 million was being spent in the Minneapolis Area for fish, wildlife and conservation enforcement. Conservation enforcement programs dominated the tribal natural resource personnel with biological programs only at Red Cliff, Bad River and Lac du Flambeau, in Wisconsin; White Earth in Minnesota and Sault Ste. Marie/Bay Mills in Michigan. Tribal fish hatcheries existed at Lac du Flambeau and Red Lake with a combined annual production of approximately 20 million walleye fry.

Now today looking at our 1990 fiscal year, the Bureau will distribute over 9 million in Wildlife and Parks monies to tribal and inter-tribal resource management programs on 22 of the 30 Minneapolis Area Reservations encompassing through over 98% of our land base.

We also now have four inter-tribal programs which involve 17 of our reservations. These four include the:

- Great Lakes Indian Fish and Wildlife Commission
- Chippewa/Ottawa Treaty Fishery Management Authority (Sault Ste. Marie, Bay Mills and Grand Traverse)
- 1854 Authority - (Nett Lake, Grand Portage)
- Minnesota Chippewa Tribe - Water Quality Program - involves six tribes in Minnesota.

The 9 million in Bureau funds plus at least another 2 million in tribal dollars supports a tribal natural resource staff in the Minneapolis Area of over 400 full-time and seasonal positions.

Professional expertise is evident in our educational index of 2.8 for tribal and inter-tribal biologists. The 1983 A.F.S. Survey revealed a national state average of 2.5 based on a scale of 2.0 for Bachelors Degrees 3.0 for Masters and 4.0 for a doctorate.

We now have eleven tribal fish hatcheries or rearing components that will have an estimated production in 1989 of 60 million fish involving nine different species and advanced size culture. The Minneapolis Area Tribal walleye fingerling program will be close to equalling the States of Wisconsin and Minnesota's production, with Lac du Flambeau alone producing over 800,000 this year. Facility technology at Lac du Flambeau and Leech Lake rival the most progressive fish culture facilities in the midwest.

Our programs have initiated and developed many co-operative management efforts. A few examples are:

### Great Lakes Indian Fish and Wildlife Commission

The commission staff has focused extensive effort in negotiating annual inland hunting and fishing seasons and methods with the State of Wisconsin, developing Great Lakes fishing agreements and resource data bases, and in regulating, monitoring and managing all aspects of tribal harvest and related impacts. They also participate in endangered species recovery efforts, work to improve the understanding of Great Lakes Community dynamics, cooperate in

impact assessment studies relating to nuclear waste, mining and toxic contaminants, and are engaged in a variety of fish production, rearing and stocking operations.

### Red Cliff, Wisconsin

The relationship between the Red Cliff Reservation in northern Wisconsin and the State of Wisconsin relative to the stewardship of Lake Superior fisheries bears some resemblance to a true co-management situation. The utilization and successful implementation of two negotiated settlements and an earlier agreement on subsistence harvest displays a mutual effort to manage shared resources. In practice they serve well to limit lake trout extractions, protect discrete fish stocks, and allocate fish

and fishing grounds between sport and commercial user groups. The major focus of the agreements center around lake trout rehabilitation which is mutually beneficial to both parties but until recently, never formally acknowledged by the tribe.

The concept of tribal sovereignty is more strongly represented in Red Cliff's relationship with the state. Since the Gumoe decision in 1972, the tribe has licensed its own fishermen, collected fees, compiled catch reports, administered a quota system, regulated fishermen with tribal codes, and prosecuted offenders in tribal court. With the signing of the agreements tribal codes and quota systems reflected positions in the negotiated settlements rather than sole tribal initiatives.

### Great Lakes Fishery Commission

Tribal representation occurs on technical and policy committees. It is within this international organization that the tribes are recognized as true co-managers and have as much to do with shaping technical and policy matters as any state agency.

### Menominee, Wisconsin

Menominee in 1986 initiated the "One Roof Concept" where Menominee Tribal Enterprises, Bureau of Indian Affairs and the State of Wisconsin—D.N.R. are all housed together to interact and cooperatively manage Menominee's Forest Resources.

### Leech Lake Reservation, Minnesota

An alliance among Leech Lake Reservation official, Leech Lake area businessmen, resort and land owners, and government officials was formed in 1982 and titled the "Greater Leech Lake Reservation Advisory Alliance."

The purpose of the Alliance is to improve communication between the non-Indian and Indian communities in the Leech Lake Reservation area. Many issues of concern are blown out of proportion due to the lack of communication. The Alliance has helped bridge the communication gap by improving education and understanding so that local issues can be solved at the local level.

Major accomplishments include the publication of this brochure, lobbying for funds to build fish hatchery, which was dedicated in 1984 donation of over \$5,000 to purchase incubator equipment and increase production capabilities in the hatchery, installation of "Welcome" reservation signs; and involvement in land claim issues and liquor law changes.

A memorandum of understanding, outlining a cooperative management statement between the State of Minnesota Fisheries Section and Leech Lake's Fisheries Division was made in April 1986.

Their conservation enforcement staff was the first across the board, state cross-deputized Indian department in the country

### Waterfowl "Circle of Flight" Initiative

Minneapolis Area Indian Reservations, in cooperative with the North American Waterfowl Management Plan goals and objectives developed a waterfowl enhancement initiative in 1988. Waterfowl are the most prominent and economically important group of migratory birds on North American Reservations.

This initiative outlines our tribal developmental strategy options for a potential joint venture between the State of Minnesota and Wisconsin in the Upper Mississippi River and Northern Lakes Waterfowl Habitat Area. Midwest Indian Reservations are blessed with an abundance and diversity of wetland ecosystems.

Thirteen Reservations, with land base of almost 35 million acres have identified 22 projects totaling over 11 million dollars to begin increasing, enhancing and managing waterfowl habitat across Indian Country. Development project activities will occur on nationally significant waterfowl areas in Minnesota. Ki-wo-say Wildlife Area, Zah Geeng Wildlife Area, Drumbeater, Mille Lacs, and Wisconsin Chippewa Flowage Powell Marsh and Kakagon Sloughs.

Tribal waterfowl projects can potentially add tens-of-thousands of ducks and geese to the "Circle of Flight" of spring and fall migrations. Reservation wild rice preservation and enhancement efforts provide an invaluable food source for healthy migratory populations. Rehabilitative efforts will increase breeding and migration habitats and populations for such species as mallards, black ducks, canvasbacks, ring necked ducks, blue-winged teal and wood ducks.

A tremendous tribal habitat resource base with jurisdictional management authority already exists to begin accomplishing goals of the North American Waterfowl Management Plan. The infusion of financial resources can begin development activities and conservation efforts on over 400,000 acres of wetlands.

### Red Lake

The Red Lake Fisheries Program was established in May 1987 with a subsequent three-year co-operative study—now expanded to five years with the University of Minnesota, Minnesota D.N.R., U.S. Fish and Wildlife Service and the Bureau of Indian Affairs. The main objective was to estimate the sustainable fishery yield of Red Lake through stock assessment and yield estimation, producing a walleye management model.

This nationally significant research, has now been expanded to include larval fish ecology studies, analysis of intra and inter seasonal growth patterns of Red Lake walleye; and radio-telemetry walleye spawning

(See Co-operative management, page 18)



Joe Dan Rose, Bad River Hatchery manager, releases fingerlings in the Kakagon River.



Capturing walleye for eggs at the Bad River Hatchery.





# Logging—Minnesota does not consult tribes

by Monika Bauerlein

(Reprinted with permission from THE CIRCLE, November 1989 edition)

For many years, Minnesota governments and industries have quietly managed one of the state's largest natural resources—the forests. They have determined which trees should grow, how many should be cut, and how much users should pay for timber.

Now, the traditional process of bureaucratic planning is turning into a heated battle between state agencies, citizens' groups, and industry representatives. State officials want to convert the north woods into an industrial resource to an extent never attempted before. And a new player may be entering the field—Chippewa bands.

Until now, the state has not consulted the tribes about the use of natural resources such as timber and minerals. The state contends that the bands do not have "management responsibilities" for these resources, unless there is a danger of "significant environmental damage" which would threaten their hunting and fishing.

According to critics of state plans, that threat has materialized.

State projections say large numbers of forest and mining companies will come to Minnesota or expand here during the next decade. Hearings are currently being held about possible leases for gold and other precious mineral mines in northern Minnesota.

But the area with the most potential for expansion, according to state projections, is the forest industry. In the past two decades, wood-using companies invested \$550 million in Minnesota. In the next decade, the DNR expects the industry to grow almost fivefold, to \$2.7 billion.

The forest-industry boom is fueled by paper and pulp companies. Several large companies are currently building bigger plants in northern Minnesota, including Boise Cascade in International Falls (where a fierce labor dispute is making headlines), Superior Paper and Blandin Corp.

To state officials, these expansions present a promising potential for economic recovery in northern Minnesota—the region most severely battered by the recession of the 1980's. But critics contend that expansion in the forest industry may damage or destroy trees, wildlife,

fish, water, and air. They point out that by the DNR's own figures, loggers would cut as many cords of wood in twenty years as they did during the entire 100 years of the "White Pine Massacre," from 1837 to 1937.

As recently as last year, the DNR projected that by 1995 loggers would haul as much as 7 million cords of wood from the north country—roughly double the current harvest. Critics point out that could mean clear cutting 350,000 acres a year, or almost 1,000 acres a day, with possibly severe impacts on the region's economy and environment.

More recently, the DNR has said its early protections were wrong, and timber harvest in 1995 will be around five million cords. And it says forest managers have learned their lessons from the "White Pine Massacre." Rather than simply clear cutting, they would manage forests to achieve an "ideal balance." According to one state planner, Minnesota must be converted into a "tree garden," where fiber is grown much like crop on a farm.

Regardless of whose figures are right, the state and its critics agree that Minnesota's forests could be radically transformed. Small sawmills may disappear as they find it more difficult to compete with the higher prices paid by multinational corporations. The tourism industry may change as forests go from a diverse mix of trees to aspen monocultures. Fish and wildlife may have to adjust to changes in their habitat.

It is environmental change that could most directly involve Chippewa bands' resource-use rights. But so far, the bands have not been consulted in the timber and mining planning process and state officials say there are no plans to do so. "Of course we'll talk to them about any issue, just as we'll talk to any other folks," said Assistant Commissioner for Natural Resources Steve Thome. "But we don't see a direct management responsibility on their part" because the treaties between the Chippewa and the federal government don't mention such responsibility.

Some people in the bands see it differently. Until now, the bands have not come out publicly demanding that they be involved in the planning process. But in mid-October, Fond du Lac chairman Sonny Peacock told the Duluth News-Tribune that the band has a "vested

interest" in the environment of the region.

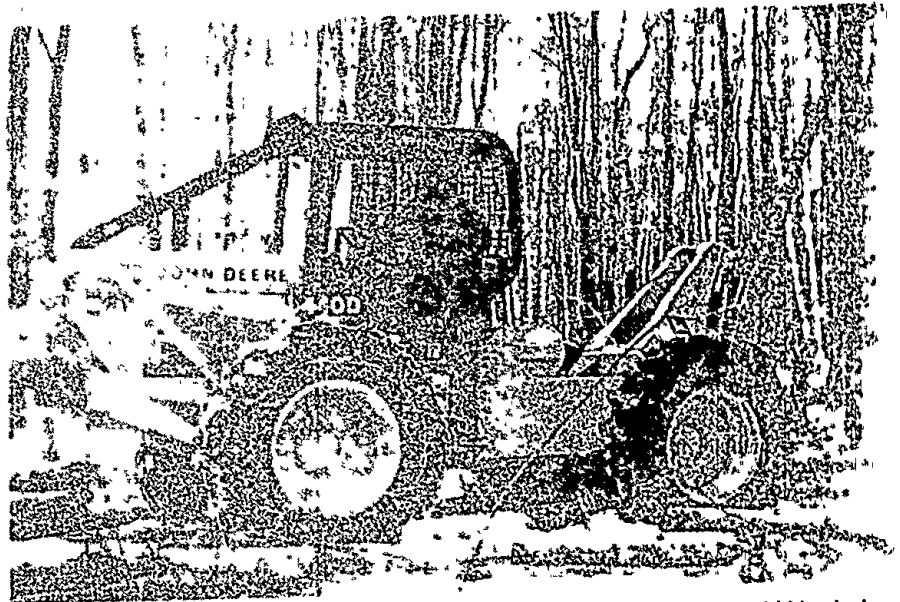
The main rationale for tribal involvement would be that changes in the environment affect fish and wildlife, to which the bands have rights reserved. The state contends that its resource management gives priority to conservation. But biologists warn that the new logging and mining expansion plans could damage fish and wildlife in ways nobody can quite assess. They are especially worried about "biological diversity"—the delicate balance of different plant and animal species in the environment.

According to state officials, that balance would not be upset by expanding logging—on the contrary. They say after cutting some of the oldest trees now abundant in Minnesota forests, species like white tail deer might flourish better than before. On the other hand, biologists warn that some animals may find it harder to survive under expanded logging. Bald eagles, wolves, moose, and beaver, as well as the woodpecker and bluebird could be among the species disturbed by more tree cutting, more road construction, and a different mix of trees, said Don Waller, a biologist at the University of Wisconsin-Madison. "Perhaps we can live without those species," Waller said, "But do we want to? That's an issue I think should be studied before it is too late."

Until now, Minnesota bands have not asserted their claims to play a part in resource-management decisions. That may be because the bands' resource rights were only confirmed two years ago. "It's such a short time, they haven't quite figured out all the possible implications," according to Gary Frazer, executive director of the Minnesota Chippewa Tribe.

Besides needing time to figure out how far their claims go, the bands have also been kept busy with internal disputes. Fond du Lac, Bois Forte, and Grand Portage are currently trying to resolve their differences about hunting and fishing codes. Some people in the bands say dealing with the details has kept them from looking at the bigger picture. "They are worried about the fish and the deer," said Jeff Savage, editor of the Fond du Lac News, "when they should be worried about water, the land and the air."

In other states, tribes took their concern with "the water, the land and the air" to court, sometimes



Robert Leaso manager of the Bad River Logging Company, operates the Tribes new skidder during a logging operation on the Bad River Reservation.

with success. In 1980, a federal court ruled (U.S. vs. Washington, Phase II) that "the right of taking fish" cannot be "reduced to dipping one's net in the water." The court found that the treaty reserved the "environmental right" to preservation of the fish habitat.

In practice, Northwest tribes have asserted, this could mean "anything that affects the water"—from logging and mining to dam operation and riverside development, to shipping and off-shore oil drilling.

A similar "environmental right" could apply to Chippewa bands in Wisconsin and Minnesota. In Wisconsin, the Mole Lake band is suing Exxon Corp. to prevent a deep-pit copper mine, and the Lac Courte Oreilles band has become a party in the environmental impact assessment process for an open-pit copper mine in Ladysmith, Wis.

To some people in the bands, all this means that the state has not been acting in good faith when it planned timber and mineral use. "They have been negotiating over resources that are not totally in their control," said Savage. "Instead, they should just start tightening their belt a little bit and biting the bullet and thinking about real co-management."

It's not only tribal members who accuse the state of acting in bad faith. A group of northern Minne-

sota residents, supported by organizations like the Audubon Society, is petitioning the state to conduct a generic environmental impact statement about expanded logging in Minnesota. The group argues that a development this huge should not be planned without a great deal of public input—especially since more than half of Minnesota's forests grow on public lands. An environmental impact statement would require extensive public hearing, documentation, and state expenses.

So far, the state Environmental Quality Board has declined to order such a statement, opting instead for a "cooperative process" involving representatives from industry, environmental groups, and the state. Opponents say this process is "toothless."

The petitioners' group has told state officials that not consulting the Chippewa Bands in "outrageous" Members of the group acknowledge that they have not contacted the bands, either. But they say they plan to do so "as soon as possible." They hope the bands' interest in preserving the resources will put a damper on the push for economic expansion and will help raise the larger question of how the resources should be managed.

Speaking to a conference of forest managers and scientists last

year, one state official recounted his experience with a wood products corporation to whom the state showed data about the Minnesota timber supply.

"Their response surprised us. It will probably surprise you too," said state wood products specialist Dudley Haugesag.

"The company was not interested in the supply beyond ten years. Ten years! For a \$70 million capital investment!"

"A forest products company has to look at an investment this way: you pay for your mill in about four years, you get your (return on investment) out in seven years, and anything beyond that is gravy."

"After 10 years the mill has to be rebuilt anyway..."

Haugesag concluded from this experience that, if industry only looks at "ten-year bites" state forest management must adjust. Minnesota must "get every bit of fiber out of our available land."

Some draw the opposite conclusion. Chippewa bands and other residents will remain in northern Minnesota when the forest industry has been and gone. They weigh short-term economic gain against possibly drastic changes in the face of the land for generations to come. To them, the question may turn out to be whose responsibility it is to manage the land.

## Great Lakes topics featured at NAFWS regional conf.

by Patricia Zakovec  
1854 Authority Coordinator

The Great Lakes Region's Second Annual Regional Conference was held September 19-21, in Sault Ste. Marie, Michigan, and gave cause for both professional and social sharings. This conference was co-hosted with the Bureau of Indian Affairs and the Chippewa-Ottawa Treaty Fishery Management Authority.

The Conference included topics that were both pertinent to the Great Lakes area as well as relative to

some national endeavors. Some topics were: North American Waterfowl Management Plan; Hydro-power Relicensing Process; Wall-eye Pond Culture, where roadside ditch ponds have proven economical and successful; Michigan Fish Co-Op Development, where success has challenged supply to keep up with demand; and Natural Resource Management/Marketing/Economic Development. The Great Lakes Regional Conference has generally been created from a blend of cooperative efforts by Tribes, the Society, the BIA and

other fish and wildlife professionals, as demonstrated by an agenda that covers basic technical information as well as provocative ideas for extended resource management and usage.

The Great Lakes Regional Conservation Officer Shoot-Out was held with the Great Lakes cadre demonstrating once again that the smartest place to be is behind a tree rather than in range of one of these sharpshooters. Results from the Shoot-Out were: Ron White, 99.66; Joel O'Brien 99.55; Eric Chapman 99.44; William Bailey, 99.33; and

Don Shalfoe, 99.11.

During the Native American Fish and Wildlife Society (NAFWS) regional business meeting, the election of a Director to take over the expiring directorship of John Wilmer was held. Ed Fairbanks, Natural Resource Specialist, BIA Minnesota Agency, was elected to the Board. John Wilmer resigned a short time later and requested that Mr. Fairbanks take over the Director's duties before the April Change-over was due to occur. This was done at the Board of Directors meeting at Mescalero. Many thanks to John for his time on the Board.

Another item of interest that surfaced was that of not allowing the area's non-Indian members to vote on regional issues. By unanimous vote of the Indian membership, it was decided that all NAFWS members from the Great Lakes Region shall have a vote on regional issues, regardless of Indian or non-Indian status. The only restricted voting shall be for the election of Directors to the Board. This voting shall be restricted to Indian members, since only Indian people can be nominated and elected as Directors. The membership feels that the integrity of the Society is being maintained and that our action was a vote of confidence in non-Indian technical professionals.

Great meals and an interesting softball game were enjoyed by all and rounded out an informative agenda. The 1990 Regional Conference will be co-hosted by the Oneida and Menominee Tribes.



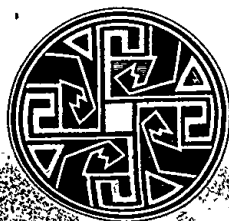
Ron White, high scorer at the NAFWS shoot out, receives a plaque from Patricia Zakovec, NAFWS Chairperson. In the back is Ed Fairbanks, Minnesota Area Natural Resources Specialist, BIA.



Don't look so disappointed Chuck. You might get a plaque next year. Above, Ed Fairbanks, Minnesota Agency, BIA Natural Resources Specialist (left) and Chuck McCuddy, Great Lakes Agency Natural Resources Specialist, add humor to the ceremony.



Bob Williamson, Sault Ste. Marie Fish Co-op Manager, gave a presentation on the co-op at the NAFWS conference.



# Tribe considers 'Class I' air

by David Mataczynski

(Reprinted with permission from the L'Anse Sentinel, January 3rd edition.)

Efforts currently underway at the Keweenaw Bay Tribal Center could place the reservation in the elite company of Isle Royale National Park and Sney National Wildlife Refuge. Both of these crown jewels of northern Michigan protect their air with federal Class I air quality designations, the rest of the state falls under Class II standards.

The Keweenaw Bay Tribe has begun to consider the possibility of upgrading its air quality standards from Class II to Class I given concerns over air degradation from industrial development in the area. Redesignating would significantly curtail the introduction of additional sulfur dioxide, particulates, and nitrous oxides beyond the background level at the date of effectiveness.

Tribal Environmental Officer Howard Reynolds and an official with the Environmental Protection Agency's (EPA) Region Five office in Chicago both recently confirmed that the 1977 U.S. Clean Air Act grants sovereign Native American tribes the authority to reclassify their air quality standards by following an established set of guidelines.

"It is the prerogative of the tribes to change their air quality standards," Reynolds commented. "The tribe has the authority, but the formalities must be carried through with the EPA before the change of standards." Reynolds has been in contact with EPA Region Five officials during the last three months in order to explore the intricacies of redesignation.

Ron Van Mersbergen, an EPA employee who serves as a regional contact for air quality redesignation, confirmed the tribe's authority. Van Mersbergen said that the Clean Air Act identifies two types of entities which can request rede-

signation: tribal governing bodies and state governors. He added that the EPA merely checks for procedural correctness as the redesignation process runs its course.

"If they go through the right hoops, then it can be redesignated," Van Mersbergen said. He added that some of the hoops include: conducting an economic analysis of air redesignation's impact on an area, holding a specified number of public hearings, establishing baseline figures on air quality, and modeling air quality impacts. Van Mersbergen said the process tends to consume significant money and time, although each situation can differ somewhat.

## Early stages

Reynolds said he has been investigating redesignation upon the request of Tribal Chairwoman Myrtle Tolonen—even though the Keweenaw Bay Tribal Council has not formally decided to pursue Class I air quality. Reynolds added that the EPA allows a tribe to notify it of the intent to reclassify without requiring a tribal council resolution. Completion of the process, however, would require a vote of approval by the council.

"She (Tolonen) told me to go ahead, make a study, and see if redesignation is feasible for the tribe," Reynolds noted. "Class I would substantially cut down on additional permissible emissions in terms of specific discharges... Due to the tribe's jurisdictional powers, it would like to protect the reservation from all pollutants." Part of this effort at protection, Reynolds said, could focus on sources of pollution adjacent to the reservation.

"If adjacent development affects air quality within tribal boundaries," Reynolds explained, "then the tribe has the authority to insist changes be made so it (the development) does not contaminate the air... This would be to protect any

more toxic materials from being added to the air—whatever the source—and preferably to reduce what is now in the air."

Reynolds said changing to Class I would involve two monitoring programs, "(and) the EPA has got to back the tribe to make them work." The first program would involve monitoring all point sources of pollution within ten miles of the reservation's external boundaries. A second monitoring program would extend to a 30-mile radius.

Reynolds confirmed that the James River Corporation's desire to locate a pulp and paper mill at Arnheim triggered the tribe's concern, but it also arises from other potential sources of air pollution.

## Specifics of redesignation

Van Mersbergen said the Clean Air Act includes a provision for the prevention of significant deterioration (PSD) in areas which already surpass Class II, or Class III standards (although an available designation, Class III does not currently define any part of the U.S.). These areas (national parks, wilderness areas, national monuments, reservations) can be protected through redesignation upon a gubernatorial or, in the case of reservations, tribal PSD request.

The major difference between the three designations involves the allowable annual deposition of three pollutants: sulfur dioxide, particulates, and nitrous oxides. With particulates, for example, Class I designation allows roughly one-quarter of the deposition as with Class II and one-eighth of what Class III would permit. Class I sulfur dioxide standards allows one-tenth of what is permissible under Class II and one-twentieth of Class III deposition.

Van Mersbergen said redesignation requires establishing background levels of deposition in order to enforce the new provisions. Studies to this end create much of the cost in redesignation.



Snow covered boughs provide a scenic drive on Madeline Island. (Photo by Amoose)

"Then when any major (or minor) source comes in, you look at the air quality baseline," Van Mersbergen said. He added that the source would then have to conform to Class I limitations for depositions above the baseline.

## No 'ultimate solution'

Van Mersbergen said he understands much of the tribe's interest in redesignation to stem from James River's interest in building at Arnheim. He cautioned that the "lengthy and cumbersome" process of redesignation may not offer protection from potential air emissions. Van Mersbergen explained that the redesignation process generally takes longer than Michigan's environmental permitting process. James River, if it proceeded quickly, could outrun the tribe's efforts at redesignation and have its emissions counted as part of the background.

"This is not the ultimate solution," Van Mersbergen commented. "The tribe could prevent further degradation beyond a pulp mill, but I'm not sure redesignation

would occur before (construction of) a pulp mill."

Van Mersbergen added that many odorous gases which commonly billow from mills don't even fall under the Class I-Class II distinction. Redesignation, for example, would not limit chloroform emissions. Van Mersbergen said he knew of no wording in President George Bush's proposed revisions to the Clean Air Act which would extend the list of chemicals which fall under redesignation.

## Delay tactics possible?

Should the tribe fail to obtain redesignation before the state approves environmental permits for a new industrial facility, do other means exist for preventing air degradation? Van Mersbergen said he didn't know of any under the Clean Air Act. A tribal attempt to secure an injunction, for example, has no precedent to Van Mersbergen's knowledge.

"I haven't seen that occur," Van Mersbergen commented, "but that doesn't mean there isn't a creative legal person somewhere who couldn't try to do that... (There is)

no obvious way of delaying."

In addition to the time element, the tribe could find itself in a financial struggle to secure redesignation. Van Mersbergen didn't offer a direct example of hope in this area either. He said the EPA hasn't specifically set aside money to aid tribes in their redesignation efforts. Van Mersbergen added that the EPA has been developing a new commission to specifically work with tribes on environmental matters, and some indirect dollars could become available from this source.

## Other tribal efforts

Van Mersbergen said no tribes in EPA Region Five have secured Class I air quality redesignation. He has received few inquiries other than from the Keweenaw Bay Ojibwe and a Wisconsin Potawatomi tribe.

Reynolds said that the Yakima tribe of Washington secured Class I redesignation about one year ago and that it submitted approximately 7,000 pages of documentation to the EPA. Reynolds added that he has also heard of an unspecified Montana tribe recently redesignated to air quality standards.

# Open pit mining

by David Collins

Reprinted from THE CIRCLE, November 1989 issue.

A subsidiary of Rio Tinto Zinc, a British mining corporation, is applying for a permit to begin mining sulphuric copper ore from a site alongside the Flambeau River near Ladysmith Wisconsin. The Flambeau mining company would be the first to exercise mining rights to the extensive copper reserves of northern Wisconsin. Concern over the possible environmental impact has caused the Lac Courte Oreilles Band (LCO) to get officially involved. LCO's off reservation hunting and fishing rights could be adversely affected if the proposed mining is approved.

On October 6, hearings were conducted in Ladysmith, where dozens of individuals and representatives of citizens group offered criticisms of the draft environmental impact statement (DEIS).

Several of the speakers at the hearing criticized the DEIS for what is contained, others pointed out facts that were omitted from the document. The opening summary of the DEIS states that no monitoring is planned to determine the

impact of the sulphuric mining waste water on fish and other aquatic life in the Flambeau River. The document also plans to destroy a stream and a wetland at the mine site.

Among the omissions cited were a lack of chemical analysis of the ore body as well as no mention of 20 year old oil pipeline that runs under the Flambeau River a few hundred yards from the proposed pit mine. The pipeline had been cited in an environmental impact statement related to a previous mining proposal at the same site. The mine site itself is only 50 yards from the river. Particular concerns center around the synergistic affect of chemicals in the crushed rock that would be returned to the pit along with toxic sludge, from the mine's waste water treatment, after the mine is closed. Several people have questioned whether the test wells used to monitor ground water flow provide an accurate model of how water will flow through the crushed, highly acidic backfill proposed for the pit. The company wants to reduce the impact of the acid by adding lime to the backfill.

A hearing, scheduled for June of 1990 will determine if the permit is granted. Several parties, including the Lac Courte Oreilles Tribal

Government have become officially involved in the hearing. Other parties to the hearing will include the Flambeau Mining Company, Wisconsin Department of Natural Resources, Rusk County, the city of Ladysmith, the town of Grant, the Wisconsin Public Interest, the Wisconsin Resource Protection Council, Rusk County Citizens Action Group, the Wisconsin Greens, the Environmental Action Committee of the Wisconsin Conservation Congress, the American Wildlife Foundation and the Flambeau Valley Peace Coalition.

Other "interested persons" will be permitted to present testimony at the hearing and cross examine witnesses, but may not file motions, or call witnesses. The public is also involved in the review of an Environmental Impact Statement prepared by the company and the Wisconsin Department of Natural Resources.

If the Flambeau Mining Company pushes this proposal through extensive public criticism, they have been filed, the Lake Superior Chippewa may finally have an opportunity to find out how owners of mining rights may fringe on usufructory rights (rights of use) such as the Chippewa reservation fishing rights.



A young contestant being readied for competitive dance competition.

## Wild rice boats assist crew, build traditional skills

Wild rice boats were constructed by the Wisconsin Conservation Corps (WCC) Sokaogon Chippewa crew with the help of two members of the Mole Lake community. The boats are used for wild rice enhancement activities, density surveys, seed collection, and identification of lakes with good wild rice potential. Construction of the boats enables the crew to complete its project work efficiently and safely while providing an opportunity to

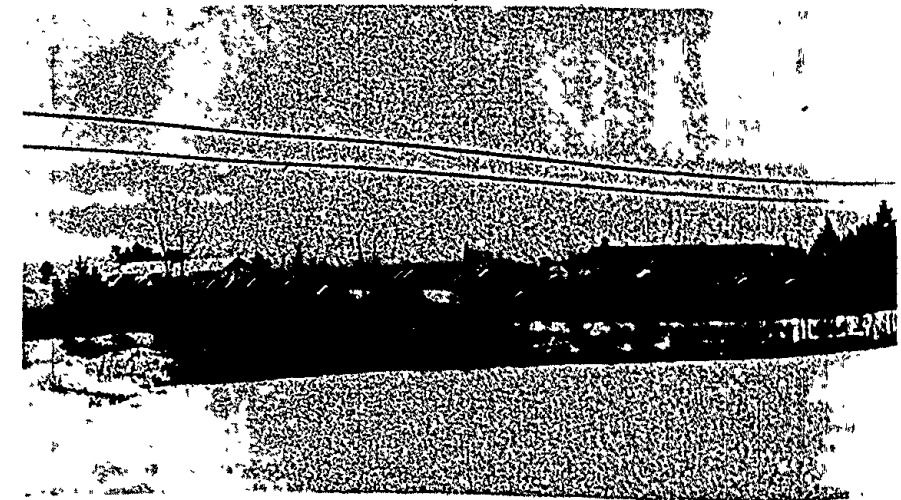
learn a traditional craft. Chuck and Fred McGeshick of Mole Lake volunteered to teach the crew wild rice boat construction. Both are experienced in the construction of the boats. In fact, Chuck built his first boat at age eight.

The boats are constructed from two 16 foot pine boards and two sheets of plywood. The boat's lightness, stability, and maneuverability make them excellent crafts for the ricing activities. It took about three

days to complete the first boat, but word is that the process sped up after the crew gained experience.

Crew members include Ken Thunder, Gwen McGeshick, Penny McGeshick, Tim White, Assistant Crew Leader Frank Olds, and Crew Leader Michelle Votis.

(Written with information provided by the Mole Lake WCC crew and reprinted with permission from On Corps! November 1989 edition.)



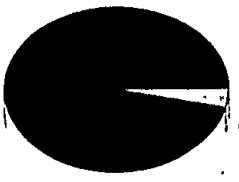
In the middle of nowhere? Almost, but not quite. Above the office building for GLIFWC & Bad River Tribal Administration stands alone in Old Odanah on the Bad River Reservation. (Photo by Amoose)



# Biological impact of the Chippewa treaty harvest continued

(Continued from page 4)

## NORTHERN WISCONSIN WALLEYE HARVEST



**Northern Wisconsin 1989 Walleye Bag Limits**

Regular: 5 per day

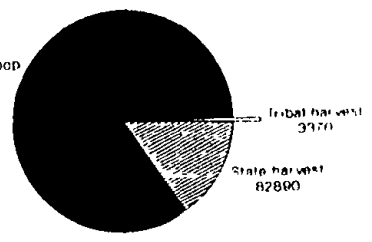
Reduced on lakes with tribal quotas:

- With mark-recapture estimates: 1 per day
- Without recent estimates: 2-3 per day

The bag limit was 2 or 3. The Great Lakes Indian Fish and Wildlife Commission commented to DNR, questioning why bag limits should be higher where the population has not been studied, and whether the effects of the bag limit reductions could even be detected with the limited DNR creel surveys.

Nevertheless, even as tribal harvest has increased, it is still a small portion of the state-licensed harvest, and a tiny sliver when compared to the total population. In fact, the tribal harvest is only a fraction of the road kill in the ceded territories, for which the DNR has not even bothered to compile records since the early 1980's. The figures shown below are for the entire ceded territory, and of course we must also examine the local impacts to get the true picture.

## WHITE-TAILED DEER Northern Wisconsin, 1988



There are 50 deer management units in the Wisconsin ceded territories, and for this illustration the four units where tribal harvest was the greatest in 1988 were selected. It is apparent that, even in these units, tribal harvest is minimal compared either to the population or to the harvest by state-licensed hunters.

**Chippewa Treaty Harvest**  
16,000-26,000 walleye from 67-101 lakes (from total counts, 1987-89)

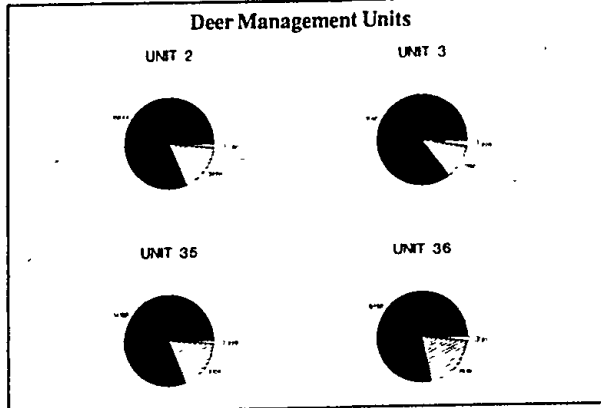
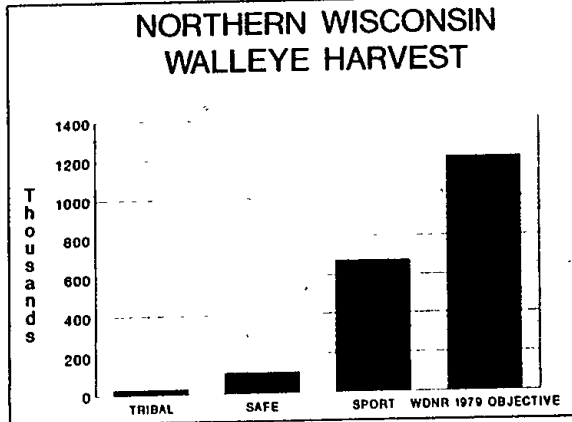
**Sport Angling**  
672,000 walleye from 834 lakes (estimated annual average, 1980-87)

As depicted on the left, the treaty walleye harvest, which is regulated by quotas, was taken from 67 to 101 lakes each year. Treaty spearing is totally monitored at boat landings by employees of the Great Lakes Indian Fish and Wildlife Commission. The catch of the state-licensed angling fishery is not directly controlled, and was estimated by partial surveys of catches on 34 lakes during the period 1980 to 1987. Based on that data, anglers were estimated to harvest 672,000 walleye annually from 834 lakes.

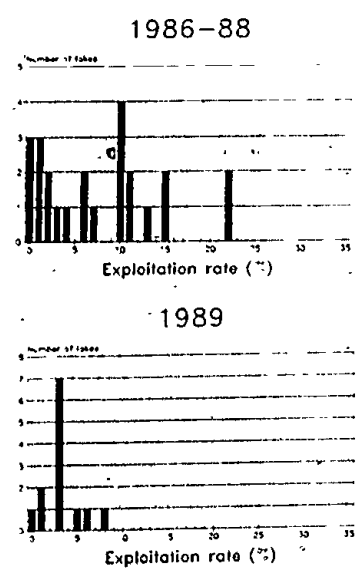
Of course, these broad comparisons covering the whole ceded territories may not be as relevant to a fish manager as the impact of fishing on specific walleye populations. Unfortunately, state and tribal harvests cannot be compared on many waters because the state-licensed harvest is generally unknown. DNR currently surveys angler harvest on about 10 lakes per year.

The graph below illustrates the impact of tribal harvest on local walleye populations. The state and tribal biologists have agreed, and the parties to the Voigt litigation have stipulated, that walleye populations in Wisconsin can withstand annual extractions of 35% of their numbers. On the graph, this exploitation rate is depicted along the horizontal axis, ranging from zero on the left to the maximum tolerable rate of 35% at the far right.

discovery and issue-narrowing, the DNR produced surprise testimony disclosing something called the "safe harvest," a new invention that has never been applied to any fishery, but the Chippewa fishery in northern Wisconsin. The safe harvest should be put into proper perspective. Ten years ago, the DNR's walleye harvest objective for northern Wisconsin was 1.2 million. In 1988, the DNR estimated that anglers were actually harvesting 672,000 walleye from ceded territory lakes. By contrast, the safe harvest for 1989, determined with the methodology proposed by the DNR and approved by the Court, was only 110,000 walleye. It is a highly conservative harvest regulator. The graph below attempts to illustrate this comparison.



## Spear Fishery Exploitation 1986-1988 and 1989



The bars should be measured against the vertical axis, which depicts the number of lakes where tribal exploitation rate was measured at a particular level against a known population size. Thus, for the period 1986-88, when treaty fishing was governed by interim agreements with the state, tribal exploitation rates exceeded 20% of the population on two lakes, but on most lakes were 10% or less.

In 1989, under permanent rules approved by the Federal Court, tribal exploitation did not exceed 8% on any lake, and averaged about 3%. Remember, this is only about one-tenth of the sustainable yield. The 3% average exploitation rate, and even the 8% maximum observed rate, are small compared to average angling rates of 20-35%, which have been measured, and tolerated, by the DNR.

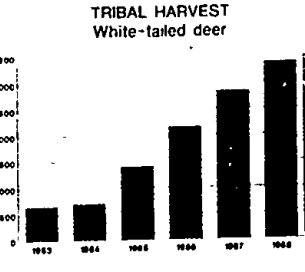
In response to the tribal quotas, this year the DNR promulgated a complicated bag limit reduction rule. Its effects as felt in 1989 are illustrated at the left. The regular daily bag limit of 5 was reduced on lakes with tribal quotas. Where the walleye population had been recently estimated, the bag limit was one. On lakes where no recent population estimate was available,

To sum up the situation: The best protection that a Wisconsin walleye population can have in this era of high-tech, competitive, (but still poorly monitored) angling is to have a tribal quota placed upon it. The tribal harvest is conservative and completely monitored. The tribal harvest is subject to a maximum size limit, which protects the older females that anglers are learning to catch with their new technology. Setting a tribal quota triggers a reduction in angler bag limits, and tribal harvest on a lake increases the likelihood that DNR will conduct a creel survey to estimate the sport harvest. A population with a tribal quota will be studied, monitored, and protected better than a population without a tribal quota.

## WHITE-TAILED DEER

The management of walleye has been controversial and litigious, mostly because of the lack of knowledge and the high degree of uncertainty about the fishery resource. Just the opposite is true of white-tailed deer. The Wisconsin DNR has been a national leader in developing a system of direct management of deer harvest, requiring registration of every deer killed, setting goals for population numbers based on a system of management units, and using harvest quotas for antlerless deer as the method for achieving population goals. The tribes have adopted a deer management system that meshes well with the DNR system already in place.

As shown on the right, tribal harvest of deer has increased each year since the first season in 1983 for several reasons. Deer have become very abundant after a series of mild winters that has allowed the population to expand. Tribal members have become more familiar and comfortable with the treaty harvest management system, and have taken advantage of the abundance of deer to increase their kill.

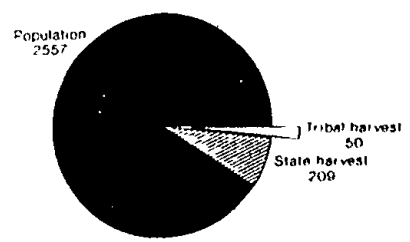


## FISHER

The fisher is a large member of the family that includes mink and weasel. It is widely distributed across northern North America, but in Wisconsin, the fisher was extirpated by the hand of man in 1930. Reintroduction of the fisher was accomplished in the 1950's and 1960's, and the population expanded to occupy a large portion of northern Wisconsin.

The fisher, especially the female, is valued for its fur. The DNR first authorized fisher harvest by trappers in 1985, and tribal trappers have also taken a share of the harvest in each year since then. The system for fisher management is modeled after that for deer, with population goals, management zones, harvest quotas, and mandatory registration of harvested animals.

## FISHER Northern Wisconsin, 1988



The pattern for fisher harvest is similar to that for deer, but the tribal portion of the harvest is larger, about 19% of the state-licensed harvest. In absolute terms, the tribal harvest peaked in 1987 at 72 fisher, and declined to 50 in 1988 in response to declining pelt value. The estimated population is about 2800 animals, and the maximum exploitation rate recommended by biologists is 15%.

(continued on page 18)

# Co-management continued

(continued from page 10)

management of inland fisheries could be implemented and funded. Below is a selection of quotes from various sources, illustrating first the frustration and lack of vision with respect to current State government policies, and then showing how co-management could provide "the most promising policy solutions to these problems."

**Some quotes on co-management from The Milwaukee Journal, October 27, 1989**

Boat landing protests will continue and business in the region will suffer, said [a resort owner]. But frustrated area residents have little recourse because federal and state officials can't offer any solutions, [he] said. "We sure feel betrayed," he said. "The government agencies have a responsibility to us."

[Governor] Thompson said: "... I was very surprised, to say the least [at the results of the LdF referendum]. We are looking at a lot of alternatives." When asked what those alternatives might be, he said he didn't have any prepared because he hadn't expected to lose.

The rejection of the agreement suggests there are no ready alternatives to resolve the ongoing conflict, said State Rep. James Holperin.... "It leaves us without a clear direction."

George Meyer, a lawyer with DNR, "... This [the LdF agreement] was a major option, probably the best option, and now that appears to be very strongly diminished, if not totally removed," he said.



GLIFWC annual conference drew educators and legislators interested in understanding issues relating to Chippewa treaty rights. Above, Tom Busiahn, GLIFWC Director of Biological Services, presents on the biological impact of treaty harvests.

from the National Recreational Fisheries Policy (U.S. Fish and Wildlife Service, 1988)

Participation and contribution by the private sector in recreational fisheries programs should be encouraged by such mechanisms as volunteerism, technical assistance, and financial support. Private-sector cooperative involvement in fisheries management agency surveys and other habitat improvement, access development, fisheries conservation, and enhancement projects should be encouraged on public and private lands and waters.

from the WDNR "Fish Wisconsin 2000 Action Program:"

Issues:

- People want less big government but more involvement in its decisions, especially in their own communities.
- Public demand for fish management work exceeds Wisconsin's ability to deliver.
- Cooperation will be required of government, Indians, anglers, and others to implement Chippewa treaty rights.

**Strategies:**

- Use more volunteers; do more fish management work on fewer waters.... Volunteers from fishing clubs, community groups and lake associations will be trained... to apply [management] techniques on hometown waters with DNR guidance.
- Managers of the future will need to be adaptable, flexible, open minded, and broad-thinking. They will continue to demonstrate technical superiority and competence, but also be skilled at communicating and working with the public.

from "Conflict Resolution and Stakeholder Participation in Saskatchewan Fisheries Management" by Bruce Smith, Saskatchewan Department of Parks and Renewable Resources

Proposed method of conflict resolution

1. Establish local lake management committees:
  - a) Forum for stakeholder participation
  - b) Representative composition
  - c) Standing committee, not ad hoc
  - d) Responsibility increases with functional ability and stability
  - e) Responsibility ranges from advisory to decision making
  - f) Structure, composition, and function will vary from lake to lake
  - g) Implementation should be gradual and opportunistic
2. Benefits:
  - a) Differences in value, custom, and tradition must be put "on the table" for all to recognize, consider, and reconcile
  - b) Provides effective involvement in decision making
  - c) Trust develops with familiarity and honest, open interactions
  - d) Equity and perception of equity are maximized through the open, face-to-face nature of the process
  - e) Balanced consideration by the bureaucracy is facilitated
  - f) Open communication, information exchange and understanding of the values of other users will reduce emotional response
  - g) Communication and interaction will lead to realistic expectations of what government can do in a given situation
  - h) Better balance in political consideration as the committee develops political communication channels.

from "Attaining Better Fisheries Management Through Co-management" by Evelyn Pinkerton, Chapter 1 in Co-Operative Management of Local Fisheries, University of British Columbia Press, 1989.

Co-management agreements are not yet numerous, but they are indicative of serious problems that are getting worse, and also of the most promising policy solutions to these problems. These include the potential of co-management agreements to promote conservation and enhancement of fish stocking, to improve the quality of data and data analysis, to reduce excessive investment by fishermen in competitive gear, to make allocation of fishing opportunities more equitable, to promote community economic development, and to reduce conflict between government and fishermen, and conflict among fishermen's groups.

# Fishing in the 90's



moted by conservation groups like Muskies, Inc., Trout Unlimited and most fishing tournaments, and practiced by many individual anglers, is likely to grow in acceptance among Wisconsin anglers over the next decade. Many anglers who would have kept a 14 inch walleye or an 11 inch bass before the imposition on size limits will learn that it feels good to release fish of this size, and they may be tempted to see how good it feels to release even larger fish.



Walleye anglers who fish the Lower Fox River at DePere already know what I mean. All walleyes under 28 inches caught there in spring prior to the general fishing opener must be released. We shouldn't be surprised to see catch-and-release rules applied to many more state waters in the next decade.

Stream smallmouth populations were also hurt by the drought, but should recover in several years if water levels return to normal.

That has already happened on Class VI trout streams under the new trout regulations in effect for the first time this year. Enlightened trout fishermen have been releasing trout for years, regardless of where they catch them. This new regulation will give more anglers the opportunity to see the value of catch-and-release.

If you are concerned about the future well-being of stream trout, plan to fish for something else for awhile.

A no-kill policy on certain streams in southwestern Wisconsin for the past several years has allowed trout to grow to trophy proportions and given anglers a chance to catch a 5-pounder on a fly with out the expense of traveling to Montana or Alaska. To say it will be exciting to watch this phenomenon spread across the state is an understatement.

Stream trout fishing will be well below its potential for the next several years, thanks to the devastating effects of the drought of 1988. Low water levels wiped out 40 to 80 percent of all trout and prevented successful reproduction in many streams in both 1988 and 1989. The emergency no-kill, artificials-only

rules imposed on 22 southwestern and northeastern counties last August may have saved enough wild broodstock to repopulate streams naturally, but catchable trout will be few and far between for at least two years and may be more.

Despite the new regulations, stream trout fishing will be well below its potential for the next several years, thanks to the devastating effects of the drought of 1988. Low water levels wiped out 40 to 80 percent of all trout and prevented successful reproduction in many streams in both 1988 and 1989. The emergency no-kill, artificials-only

also undergoing changes that may alter the species most sought after and the methods used to take them. In Lake Michigan, the salmon harvest has declined in recent years. Chinook numbers especially dropped dramatically in 1988 and didn't improve much in 1989. No one is certain whether the kings are dying, staying in deeper water to feed on chubs, or migrating to some other parts of the lake. The bottom line is that fewer are being caught and the short term future for this species is unclear. Some charter captains are trolling in deeper water in search of the wandering kings, but most are concentrating on other species and concentrating themselves with the occasional chinook that turns up in traditional areas.

The Lake Michigan lake trout fishery has come on so strong in

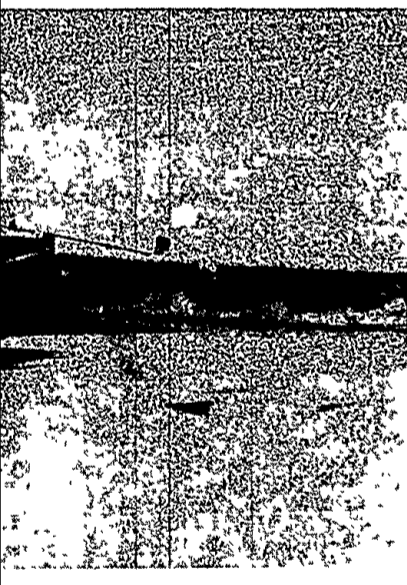
(See Fishing, page 20)

also benefit larger fish. The larger bass in more smaller size most an phenomenon walleyes and

limit on northerns, while several lakes have a larger size limit for bass than the statewide 32 inches.

Before the decade is out, anglers can look forward to lower creel limits on most game fish species and regulations such as slot-size limits for bass and perhaps walleyes and northerns, tailored to specific lakes. There may eventually be restrictions on the number of panfish over a certain size that may be kept, as well as longer size limits on hook-and-line sturgeon, again to stem over-exploitation.

On a less restrictive note, walleye anglers will be pleased to know that backtrolling is now legal statewide. Catch-and-release fishing, pro-



An Eagle Staff was used in ceremonies commemorating Veteran's Day at the Lac du Flambeau reservation.

## ter, but fish are getting fewer



The trend is clear: If we are to preserve the fish we like most to catch, we are going to have to keep putting them back in the water. Whether we want to admit it or not, we have become too good at catching fish for our own good.

Technology is part of our process. Fish locators. Graphite rods. Better lures. Better lures. Scents. Our expertise continues to improve. Whole magazines are devoted to fishing techniques. Entire television programs demonstrate the techniques that are explained in the magazines. Instructional videos have put the how-to in living color in our living rooms. Fishing gurus make their livings standing on stages demonstrating the latest techniques and revealing the newest technologies.

elite anglers who have already caught so many fish that they do not need to kill any more. It is for all of us.

It's for moms and dads and sons and daughters. It's for resort owners and outfitters and guides. It's for charter captains and tourists and chambers of commerce. We are going to have to bring our attitudes in line with our resources. We cannot continue to define success by the size of our stingers, by fish flesh in our coolers and by fillets in our freezers. This is not going to be pleasant. It is not going to happen overnight. But it is beginning to happen, and we might as well get accustomed to a new way of fishing.

has banned night fishing on Mille Lacs Lake in central Minnesota, one of the state's most heavily fished walleye waters. The DNR has put in place limits on the number of large walleyes that may be kept from waters such as Mille Lacs and Saganaga Lake north of Grand Marais. The agency has, with support from the lake Superior Steelhead Association, reduced the steelhead limit on the Knife River to one.

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# Wisconsin

By Dan Small

(Reprinted with permission from the Wisconsin Sportsman, January 1990 issue)

In case you hadn't noticed, the face of fishing in Wisconsin has changed dramatically in the past several years. In addition to new statewide size limits for bass and walleyes and a completely revamped system of regulations for stream trout, tribal treaty-rights fishing and the drought of 1988 have left their mark on state fisheries. While anglers have greeted them with mixed reactions, these and other changes that occurred in the late 1980s were harbingers of significant trends that will continue to shape the new decade.

With 15,000 lakes and 26,000 miles of streams, Wisconsin ranks as one of the top fishing states in the nation. Over 2 million anglers fish in Wisconsin every year, including more non-residents than in any other state, and this total continues to increase. All told, Wisconsin waters provide some 40 million days of recreational sport fishing annually. With this kind of pressure, will fishing opportunities remain as good in the '90s as they have been in recent years? What can Wisconsin anglers anticipate over the next decade?

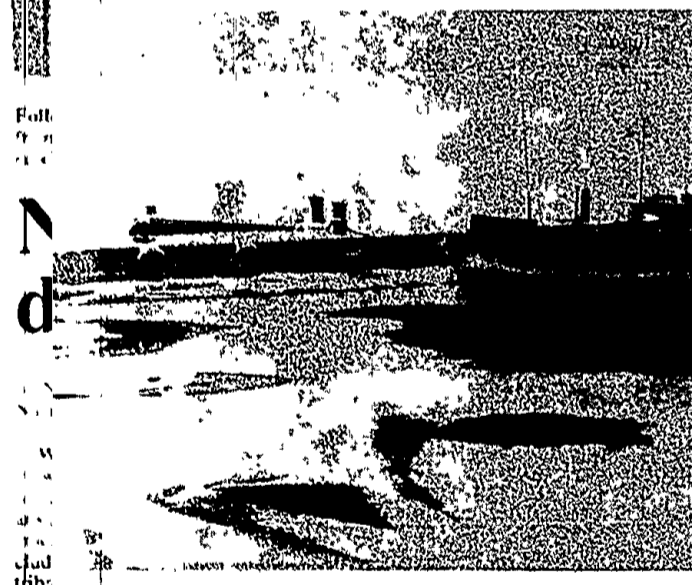
For one thing, anglers will find more competition on our lakes and rivers than ever before, but not only from fellow anglers, but also from pleasure boaters and others, as the demand for on-water recreation continues to grow. Some lake property owners' associations have already adopted speed restrictions during certain hours to accommodate fishermen and others who want to avoid the noise, wakes and other disturbances caused by high-speed boating. More lakes in southern Wisconsin will probably follow suit. Where there are no such re-

strictions, anglers will be better off fishing on weekdays and early and late in the day. The quiet Sunday afternoon at the lake is unfortunately a thing of the past in many areas of Wisconsin.

As we enter the '90s, anglers will face more restrictions than they have seen in a generation. A change obvious to all who read the regulations booklet has been the reintroduction of size limits on bass and walleyes for the first time since the 1950s. Statewide size limits were imposed last year on bass and this year on walleyes. Anglers are simply beginning to harvest too many of these species and the DNR has made this bold move to preserve the quality of our fisheries.

The high-tech revolution of the '80s that spawned sophisticated fish locators, inexpensive graphite rods and an incredible array of scents, lure color systems and other gadgets, combined with a glut of fishing magazines, TV shows and instructional videos, have turned the modern angler into an efficient fish harvester. While this is not news to most of us, the impact of all this technology is finally being felt on our fisheries. DNR surveys of game fish populations and projected harvest rates show that without some restrictions on anglers, game fish populations on many lakes would have become over-exploited sometime in the next 10 years.

Two effects of the new size limits should improve the quality of Wisconsin fishing over the next decade, one almost immediately and the other down the road a few years. The first thing you will notice is that there will be more game fish to catch, since anglers must release smaller fish that might have been kept in past years. Eventually (and before too not long in fertile lakes with good growth rates), the bass and walleyes you catch will be of larger average size than in the past.



commercial fishing tug lies quietly in the ice off Madeline Island. (Photo by Sam Cook)

## Anglers are getting

### Introduction

by Tom Busiahn, GLIFWC Biological Services Director

When large, old pines covered the Lake Superior country, the waters were filled with large, old fish. These abundant fish populations, seasonally harvested by the Chippewa and other tribes, were very different from what exists now. Compared to today, the old fish grew slowly, and few of their young survived a summer of predation by their elders.

Our elders remember days when fish were more abundant. Today's angler has experienced an explosion of technology and information that has changed the way we pursue fish. In fact, since treaty times, the only constant in the fishery resource has been change. Fish populations have responded to increased harvest with increased growth and reproduction, except where prevented by degraded habitat or introduced competitors. Few people fully realize the extent that fish populations today are structured by angling pressure.

In the relatively infertile lakes of the Lake Superior region, Nature's ability to replace the harvest through growth and reproduction is being tested by well-trained and well-equipped anglers. In other words, fishing is stressing our fish populations to their biological limits.

State and tribal fish managers must respond to the pressure with a better assessment of the status of the resources and with fishing regulations that meet the needs of both people and fish. And we who catch fish for food or fun must assume a sense of responsibility for our actions; and kill fish only for responsible purposes.

Outdoor columnist Sam Cook has written eloquently of his love



# Letters request support of treaty rights

Welcome support for Chippewa treaty rights has been coming not only from local organizations and individuals but from other states across the nation. Representatives of the American Indian Issues and Action Committee (AIAC) contacted GLIFWC offices following the 1989 spring spearing season to express their concern and support.

The Committee indicates they will be continuing to pursue activities relating to the support of treaty rights and public education.

Below are copies of letters sent to GLIFWC and to Congressmen David Obey, James Sensenbrenner and Judge Barbara Crabb from the AIAC. Their support and work is appreciated.

## Letter to Judge Barbara Crabb

The American Indian Issues and Action Committee wish to commend you for your decisions supporting the Chippewa Treaty Rights issue. In view of the controversy surrounding your decisions, it is indeed inspiring to realize that the United States Court System does indeed work for everyone.

As Native Americans continue to struggle for cultural survival, it is hoped that more judges have your insight and compassion for interpreting the law fairly and equally. The American Indian is continually fighting to maintain the traditions of the past and to salvage some hope for the future. It is important that all treaties are respected and acknowledged. These treaties represent the last grip on the mending of a culture, and nothing, time nor societal pressures, can invalidate the legality of them.

Our organization, based in St. Petersburg, Florida supports your stand on the issue. Our support is with you and the Chippewa nations. Perhaps the other residents of the state of Wisconsin will wake up and realize the law must work for everyone, not for convenience or convention.

Thank you for your fair, impartial stand on the Treaty Rights Issue.

## Letter to Congressman Sensenbrenner

The Chippewa Spearfishing Treaty Rights issue is no longer a Wisconsin problem. The anti-Indian sentiment that has become a rallying cry in Wisconsin is a disease that could affect every state in the union. Racism is not an issue that should be compromised. When you support legislation that will limit or amend those rights that the courts have sanctioned, you are compromising on principles this government were founded on.

Treaty Rights are not "special" rights, but rights that are necessary to preserve and protect the American Indian way of life. No one can sit in judgement of what is proper or popular. Laws and treaties are not designed for the popular, but for the fair. No other ethnic group in America has suffered almost total annihilation at the hands of another race. The non-Indian segment of this nation continually discredit and ridicule the American Indian. This is a habit begun almost 500 years ago with the invasion by Christopher Columbus.

Although the past is the past and can not be changed, continued non-chalance with the concerns and rights of the American Indian do not make amends. Racism is racism and yielding to the demands of the non-Indian population is compromising on a heinous wrong. Remember that the Bill of Rights is designed for everyone, not for those that can benefit most from it.

Time, progress, nor societal pressures can not invalidate the legality of treaties. What was entered into as legal once should always be legal. If not, then the entire Constitution and Bill of Rights is out-of-date. Representing the people is an obligation that should not be distributed unequally or partially. You represent all people in your district, including Chippewas. Preserve their traditions and prevent the continued extermination of traditions.

Please reconsider your stand on Treaty Rights and support court ordained, government agreed treaty rights in your state, and nationwide.

Thank you for your time.

## Letter to David Obey

Do you believe that racism can be legislated? Do you think that social pressure justifies compromising the principles of equality and justice due process? As a respected member of the United States House of Representatives for Wisconsin I do not believe you agree with the question just posed. Reviewing the legislation you introduced, H.J. Res 261 however, these questions come to mind.

The Chippewa spearfishing situation is no longer just a Wisconsin problem. Anti-Indian sentiment should not be justification for compromising court ordained and sanctioned rights. Giving in to the demands of the non-Indian protestors sends a signal to would-be racists that as long as enough noise is made, anything can be obtained.

Treaty Rights are not "special" treatment, but legal agreements between sovereign nations. Time can not invalidate legal agreements. Society can not invalidate legal agreements. What is legal once must stay legal unless our legislative branch of this government has work cut out for them, re-writing and updating the U.S. Constitution and Bill of Rights.

Good motives are a wonderful thing, but motives can be biased. The American Indian has been the victim of discrimination and deprivation. The past is past and cannot be changed. But the future can be. Treaty Rights represent a legal guarantee that the rights of the American Indian cannot be taken away. It doesn't matter that traditional methods of utilizing these rights are no longer used. It doesn't matter that modern conveniences have replaced traditional tools. What matters is that the concept of the tradition be protected.

No other race of people has had to face the harsh reality of total annihilation. Continued encouragement of racism towards the American Indian is condoning the extermination of a people, of a culture. After the next generation, who is next? It is time to stop the cycle of hate. Let the next generation learn that the laws are equally and unbiasedly administered to everyone. Let the youth know that compromise of legal edicts is not commensurable. Stand by Indian Treaty Rights.

Thank you for your time.



Following November elections, Bad River welcomed three new members to their council. Pictured above, from the left are: Matthew Eau Claire; Robert Powless; Bardo Leoso, treasurer; and Donald Moore, re-elected as Tribal Chairman.

## NCAI lays off staff, seeks donations to survive

by Nancy Butterfield  
Native American News Service

WASHINGTON, D.C.—Newly elected officers for the National Congress of American Indians (NCAI) have implemented an emergency survival plan that has included laying off all staff, seeking tribal financial and staff contributions, and meeting with federal and state officials to work out payment schedules for back taxes.

The organization's financial records are in such disarray it is difficult to determine just what its status is, according to William Ron Allen, NCAI Treasurer, but he estimates it is as much as \$200,000 in debt. The most urgent issue is some \$100,000 NCAI owes in federal and state withholding taxes, FICA and unemployment insurance, Allen said.

The 46-year-old organization is the nation's oldest and largest representing American Indian/Alaska Native interests. Its members elected President Wayne Ducheneaux and other new officers at the annual convention in October after they campaigned for reform of the organization.

Former executive director Suzan Harjo's employment contract was not renewed following the election, and NCAI Natural Resources Coordinator Gail Chehak resigned shortly afterward.

NCAI Intern Director A. Gay Kingman and the organization's officers have since given termination notices to all eight of the organization's other employees: Dorothy L. Sampson, Management Assistant—finance; Robert I. Holden, Natural Resources Researcher; Bernie Toyekoyah Jr., Management Assistant—membership; Stephen E. Watt, Research Assistant; Frances W. Fragua,

Administrative Research Assistant; Romeo C. Vergel de Dios, Management Assistant—finance; Debra E. Gee, Intern Research Assistant; and Hans Hiemstra, Legislative Intern.

A nationwide search has been launched for a new executive director, with a Dec. 31 application deadline and a target hiring date of March, Allen said. He added that there already have been a number of highly qualified Indian individuals who have expressed an interest in the position.

Kingman and NCAI officers will hire other new staff members as soon as possible, he said.

"By the time we select a director, a lot of the work will have been done," Allen said, "but that person will inherit a heavy burden."

NCAI President Wayne Ducheneaux was out of town and could not be reached for comment.

In the meantime, Allen and others, officer, Kingman, and tribal volunteers are conducting a thorough analysis of the organization's finances and contract compliance.

They have discovered that the financial system is outdated, and that NCAI is out of compliance with several of its contracts with federal agencies, he said.

Granting agencies "are demonstrating understanding and patience to let us dig our way out (of the deficit)," Allen said, with the exception of George Washington University, which had granted \$23,000 to NCAI to conduct education on AIDS prevention. None of the provisions of the grant were carried out, he said.

"They are so angry they just want their money back," he said.

But the news is not all bad, Kingman said. She and Allen both said they are gratified by the tremendous response the organization has received from tribal leaders who want

to see NCAI back on its feet.

"People have been stopping by the office, offering to help, and volunteering their time," Kingman said. "They are so happy to have the Congress back."

During his campaign for the NCAI presidency, Ducheneaux and his supporters, including Kingman, had charged that under Harjo's direction the organization had become unresponsive to the needs of the tribes, resulting in a dramatic drop in membership.

Among tribes and organizations contributing to NCAI's efforts to regain its financial and political footing, Kingman said, are the Council of Energy Resource Tribes, which donated one staff person for a month; the Quinault Tribe, which provided two staff members for a week; the Quileute Tribe, which donated copying costs; the Aberdeen Area tribes, which chipped in \$100 each toward the purchase of a new FAX machine; \$7,500 in staff time from the Jamestown Klallam Tribe; and donated time from consultant Rose Robinson that has amounted to almost 40-hour weeks at NCAI.

"There is a new sense of optimism, and the tribes are rallying to support NCAI," said Allen. "Many are stunned at the condition it's in, but not discouraged."

The organization continues to have "a very serious need for people to help us," Allen said. "We need tribes to volunteer their assistance, whether it's one day or 90 days; to sponsor staff members; to renew memberships and make donations."

One of the most urgent needs, Allen said, is for a tribe or tribes to provide NCAI a loan of about \$100,000. "We could retire that taxation problem, and keep the doors open," he said.

## New American Indian Museum at Smithsonian

President George Bush signed legislation on November 28 that establishes the National Museum of the American Indian as a new Smithsonian Institution museum. Scheduled to open in the mid-to-late 1990s, the museum will be located on the National Mall on a site between the National Air and Space Museum and the U.S. Capitol. It will be the 15th museum in the Smithsonian complex.

"I take great pleasure today in signing S.978, 'The National Museum of the American Indian Act,'" President Bush said. "This occasion marks the point from which the nation will go forward with a new and richer understanding of the heritage, culture and values of the peoples of the Americas of Indian ancestry."

The legislation calls for the estab-

lishment of the National Museum of the American Indian as a living memorial dedicated to the collection, preservation, study and exhibition of American Indian languages, literature, history, art and culture.

The centerpiece of the new museum will be the priceless collection of more than 1 million artifacts in the Museum of the American Indian, Heye Foundation, now in New York City. This collection, which includes a library, photo archives and other resource materials, will be transferred to the Smithsonian Institution.

The legislation establishes a second exhibition site, called the George Gustav Heye Center of the National Museum of the American Indian, in the Old United States St-

495 89 Custom House in lower Manhattan. A storage research and conservation facility will be built at the Smithsonian's Museum Support Center in Suitland, Md. The law also provides for the loan of exhibits and artifacts to American Indian museums, cultural centers, educational institutions and libraries.

The bill authorizes \$10 million in fiscal year 1990 to begin the planning, design and construction of the museum and for the assumption of the care and custody of the Heye Foundation's American Indian collections. The amount appropriated to the Smithsonian in fiscal year 1990 is about \$5.5 million.

(Reprinted from a release by the Smithsonian Institution, Washington, DC)

## Ada Deer elected chairwoman of NARF

Boulder, Colo.: By a unanimous vote of the Board of Directors, Ada Deer, a nationally-recognized Indian leader and member of the Menominee Tribe of Wisconsin, was elected Chairwoman of the Native American Rights Fund (NARF). NARF is the nation's largest Indian legal rights organization and is headquartered in Boulder, Colorado. Deer replaces outgoing leader, Norman Raton, a Navajo-Laguna Indian from New Mexico who until recently headed Navajo Legal Services.

Ada Deer has an extensive background in public service, both in Wisconsin and nationwide. She ran for Secretary of State in the Democratic Primary in Wisconsin in 1977 and 1982. Deer is currently President of the Wisconsin Chapter of the National Association of Social Workers and has served on numerous local, state and national boards including Common Cause, Girl Scouts of the U.S.A., the American Indian Scholarship Program and Housing Assistance Council. In 1982 she was among the first 18 women honored by the Wonder Woman Foundation.

The Native American Rights Fund worked extensively with DRUMS—Determination of Rights and Unity for Menominee Shareholders—to successfully restore the Tribe's federal recognition status during the 1970's. The Menominees were one of scores of Indian communities in the United States whose tribal status was "terminated" by Congress in the early '50's.

The impact was devastating to the tribes. Through DRUMS' actions, including Ada Deer's leadership, the Menominees were the first tribe to reverse that "terminated" status with the passage of the Menominee Restoration Act in December, 1973. From 1974-1976



Ada Deer

Ada Deer served as the first chair of the interim governing body of the Menominee Tribe.

Deer worked for the Native American Rights Fund as a legislative liaison in Washington, DC from 1979-1981. In 1984 Ada Deer was elected to the NARF Board of Directors, served on the Executive Committee for the past several years and was elected vice chairwoman in the spring of 1989. She is currently a senior lecturer in the American Indian Studies Program and the School of Social Work at the University of Wisconsin—Madison.

In addition to electing a new Chairperson, the Board of national Indian rights group committed itself to the development of the NARF 21st Century Trust. The Trust will be a special multi-million dollar fund to provide the organization the necessary resources for the ongoing protection of Indian legal rights. It is keyed to the commemoration of NARF's 20th anniversary in 1990 and will culminate in

1992—the Columbian Quincentenary.

"I am both honored and humbled to serve in this position especially at this historical time," stated Deer. "I know firsthand the difference NARF has made for Indian people. Without NARF's help these last 210 years, the legal rights of hundreds of tribes and thousands of Native American people would have been totally ignored."

She went on to say, "Right now as NARF commemorates its 20th anniversary and as this country makes plans to observe the Columbus Quincentenary, people are threatening the survival of Indian communities and challenging the rights of Native peoples. NARF will use these next three years to ensure not only the continued existence and survival of Native peoples, but also to promote the enhancement of their cultures and the development of their communities across the nation."

(Reprinted from a news release by NARF.)



celebrate the holidays together prior to Christ-

## 1990 CENSUS FOR AMERICAN INDIANS AND ALASKA NATIVES

The Constitution of the United States authorizes a national census every 10 years. For the 1990 census, the Census Bureau is planning a number of activities to provide accurate and important information about American Indians, Eskimos, and Aleuts. Special efforts are being made in the areas of enumeration, tabulation and publication of data, outreach, and the identification of geographic areas to ensure that the 1990 census will meet the needs of all segments of the American Indian and Alaska Native community—those living in urban, rural, and American Indian and Alaska Native areas throughout the Nation.

The 1990 census data are important to American Indians, Eskimos, and Aleuts. The statistical information collected by the Census Bureau is used in many ways by tribal and Alaska Native village governments and Federal, State, and local agencies as well as private individuals, community groups, and businesses.

CENSUS '90



Answer the Census.  
It Counts for  
More Than You Think

The number of congressional seats for each State and election districts for State and local governments are defined on the basis of census figures. Census data are used annually to allocate millions of dollars in Federal funds to programs for American Indians and Alaska Natives. Numerous Federal agencies such as the Departments of Education, Health and Human Services (including the Indian Health Service), Agriculture, Labor, and Housing and Urban Development use census data to allocate money or plan programs for tribal and Alaska Native village governments.

## Have their voices heard

those, 19 have petitioned and eleven...

recognized and unacknowledged tribes supported S. 611 as an effective way to facilitate the processing of petitions.

In a letter to members of the Senate Select Committee on Indian Affairs, FCNL expressed support for a fair process to examine suggested reforms to the federal acknowledgment system. Indian groups should have the right to name themselves, and to have federal policy follow and recognize, rather than itself determine, what Indian people know to be true: that they identify and name themselves as an Indian tribe.

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Steve Robinson, public information director for the Northwest Indian Fisheries Commission, Olympia, Washington, presented a workshop entitled "Promoting Understanding Through Education" during GLIFWC's conference.

## Co-operative management continued

(continued from page 12)

The University of Minnesota will achieve two doctoral and one masters degree thesis so far from the studies.

The examples could go on and on with each tribal and inter-tribal program having some success story that could be shared.

What is significant though—and I believe one of the keys to expanding cooperative management is the development and success of our tribal and inter-tribal resource management programs.

As our natural resource management credibility and reaffirmation of rights continues to increase so do our co-operative management options. We will continue to develop and foster tribal and inter-tribal management expertise and keep pioneering and bridging the gaps between tribal and other management agencies.

What benefits the most from all this is not the tribes or the states, it's the resource and the future looks good.

In conclusion, the Chippewa Tribes and their umbrella organization, the Great Lakes Indian Fish and Wildlife Commission, are responding to the challenges pro-

vided by the courts, and have developed the professional expertise to carry out evolving resource management roles and responsibilities, and to interface with other jurisdictions on a government-to-government basis. These tribes can be counted on to continue advocating for the resource upon which the exercise of Indian hunting and fishing rights depend, thereby adding a loud voice to the call for environmental safeguards and resource conservation.

Complex resource management issues will hopefully continue to be addressed and resolved by the affected interests on a case by case basis, through the establishment of meaningful inter party dialogue and cooperation.

The lake management committee structure concept has the ability to mitigate sources of conflict.

Coordinated action by all affected resource management jurisdictions, coupled with the use of Indian hunting and fishing rights as tools to address the many threats facing this nation's fish and wildlife resources, represents an effective strategy for serving the needs of society.



Great Lakes Indian Fish and Wildlife Commission staff and their families. Best wishes for the 1990's are extended to all for the coming year.

## Unacknowledged Indian tribes

(Reprinted with permission from the Friends Committee on National Legislation (FCNL) Washington Newsletter.)

Suppose your foreparents were members of Indian tribes which made treaties of peace and landcession with the colonial American government during the 18th century. Later, members of your tribe were removed from their homelands to lands west of the Mississippi that were "unsettled," and less desirable to white settlers; a remnant of your tribe, however, remained.

18 The the no soth o call, l office Minne Rehou laws alike

Or, generations ago, all but a handful of your tribe was wiped out by disease and war with white settlers. The rest, fearing persecution and death upon discovery, went underground or retreated into the hills, or bayous, there quietly to continue their traditions.

Or, your ancestors in that territory that was later to become the first state, California, signed a treaty with the United States when the area began to attract non-Indians who were chasing rumors of gold. However, that treaty, which recognized the relationship between your ancestors' tribe and the federal government, was not ratified by the Senate, but was hidden away in a sealed place for 50 years.

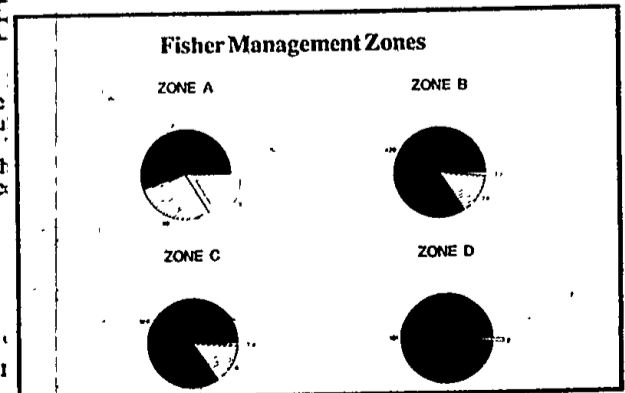
In each of these cases, the descendant tribe today is what is called a "nonrecognized" or "unacknowledged" Indian tribe. That is, the federal government does not claim a government-to-government relationship with that tribe, nor provide federal services in exchange for lands that were ceded or lost. That tribe may identify itself, and be recognized by other communities and even the state, as Indian, but lack of federal recognition denies that Indian community full governmental and political status.

Since 1978, non-recognized tribes have submitted petitions to an agency within the Bureau of Indian Affairs known as the Bureau of Acknowledgment and Research, and undergone a process known as the federal acknowledgment process (FAP). (The courts and Congress can also recognize individual Indian tribes, and have sometimes done so.) FAP petitions provide a broad array of cultural, political, and other evidence as proof that an Indian group has continued since earlier centuries to exist as a political unit, and therefore should be recognized as such by the federal government. However, FAP is notoriously detailed, costly, and slow, requiring tribes to wait years to have their petitions processed. Since 1978, 110 Indian groups have sub-

## Biological impact con

(Continued from page 15)

When we examine each of the four fisher management zones that were in place in 1988, the pattern varies. The state-licensed harvest was greater than tribal harvest in each zone, except Zone D, where the state did not authorize fisher harvest. The exclusive tribal harvest in Zone D represents a grand total of 2 male fisher. These zones have been restructured for 1989, so the distribution of harvest by zone will be different in the future.



### SUMMARY OF IMPACTS ON RESOURCE POPULATIONS

In summary, there is no known instance where tribal harvest has been responsible for any harm to the natural resources of Wisconsin. In those cases where tribal harvest has been intensive enough to have measurable effects, it is also heavily monitored and regulated. In short, the treaty rights controversy is not about resource depletion. The controversy is generated by social and economic factors in our communities, such as racial resentment, opposing ethical systems, economic disparities, and a lack of dialogue between communities. However, resource management plays a part, because the controversy is fueled by uncertainty about the biological status of the natural resources.

### IMPACT ON RESOURCE MANAGEMENT SYSTEMS



## "Building a Diplomatic Relationship with the Church"

February 13, 1990  
Westwood Conference Center  
Wausau, Wisconsin

### Invited participants include:

Wisconsin Indian Resource Council  
Great Lakes Inter-Tribal Council  
Great Lakes Indian Fish & Wildlife Commission  
American Indian Language and Culture Education Board  
All elected tribal government officials  
Wisconsin Indian Press  
Wisconsin Conference of Churches

### Major topics to be covered include:

- Sovereignty
- Jurisdiction
- Gaming
- Education
- Reconciliation
- Treaty rights
- Hunting and fishing
- Tribal economic development
- Tribal government
- Co-management

### For more information:

Call (715) 346-2746  
Stan Webster, Coordinator

# Judges' corner

Lac Courte Oreilles Tribal Court, the first tribal court in Wisconsin, was established by the Lac Courte Oreilles (LCO) Governing Board in May, 1976.

Originally established to hear conservation cases within the LCO reservation boundaries, the tribal court now holds hearings on both on and off reservation conservation cases, child welfare cases, domestic relations, adoptions, divorces and marriages, small claims, and offenses of the tribal gaming code.

The LCO Chief Judge is Ed Barber, a position held by him since 1976. Barber has received judge's training from the National Indian Court Judges Association, the National Judge's University in Reno, Nevada and the National Indian Justice Center.

At one time, he retired from this position but was asked by the LCO tribal council to return to the tribal court system.

"I tried to retire," Judge Barber said, "but I ended up as reserve

judge and I was just as active as if I was full time."

He returned as the Chief Judge for the Lac Courte Oreilles tribe in September 1989.

From 1979 to 1981, Barber also served as the tribal judge for the Bad River tribe in Odanah, Wisconsin.

The LCO tribal court also staffs a court clerk, deputy court clerk and tribal prosecutor.

The court clerk position has been held by Marge Taylor for the past five years. As part of the duties as tribal court clerk, Marge, an LCO tribal member, types out orders for trial, subpoenas, and complaints, notifies people of hearing dates, and acts as the registrar for marriages in the tribal court.

As Judge Barber said, "Marge does a lot of the administrative work for the court. She's kept pretty busy."

Delores Meraz has been the Lac Courte Oreilles deputy court clerk for the past 4 years. As the deputy court clerk, Delores, also an LCO

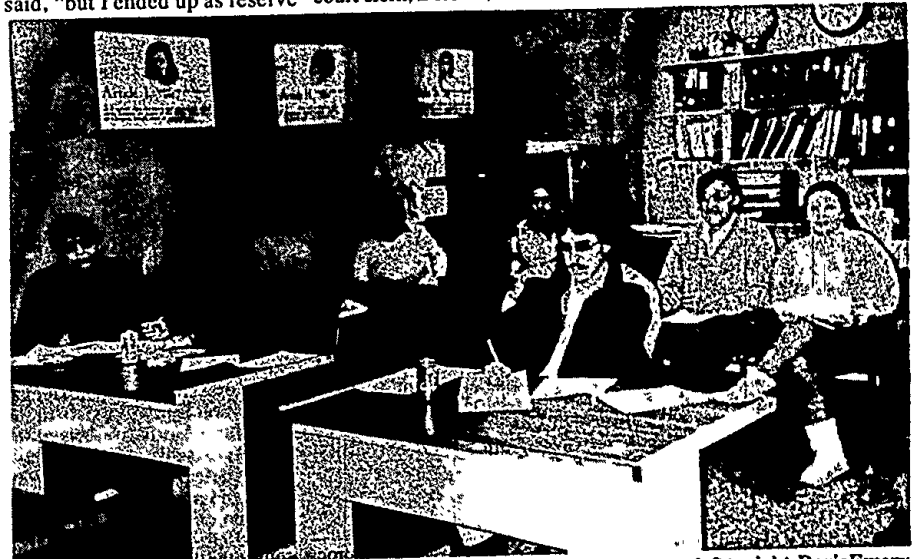
member, usually steps in as court clerk in the possibility of a conflict of interest between Ms. Taylor and any cases that come before the court.

Tribal attorney, Tracey Schwalbe, is also the tribal prosecutor. Tracey, originally from Waupaca, Wisconsin, has been the tribal prosecutor for the past year and a half. As tribal prosecutor, Schwalbe, acts on behalf of the tribe to ensure that violators of the tribal codes are brought before the tribal court.

According to Ms. Schwalbe, the case load for the LCO tribal court system has tripled in last four years.

"The reason this is happening," she said, "is because more people are becoming familiar with the tribal court and utilizing the civil functions, such as marriages, more often than in the past."

Schwalbe also said that with the expansion of tribal hunting and fishing off the reservation more people are coming through the tribal court system than before.



Attending a December meeting of the Great Lakes Judges Association are, from left to right, Doris Emery, Julie Nelson, St. Croix; Irv Soulier, Alton Smart, Bad River; Andy Gokee, Red Cliff; Brad Dakota, Keweenaw Bay; and Fred Ackley, Francis VanZile, Mole lake.

## Protection at boat landings continued

(continued from page 1)

the landings at Butternut Lake. Bad River spearer Joe Dan Rose thanked Frechette for his conscientious efforts, noting that the atmosphere in Bayfield County was "a lot less threatening" than in other areas.

Maulson indicated that communications with Vilas County Sheriff's Department were less than adequate. "Unfortunately, not all sheriff's deal like you do," he said. "Maybe you can be a model."

Other concerns regarding enforcement during spearfishing included: 1) failure to arrest for verbal threats to individuals' lives, 2) failure to arrest for racial slurs and insults 3) giving warnings rather than making arrests 4) minimizing incidents to the media 5) failure to recognize authority and expertise of GLIFWC wardens 6) toleration of repeat offenders 7) failure of the

courts to properly penalize offenders.

Frechette stated that tribes should compile a list of specific concerns over enforcement to be presented at an upcoming meeting of enforcement officials regarding the spring spearing season. Those concerns, he said, if specifically stated could then be addressed.

Frechette stated that enforcement is planning to be more "efficient" in 1990 and is already working on organizing for the season. "Site commanders" will be trained to take charge of specific landings, he said. "Some 'top dogs' will be out there to assist."

Frechette also commented that the federal prosecution of those responsible for the pipe bombs showed a willingness to get tough. "There was no parole, no bail, no hankypanky," he said. The individ-

ual responsible for the shooting incident will be tried in Douglas County, January 12 on charges for reckless use of a firearm.

"If PARR and STA would stay away, we could resolve these issues," Frechette said. "We need peace on the landings." He called PARR's promises to stay off the landings until April 15th a "publicity gimmick," meaningless because spearing probably wouldn't begin until after April 15th anyway.

Frechette encouraged tribes to attempt to open communications with the county sheriff's department and have meetings similar to the one that was being conducted currently.

Tribal members and leaders praised Frechette for his willingness to work cooperatively with the tribes and for providing leadership in the provision of enforcement.

## 1854 Authority warden cross-deputized

The second cross deputization in the northeastern region of Minnesota occurred when Clayton Hascall, 1854 Authority conservation officer, was cross-deputized by the Minnesota Department of Natural Resources in December. This allows him to enforce conservation laws on Indians and non-Indians alike.

The 1854 Treaty area extends over most of northeastern Minnesota. 1854 Authority wardens are primarily responsible for monitoring and enforcing the regulations of the Chippewa off-reservation harvests.

However, without cross-deputization the tribal wardens have been unable to enforce state laws on non-Indians in violation.

Patricia Zakovec, 1854 Authority Coordinator, views cross-deputization between state and tribal officers as indicative of a cooperative relationship. Another 14 to 16 officers will be cross-deputized over the next several years.

Since the 1854 Authority wardens are fully trained and certified conservation officers, Zakovec feels the State is acting responsibly by cross-deputizing. It increases enforcement capabilities over a wide area, while not imposing addi-

tional tax burden on state citizens. She pointed out that 1854 Authority wardens are paid through funds available to the three 1854 treaty tribes in Minnesota—Grand Portage, Fond du Lac and Nett Lake. Conservation enforcement is just

one area where Zakovec views cooperative endeavours between the state and tribes will prove beneficial to both. She looks forward to working with a variety of agencies in the area on habitat development as well.



Craig Backer, right, MN Department of Natural Resources, Northeast Region, congratulates Clayton Hascall, 1854 Authority conservation officer, after Hascall was sworn in as a MDNR enforcement officer. Hascall is the second officer to be cross-deputized by the state of Minnesota.

## Editorial Comment

Fortunately, bishops aren't elected because the Rt. Rev. Bishop William Wantland would probably be facing a recall similar to Representative Jim Holperin for calling segments of northern Wisconsin's public "ignorant."

The ad reprinted below is part of the push by angered constituents to recall Representative Holperin who has indicated that he has been "ashamed" of his constituents' behavior and believes some of them need to be educated.

# Recall Jim Holperin

Jim Holperin said he is "Ashamed of his Constituents" this spring on Wisconsin Public Radio.

Jim Holperin ran a survey of his constituents which showed approximately 80% were against his closed session "Negotiated Agreement" with the Lac du Flambeau tribe — his response to his constituents was that it only showed he had to "Educate" us.

**The Recall Holperin Committee thinks it is time to educate Jim Holperin.**

**Please support the committee and sign the recall papers**

As Wantland has stated many times over, "ignorance of ignorance" is the core of the problem with racist behavior. So, how can Holperin expect his constituents to recognize a need for education?

It seems it is difficult for the enlightened constituency to comprehend how anyone could be "ashamed" of a mob of white folk throwing rocks at Indians, or shouting racial slurs, like "TIMBER NIGGER," or bearing signs that read "Spear an Indian"??? Obviously, Holperin doesn't understand his well-meaning constituency and should be recalled.



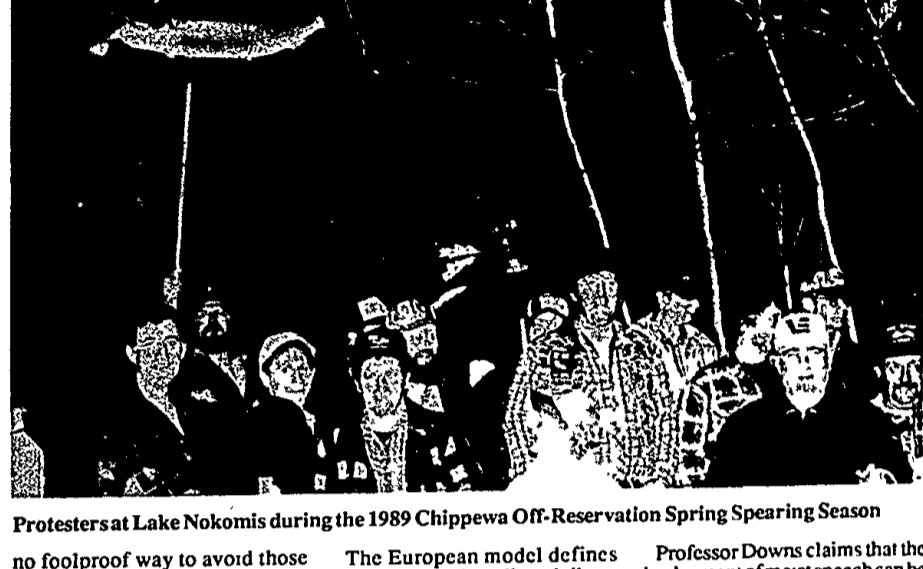
Why would Holperin be ashamed of these folks or think some education might be helpful? What an insult to the "good old boys"! He's obviously due for recall!!!

# Amendment protect racist speech?

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Protesters at Lake Nokomis during the 1989 Chippewa Off-Reservation Spring Spearing Season

no foolproof way to avoid those kind of abuses, but the uniqueness of racist speech would reduce the chances of such abuse. He suggests placing the power of enforcement and prosecution in the hands of a non-political agent who can be free of political and social pressures. Kretzmer believes the Attorney General ought to decide the fate of racist speech cases.

Supporters of anti-racist speech laws claim the benefits of such laws would protect human dignity, prevent psychological assault, and promote racial justice. They cite precedents of anti-racist speech legislation in international law and American lower court case law.

International law provides anti-racist legislation precedents in the United Nations Declaration of Human Rights, (1948); the International Covenant of Civil and Political Rights, (1966); and the International Convention on the Elimination of All Forms of Racism, (1965). These covenants essentially declare that all people are equal before the law, entitled to equal protection of the laws, and entitled to protection from discrimination and any incitement to discrimination. The International Convention on the Elimination of All Forms of Racism makes incitement to racial hatred and violence against any group of another race, color, or ethnic origin an offense punishable by law.

British and European anti-racist speech laws provide models for creating such legislation in the United States. The British model defines racist speech very narrowly and makes prosecution ineffective.

The European model defines racist speech too broadly and allows for infringements upon other areas of free speech. The basis for choosing one of the models for anti-racist speech laws in the United States depends upon the desired effect. The British model can provide symbolic protection from racist speech. The European model can help curb the spread of racist speech, according to Professor Kretzmer.

The *Vietnamese Fishermen's Association vs. the Knights of the Ku Klux Klan*, decided in a Texas district court in 1982, provides a precedent in American case law for anti-racist speech laws. In this case, the KKK staged a military type of demonstration against the Vietnamese fishermen in Galveston Bay, Texas. The KKK's activities and behavior were strikingly similar to the kind of tactics PARR and STA use in their demonstrations against the Chippewa fishermen in northern Wisconsin.

The Vietnamese Fishermen's Association filed suit for injunctive relief based on rights guaranteed by federal and state statutes. The court ruled that the demonstration activities of the KKK weren't protected by the 1st Amendment and their threats toward the fishermen, communicated through their military activities, constituted fighting words. The fighting words doctrine states that no speaker has the right to say things that would provoke a reasonable person to react violently. The Vietnamese Fishermen's Association won their case.

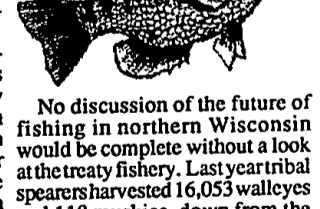
Professor Downs claims that the abridgement of racist speech can be consistent with the 1st Amendment. He states the courts have already decided speech cases based on content and the nature of organizations with an eye toward achieving substantial justice. The courts have ruled that the 1st Amendment doesn't protect harmful speech nor serves as the means to achieve substantial evil, according to Professor Downs. Specific areas of speech that have been regulated include commercial, solicitation, libel, datamation, obscenity, and indecent speech. Based on these precedents, Professor Downs recommends a constitutional policy reform to allow abridgement of racist speech.

Proposals to limit racist speech include definitions, standards, and tests for prosecution. Professor Kretzmer defines racist speech as any speech in its widest sense which supports radical prejudice or discrimination and causes substantial harm. Implementation of anti-racist speech laws can be based on lower court precedents to recognize tort actions for racial insults and emotional distress. Professor Downs suggests the following elements be present to determine racist speech and whether it should be abridged: assaultive content, the intent to be assaultive, and the presence of targeting a racial group with the intent to harm. These proposals place a higher emphasis on the context of speech and community values in the litigation of free speech cases than the present interpretations of the 1st Amendment allow.

# Os continued

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No discussion of the future of fishing in northern Wisconsin would be complete without a look at the treaty fishery. Last year tribal spears harvested 16,053 walleyes and 118 muskies, down from the 1988 total of 25,969 walleyes and 158 muskies. There is no doubt that spearing has an impact on certain lakes, especially where the tribal harvest approaches the total allowable catch of 35 percent of adult walleyes. The tribal take is but a small fraction of the statewide harvest by sport fishermen, however. On many lakes where sport fishing creel limits have been reduced because of the projected tribal harvest, the hook-and-line harvest was already dangerously close to over-exploiting fish stocks. Indian spearing will most likely be a fact of life in the North for the near future, regardless of the outcome of negotiations between the state and tribal leaders and regardless of your personal feelings or mine. The federal courts have spoken and the state must settle with the tribes. Spearing's biggest impacts will continue to be social and psycho-

come, anti-Indian protesters who continue to make life unpleasant for tribal members exercising their rights will cause Wisconsin to look like a northern caricature of an earlier Mississippi. Is this the image of Wisconsin fishermen we want network news to broadcast to the watching world in this last decade of the 20th Century?

Finally, let's take a look at the anglers themselves. Wisconsin's population is aging, and this trend will be reflected in fishermen as well as elsewhere in our society. Demographers tell us that by the end of the decade, there will be twice as many residents aged 45 to 64 as there were in the mid-1980s, and the number over 65 will increase by 20 percent over that same time. The average fisherman in the '90s will be older than his 1980s counterpart, and he will spend more time fishing.

A generation ago the average Wisconsin family routinely spent a two-week summer vacation "up north" fishing at a resort or camp ground. Today, family structure has changed. Two-income couples with or without children find it difficult to get away for long vacations so they take more frequent long weekends to fish or camp. The growing number of single-parent families who have less time and money to spend on recreation make their fishing trips one day jaunts close to home.

One of the decade's greatest challenges will be to find ways to spark an interest in fishing and other outdoor activities in youngsters who live in urban areas far removed from daily outdoor experiences. Children growing up in the '90s won't turn to fishing and other forms of outdoor recreation as readily as the last generation did. Those with single mothers often lack the guidance of a father or other adult male relative to teach them basic outdoor skills. The loss of one future fisherman will create only a minor ripple, but if we lose a measurable part of the next generation of anglers, the waves will pound long and hard on resource management not only in Wisconsin, but nationwide.

# Should the First A

by Sherrole Benton

Anti-Indian demonstrations in northern Wisconsin, staged by the extremist groups Protect America's Rights and Resources (PARR) and Stop Treaty Abuse (STA) bear a striking resemblance to the anti-Jewish demonstrations that a pseudo-Nazi party planned to hold in the Jewish community of Skokie, Illinois in 1978.

The Nazi party planned to march in this largely Jewish community wearing full military uniform, with intentions to distribute racist propaganda about Jewish people, targeting them for racial intimidation. The court ruled that the 1st Amendment protected the Nazi party's constitutional rights of free speech.

However, a recent district court case *Vietnamese Fishermen's Association vs. the Knights of the Ku Klux Klan*, ruled that the 1st Amendment doesn't shield organizations from the fighting words doctrine or serve as a means to achieve substantial evil.

PARR and STA claim to be acting under a national wave of political reform to terminate treaties between the United States and Native American Indian tribes. They depend on protection of the 1st Amendment, rights of assembly, rights of association, rights to petition, and rights to picket to shield their racist behavior and activities. Their demonstration tactics against Chippewas, who exercise federally guaranteed treaty rights, include racist remarks, terrorist threats, threats of violence and assassination, and occasional physical attacks. Many people view PARR's and STA's activities as post hoc objectives to racial intimidation, racist speech, and dissemination of racist material.

Using the 1st Amendment as a shield for this kind of behavior is considered to be abuse of the freedoms, according to Donald A. Downs, Assistant Professor of

Government and International Studies, University of Notre Dame. PARR, STA, and other extremist groups, and their activities lead me to believe there ought to be a law against racist speech. In this paper, I will examine traditional defenses of freedom of speech, precedents for limits on racist speech, and new proposals to implement such legislation.

Racist speech infringes upon the individual right to dignity, promotes racism, and causes substantial harm, according to David Kretzmer, Louis Marshall Professor of Environmental Law, Hebrew University of Jerusalem.

"Racist speech is not merely speech which advocates abrogation of this recognition: it is speech which in itself is an affront to the human dignity of man. It is not clear why speech must be allowed in a democracy when it clashes with this basic value."

Defendants of the freedom of speech would argue that it is far better to have racist speech protected, allowing the public to decide for themselves the motives and consequences of such speech, rather than risk governmental suppression of free speech. They often quote John Stuart Mill's theories of truth and the marketplace of ideas.

Professor Kretzmer criticizes Millian arguments as ineffective in the short run. Referring to the Jewish Holocaust and other acts of genocide, Kretzmer said there is abundant historical evidence to show that the wait for truth to emerge is too long and too expensive.

"While it is theoretically conceivable that in the long run the truth will indeed always prevail, there is no lack of historical evidence to show that in the short run false views are often the most salable good in the market of ideals. Racist views seem especially susceptible to widescale adoption, often at times of social or economic dislocation, even in societies in which they have had to compete with conflict-



# Fishing in the

(continued from page 16)  
recent years that it has become standard procedure for charter captains to drag bottom for a limit of lakers before hitting the salmon. If the kings keep playing hard to get, lakers may become the staple charter quarry of the '90s, despite the fact that they carry a heavier contaminant load than most species and may be unsafe for some people to eat.

Waters streams in late summer and puts on an aerial fight unlike any other Great Lakes fish. Chambers Creek and Ganaraska streams enter spawning streams in October and March, respectively, providing a steady flow of rainbows during the cooler months. Rainbows, unlike salmon, live to spawn more than once, and they are among the lowest in contaminants, making them safe for most people to eat. Fishing for these red-streaked beauties should only get better in the years ahead.

The real Lake Michigan success story of the decade, however, will most likely be painted in rainbow colors. Several different strains of rainbow trout stocked in Lake Michigan tributary streams since the mid-'80s have begun to produce fantastic fishing in both the lake and its tributary streams. The best known of these, the Skamania, enters

On Lake Superior, the near-shore spring coho fishery that drew thousands of anglers to the lake in the late-'80s will probably continue strong into the new decade. Wisconsin does not stock any cohos in Lake Superior. Cohos caught in

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