



# MASINAIGAN

VOLUME TWO • JULY 1984



A CHRONICLE OF THE  
LAKE  
SUPERIOR  
OJIBWAY

## THE VOIGT DECISION RAISES CONCERNS

### The First 500 Days

Lac Courte Oreilles - As the Honor the Earth powwow resounds with the traditional drum song and dance, it is easy to forget that the "Voigt" decision began here.

This homecoming gathering of the Lac Courte Oreilles Ojibway (Chippewa) is a welcome respite from the legal, political and emotional maneuverings necessitated by the Voigt decision.

It has been a long and arduous journey between these annual July dances. Especially for those concerned with "Voigt".

Although the legal proceedings began a decade ago, it was on January 25, 1983 that a three judge federal panel in Chicago handed down their decision. Since then Voigt, Indians and resources has been the topic of northern Wisconsin.

The 7th Circuit Court of Appeals said that yes, the Lake Superior Chippewa did indeed reserve the right to hunt, fish and gather food in lands they sold to the United States. The treaties in question were signed in 1837 and 1842. The lands are the northern third of what is now Wisconsin.

The federal court, after affirming the treaty rights of the Lake Superior Chippewa, remanded the case back to Judge James Doyle in Madison, Wisconsin. They said that Judge Doyle must consider "...the permissible scope of State regulation of ceded lands."

Although it's now called "Besadny v. LCO, et al", this case continues on. It's popularly known as the Voigt decision after Lester P. Voigt then (1974) the Secretary of Wisconsin's Department of Natural Resources. Carrol Besadny is the current secretary. Regardless of name, the case plods on or rushes like a roller-coaster through northern Wisconsin.

Immediately after the decision there was confused reaction. The media, particularly print, reported that the Chippewas were "given unlimited rights." In fact strict limitations were part of the decision.

Equally swift was the response from the DNR. They first said that they would not enforce Wisconsin game laws against the Chippewa. They've since changed this particular tune.

And, in reaction to both the media and the DNR emerge a rumble from the public. They feared the worse for Wisconsin's resources and began organizing an anti-Indian campaign. Few who were concerned contacted the tribes.

### The Voigt Task Force

Although surprised with the timing of the decision, the Chippewa tribes reacted differently. On February 2, 1983, Lac Courte Oreilles Chairman Gordon Thayer convened a meeting of all potentially affect Chippewa tribes in Wisconsin, Minnesota and Michigan (ten in all, six in Wisconsin).

By March 16th all of the member tribes had ratified the creation of the "Voigt Inter-tribal Task Force." Jim Schlender, an attorney and officer on the Lac Courte Oreilles tribal governing board was selected to chair the task force.

The task force was responsible for developing plans to implement the decision. This meant finding funds, developing resource management and enforcement systems, and to find avenues to ensure the meaningful exercise of the treaty rights. All this in the midst of a confused and increasingly volatile public.

The Bureau of Indian Affairs soon came up with some funds to get the task force off the ground. Out of that came more meetings, technical work groups, model enforcement and management plans, a couple of biologists and a fledgling public information program. It was a start.

Eventually the Great Lakes Indian Fisheries Commission, already dealing with resource management issues on the Great Lakes, was viewed as the most likely organization to help implement the decision. By early 1984 an agreement was reached and the task force

consolidated with the fisheries and formed the Great Lakes Indian Fish & Wildlife Commission.

Through this combined effort as well as pressing timelines a staff of six biologists, 12 wardens and an administrative and support staff has been assembled to help implement the Voigt Decision. One time-consuming effort has been the negotiating of interim agreements with the state.

### The Negotiations

In July, 1983 the State of Wisconsin filed an appeal of the 7th Circuit's decision to the U.S. Supreme Court. On October 3rd the highest court denied the appeal. Shortly thereafter the state entered into negotiations to establish interim agreements on the exercise of off-reservation treaty rights.

Since that initial step the state and the tribes have successfully negotiated four interim agreements: 1983-84 Treaty Deer Hunt, the 1984 Treaty Ice Fishing, the 1984 Trapping Season and the 1984 Subsistence Open Water Fishing Season.

As this issue of MASINAIGAN goes to press the two sides are working on the upcoming Treaty Deer hunt and the 1984 Wildricing Season.

Although the negotiating process has proven successful, it has met with some difficulties and detractors. Sportswriters, apparently not confident with the state's negotiators have chastised the process as secretive. Tribal members, long denied the rights affirmed by the federal court argue that the tribes are giving away at the negotiating table what the state has been unable to win in court.

"Other states have not been as fortunate to decide to go along the path of constructive negotiations in resource matters; as a result there has been significant injury to the natural resources of those states - there has been bad community relations between tribal and non-tribal members and some cases violence," commented George Meyer, lead negotiator for the DNR.

"We view this agreement as an exercise of sovereignty. We feel that the whole process of agreement through negotiations, is one which involve concessions on both sides," added Jim Schlender following the signing of the first Deer Hunt agreement.

"I think the conduct of these negotiations and the agreement that was reached sets the tenor of future negotiations and that bodes well for both the tribes and the State of Wisconsin."

Despite this apparent willingness to embrace the negotiating process it has neither solved all the points of conflict nor has it quelled a vocal anti-Indian fervor. As the open-water season approached it was becoming apparent that an agreement would be difficult given the vocal public sentiment.

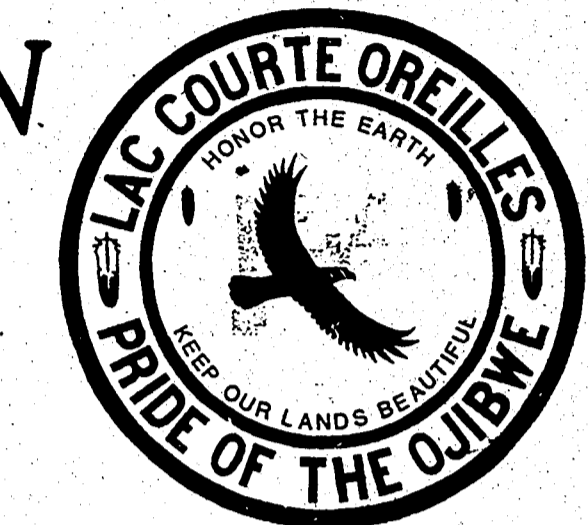
Although an agreement was eventually reached, it came only after the tribes unsuccessfully sought a court injunction against the enforcement of state game laws. The state maintained that the tribes proposals of the use of traditional methods such as spearing and netting were non-negotiable.

The tribes felt, and argued in court, that they were biologically sound techniques and given there extreme limitations they were also easily enforceable. They also felt that these issues were too politically hot for the DNR to agree to and that only if the court ordered them would they participate in the tribally proposed open-water season.

### The Reaction

Although there had been severe criticism of the initial decision it was the open-water negotiations that brought the full force to the forefront. Wisconsin, often characterized as a progressive state, resembled Mississippi under seige of freedom riders.

Legislators, DNR officials, nearly every sportswriter in the state (and some in other states), editorials, radio and TV newscast attacked the tribes. Although the points of attack varied it was clear that tribes and their treaty



rights were unwanted in progressive Wisconsin.

In a letter ostensibly to Jim Schlender (it was relased to the media first), Congressman Dave Obey threatened the tribes with a cut-off of other federal support if they insisted on pursuing their stand on open water fishing.

The DNR, apparently unable to get the political okay to reach a negotiated settlement, argued in the media and in court that the tribes enforcement capabilities and their biological data was not credible. This questioning of the tribe's credibility got the headlines and fueled a confused and growing anti-Indian public.

Shortly after the Voigt decision was made an organization called Equal Rights for Everyone (ERFE) was formed. There stated purpose is to fight the Voigt decision and to "unite the voice of the people."

Another anti-Indian group called WARR (Wisconsin Alliance for Rights and Resources) added to the *contras* of northern Wisconsin. WARR and ERFE now use Dave Obey as their model of informed legislators, condemning Senators Kasten and Proxmire as unenlightend.

Recently, democratic Senator Lloyd Kincaid joined the group of northern Wisconsin wamemakers, criticizing the open-water fishing agreement between the tribes and the state. He urged Governor Earl not to sign the agreement who wisely ignored the sage's advice.

Add Senator Dan Theno to the list and you have an interesting mix of state and federal legislators, sports groups and sportswriters, white equal rights groups who've become the new frontiersmen who believe that Indians are more dangerous to the natural resources than nuke waste, mining and acid rain.

Although past agreements here in Wisconsin and elsewhere belies this "Chicken Little" alarmism, they have effectively raised concern and "War in the Woods" headlines.

The tribes, in response to the attacks have continued to develop their resource management and enforcement capabilities; continued to negotiate with the state and also began holding informational forums around the state. At a Wausau meeting they were picketed. When the ERFE picketer was asked if he'd ever spoken to any Indians on these issues he said no.

In June a forum was held in Rhineland. About a dozen people showed up. A few days earlier the presenters were told that about 50 ERFE people met. It appears that the anti-Indian groups do not want to talk to the Indians. A curious position given the stakes of the issue.

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**Questions and Answers on Treaty Rights**



*What are treaties and why do we have them?*  
Treaties are legally binding contracts between sovereign nations. Article Six of the United States Constitution holds that treaties "are the supreme law of the land." Treaties establish political and property relations between governments. Treaties between the United States and Indian tribes acknowledge each nation's rights and privileges.  
Treaties with Indian tribes are binding today, and like the Bill of Rights and Constitution, they don't expire with time.  
Most treaties between Indian nations and the United States involved exchanges of land for protections, services, and in some cases, cash payments. When making those treaties, most tribes chose to reserve some lands (reservations) and rights for their people and their future generations.

*Why shouldn't Indians assimilate, like everybody else?*  
Indians aren't like everybody else. They weren't immigrants. When Europeans arrived, Indians were already well-established with their own forms of government.  
In a democratic society, people are free to maintain separate identities. Indian peoples' right to be different is reinforced by the fact that they established, through treaties, a special legal and political relationship with the federal government in exchange for ceding land to an immigrant population.  
Indians are unlike other U.S. citizens because they are entitled to the treaty-guaranteed rights of their tribes, and because they have a land base as well as a distinct and definable culture. As citizens of their tribes, Indian people are a legal or political entity, not an ethnic group.

*To what extent do tribes have treaty rights to natural resources?*  
In treaties, tribes in the Northwest kept for themselves both land and the right to use this land and its resources as they see fit. Tribes set land use codes and regulate hunting, fishing, grazing, mineral development, and water use within reservation lands.  
Also, tribes reserved rights to hunt, fish, gather roots and berries, and graze livestock in off-reservation areas. Many places where tribes possess these rights are on ceded lands -- areas they exchanged for reservations and other rights and privileges. The tribes also retained resource rights at usual and accustomed places that go beyond ceded area boundaries. Because of treaty rights on ceded lands and at usual and accustomed places, tribal involvement in natural resource management extends beyond their reservations.  
Treaty-guaranteed resources together with tribal jurisdiction form the basis for cultural and economic self-sufficiency.

**Treaty Support Group Proposed**



Odanah, WI - Because of strong and varied reaction to the "Voigt" decision, the public information office of the Great Lakes Indian Fish & Wildlife Commission has been exploring ways to help educate the general public about Indian Treaty rights.  
While attending the Native American Indian Fish & Wildlife Society conference in Portland, contacts were made with an organization which is a potential model for establishment here in Wisconsin, if not the Midwest.  
The organization is called NCSIT - the National Coalition to Support Indian Treaties. Walt Bresette, who attended the Portland meeting also attended a forum sponsored by the Oregon chapter of NCSIT.  
"The forum I attended was one of eight being held around the state. They are funded by the Oregon Humanities Committee and they bring Tribal leaders, academics and other interest groups together to help better understand treaty rights. They also make the forums available to the general public," reported Bresette.  
"It was pleasing and reassuring to see non-Indians actively involved in these critical Indian issues. Although there is an Indian advisory board the non-Indians seemed genuinely concerned and enthusiastically involved."  
The Oregon chapter has not only written grants but regularly are out speaking at different functions, arguing that sometimes it's easier for non-Indians to speak with non-Indians about these issues. They also have assembled various literature that they distribute.  
Bresette will soon be planning a meeting in Wisconsin to find out if such an organization could be formed here in Wisconsin.  
"If there are interested people out there I'd sure like to meet with them. If I get enough of a response from my initial inquiries I'll be calling a meeting," said Bresette.  
He added that if people are interested in finding out more about the idea of a Wisconsin support group they should contact him at the Great Lakes Indian Fish & Wildlife Commission, P.O. Box 9, Odanah, WI. 54861 or call 715-682-6619.

**MASINAIGAN**

This special edition publication is designed to begin chronicling the continuing history of a people known as the Lake Superior Chippewa. The more subtle "Ojibway" is also commonly used although the anglicized "Chippewa" is used in most legal documents. We once exclusively referred to ourselves as Anishinabeg, or original beings. However, as we look around our communities and at our neighbors, we must recognize that a lot besides our language has changed since we were Anishinabe.  
MASINAIGAN, which means paper in our language, was chosen for two reasons. First, the obvious descriptive identification. Secondly, because for many years the elders would refer to the treaties as "gitchi-masinaigan" or big paper. In this publication and through other efforts we hope to begin understanding legacy of the gifts given us when our elders put their X's on gitchi-masinaigan.  
If you would like more information about the Lake Superior Chippewa or about our treaties, contact the Voigt Inter-tribal Task Force. Speakers are available if you would like a presentation. Write the Task Force, Lac Courte Oreilles Reservation, Route 2, via Hayward, WI 54843.  
**715/682-6619**  
Great Lakes Indian Fish & Wildlife Commission  
P.O. Box 9 Odanah, WI 54806

THE NATIONAL COALITION TO SUPPORT INDIAN TREATIES grew out of a need in the early 1970s to support Indian fishing rights in Washington state. Founded in 1976, the coalition has since then educated and organized on a range of treaty Indian issues; among them land claims, natural resources, and adoption laws. The coalition's national office is in Seattle, Washington.

**Washington Sports Group Seeks Compromise**

The Honorable John Spellman  
Governor, State of Washington  
Legislative Bldg.  
Olympia, WA 98504  
Dear Governor Spellman,  
There has been considerable discussion about salmonid fish management and management responsibilities in Washington in the last ten years. There are a multitude of interrelated circumstances that have created the situation as it exists today. I feel that a historical synopsis would be less than productive in this letter.  
Our focus, as concerned sports fishing enthusiasts and conservationists, is on the management effort of today and the future. History is of value to us in that we've learned that certain tactics and techniques have not been very effective and that the salmon and steelhead resources are on a downward trend. Given that we are concerned about the future of the fish resource, we want to recognize two facts initially. One, the treaty tribes of Washington, by virtue of treaties reaffirmed in 1974, and upheld in 1979, have a right to one-half the harvestable fish available in the fishery. Two, an allocation system based upon an accurate monitoring of catch success by all involved fishermen is necessary to assure continuation of the fishery and the rights to capture the fish. These allocation and enhancement goals must be arrived at jointly well in advance of the harvest seasons. It requires greater communication between the management agencies and user groups.  
Without a consistent and professional effort directed toward gathering data about habitat capabilities and habitat improvement possibilities, the task of calculating escapement needs is difficult. Also, the calculation of run sizes utilizing a short term data base limits the reliability of estimations of harvestable numbers of fish. Recent years figures for actual vs. estimated run size accentuate how cumbersome and aggravating the calculative processes can be for all concerned. In some respects, one wonders how biologists trained in the same processes obtain different results from the same data base.  
Use of such inadequate data has caused calculated values that are less reliable than good management requires. If the numbers of fish caught by each of the fishing groups is monitored poorly, overharvest can easily occur.  
As John Naisbitt asserts in "Megatrends", information is an economic resource and, as such, has an acquisition cost. In the case of fisheries, that "cost" has been the deterrent to gathering information in quantities believed suitable for proper management. However, if this resource is going to be managed properly, more effort is going to have to be put into data collection.  
At present, there seems to be a lack of funding within the Game Department to gather data concerning habitat and catch success. Perhaps there is an opportunity to either redefine the funding procedures for the Game Department so that they can enhance their data gathering processes, or, there may be an opportunity to put the management of all anadromous species under the control of the Fisheries Department that does not seem to be having as much difficulty with their management efforts. The latter option would reduce the amount of "duplicated" overhead expenses.  
It is now time for collective and cooperative effort. The management of the 80's means joining together those individual agencies, that have worked independently in the past to maximize the efficiency of the dollars expended on the fishery resource. River system management teams that include personnel with appropriate expertise in commercial, sports, and tribal fisheries must be formed to develop a common data base and drainage management plans.  
This option is only one of the opportunities that exists for the future. The importance of working together as a "solid" force without regard for Tribal, Federal, or State affiliation must be recognized if we are going to see an improvement in the resource so vital to the state of Washington.  
We feel this matter is important enough that a cooperative group must be assembled immediately. It must involve all the parties and from it one management effort must begin. Trout Unlimited is prepared to play a major role in this process through chapter enhancement efforts, through political pressure, if necessary, or through a restructuring of fishery management responsibility.  
In addition, we wish to see any candidate seeking appointment to the Game Commission, or incumbent member of the commission seeking reappointment, publicly state his/her position on anadromous fish management and tribal fishing rights.  
Because we understand your keen interest in the fisheries resource and you know our deep concern with it's well-being, we hope you take these comments in the constructive spirit in which they are offered.  
Sincerely,  
Larry A. Jones  
President  
Officers and Directors  
Trout Unlimited, NWSSC

**Open Water Agreement**



**PRESS CONFERENCE**  
On June 25, following the successful negotiations on an open water treaty fishing season, a press conference was held at the tribal administrative offices at Reserve, on the Lac Courte Oreilles Reservation.  
Jim Schlender, chairman of the Voigt Inter-tribal Task Force and an officer with the Lac Courte Oreilles Tribal Governing Board spoke for the tribes.  
George Meyer, head of the law enforcement division with the Wisconsin DNR and on special assignment as head negotiator spoke for the state. Joining him was Jim Addis, head of DNR Fisheries and Dave Jacobson, Northwest District Director.  
The press conference was broadcast live over public radio station WOJB FM (Reserve) and simulcast over public radio station WXPB FM (Rhinelander). Moderator for the conference was Walt Bresette, information officer for the Great Lakes Indian Fish & Wildlife Commission, headquartered on the Bad River Reservation at Odanah.  
  
Jim Schlender - This is the fourth in a series of interim agreements that the tribes have entered into with the State of Wisconsin. This marks another juncture of the tribes willingness to cooperate with the State of Wisconsin and to sit down and reach some negotiated agreements. I think it is also important to note that when the specifics of the agreement are finally shown, that you will see that the tribes made significant concessions to accommodate the biological concerns that the DNR had. You will see that the State recognizes within that agreement, a recognition of the Indian's need to harvest natural resources. And you will also see that they recognize that this is different than the sporting experience shown by the 2.1 million fishers in the ceded territory. I think also, it more significantly shows that it provides a meaningful exercise of the treaty right. It demonstrates what a commitment to agree and to move forward in an orderly fashion can accomplish. For this particular agreement, there remains some final wording, changes that have to be accommodated; there has to be final ratification by the parties and finally it has to go before the Judge again. With that I would conclude my opening remarks.

George Meyer - Jim discussed some of the framework of the agreement that was reached. The parties negotiated very positively in the last 2-3 weeks to reach this agreement, and were given quite a bit of guidance by Judge Doyle in his recent decision dealing with a preliminary motion for an injunction. While Judge Doyle denied that injunction, he did give some pretty sage advice to the parties.  
As Jim indicated Judge Doyle did indicate his findings of fact that there were certain methods being proposed by the tribes that were traditional methods recognized by the treaty. They included things such as spearing. He also discussed the issue of gill netting in those terms. He also recognized some of the concerns raised by the department regarding the exercise of any such methods, however, had to be done in a matter that was biologically sound and would adequately protect the fishery resources of northern Wisconsin for the tribes and for the other fishers in northern Wisconsin. So when the parties got together over the last 2-3 weeks, both sides were using the advice given by the Judge regarding protection of the fisheries and adequate law enforcement capabilities to ensure that any terms of the agreement were adequately carried out. Because of that positive attitude and advice of the Judge, we reached an agreement, and I think that it does meet the base concerns of the state and the tribes, and that is adequate protection of the resources in allowing a meaningful exercise of the tribal rights.  
Judge Doyle indicated in his decision, that he would be very interested in seeing additional research being done in regard to the traditional fishing methods of the tribes. In that vein, there has been a committee put together, and it is a biological technical work group for fisheries, and it will be co-chaired by Mr. Thomas Busiahm who is a chief biologist for the Great Lakes Fish and Wildlife Commission, and Mr. Ron Poff, who is a staff member under Mr. Addis's direction. They will be undergoing several resource projects in the next few months which will be very helpful to the tribes and the state in dealing with future agreements and also very helpful to Judge Doyle in his being able to assess the impact of certain biological methods.  
There are three basis studies called for this year. The first will be a study looking at the impact of gill netting on fisheries in northern Wisconsin. This will involve a study design being prepared by the biologists and will include and actual implementation of a gill net assessment on the fisheries on one particular body of water that is Escanaba

Lake in Vilas county. This is a lake that is in the northern highland American legion state forest. It is surrounded by state property, and it has been a long-term research lake since 1946 by the DNR. We know the populations of that lake inside and out and this will give us a very good assessment on the impacts of gill net fishing in the State of Wisconsin. That assessment will take place either sometime this summer or earlier this fall, with the actual placement of nets in the water at that time.  
The group will also be developing a walleye population model, and the purpose of that model will be to predict the impacts of various methods of tribal fishing. Including the impacts of tribal spearing of spawning walleye. The study does not authorize the actual spearing of spawning walleye, but is mainly to develop a model to predict what those impacts would be.  
Lastly, the group will also be developing a system to monitor the musky harvest by both state and tribal fishers, to see if we can pin down in more detail that harvest. The agreement will be enforced by state conservation wardens, wardens assigned to the Great Lakes Indian Fish and Wildlife Commission and tribal wardens. Routine violations of this agreement will be in tribal court if the particular tribe has a tribal court and has adopted a conservation code covering the particular violation.  
Those basically sum up the highlights of the agreement. Obviously, there is many other provisions in a fairly complicated agreement, but those are some of the highlights.

**Press Conference**

**QUESTION:** Walleyes under hook and line fishing were not listed, does that mean they cannot be taken by hook and line?  
**MEYER:** For any other species that are hook and line, there are no size or bag limits and the season would close on November 30. That would include walleye, northern and other pan fish, any other species.  
**QUESTION:** Do you think that because of the extra work that has gone into this, that this may reflect closer, at least portions of it, a final agreement?  
**SCHLENDER:** I wouldn't want to even speculate on what we will have as a final agreement. I think that these are interim agreements and they are final only for the season.  
**MEYER:** In regard to that, I think there is this perspective to share. This agreement and how it is implemented will tell us a lot, as to what we can expect from various fishing methods and the interest of the tribes in harvesting fish, and to that extent, it is a sort of test. I think there are adequate biological safeguards in it, but will tell us the actual impact of some methods, clearly the studies proposed may result in changes for future years or in the final agreement and that is one purpose, to get some really base biological information regarding these methods and how they will be utilized by tribal members.  
**QUESTION:** Can you tell us what lakes in Vilas County will be included for the motor trolling?  
**MEYER:** Those lakes we do not know at this period of time. The Lac du Flambeau tribe is going to be discuss those and giving those lakes which they are interested in. We have agreed to designate whatever lakes they come up with, and to our knowledge they have not provided that information as of this time yet.  
**QUESTION:** Which bodies of water will the spearing be allowed to take place on? Is it allowed on all bodies of water except the Lake Superior tributaries. In the ceded territory?  
**SCHLENDER:** Yes, in the ceded territory, off-reservation.

**QUESTION:** George, what kinds of problems do you see with enforcement?  
**MEYER:** Actually, with the terms of this agreement, that is should be a fairly easy agreement to enforce. In terms of the day for hook and line, our conservation wardens are very used to enforcing size and bag limits, these bag limits are a little different, and the size limits are pretty much the same. The thing we didn't have a lot of experience with was spearing, and it should be a very enforceable situation since we will have advance notice of what lakes will be speared so we will be able to monitor those bodies of water. In addition, we will know that in fact, if we receive complaints from citizens if they are not these bodies of water we will know that it is not tribal fishermen involved, or there is someone who is doing it contrary to these particular agreements, and we will be able to enforce really easily.  
**QUESTION:** You said, George, that tribal courts would handle routine cases, has there been discussion in this agreement about what would be a routine case, and what would be an extraordinary case?  
**MEYER:** At this point in time there is no guidance in the agreement, and there may just have to be discussions between the tribes and the department as to what routine is. From a practical standpoint, I envision that the great majority of all cases will be going to tribal court. This is sort of an escape valve for the situation where it may not be adequate for the limitations on the maximum tribal forfeiture. There may be certain cases that may be prosecuted in both state and tribal court. It is sort of an escape valve for the real grievance type violation.  
**QUESTION:** This agreement came fairly shortly after Judge Doyle made a commitment to the negotiation process on both parties to each side? What are some of those issues that only the court can resolve?  
**SCHLENDER:** Scope of the treaty right is one of those, the public land issue that is presently back under appeal. There are a number of those kinds of issues that are not exactly clear from the reading of the treaty or an exercise of the right as people have practiced it.

**QUESTION:** Were there any provisions for amnesty? For instance tribal Chairman, Arlyn Ackley, over at Mole Lake and several other members began fishing under tribal codes early in May and there are state charges pending. Have those been worked out or are those outside this negotiating process?  
**MEYER:** There are no provisions in this agreement authorizing amnesties for any cases made prior to the signing of this agreement.  
**QUESTION:** Is there a provision under this code as in the past for anyone who had already bought a state license, where they would get a refund.  
**MEYER:** Yes, that will occur.  
**QUESTION:** The purpose for someone getting a permit for someone to spear or snag is that mainly so that the DNR will have advance notice of it, is there going to be any limitation on the number of permits issued, or anything like that?  
**SCHLENDER:** This was another area on which the tribes both conceded something to the DNR and also accommodated something that they had put forward in their earlier inter-tribal code. The permit system is one that nears what we had put forward in the inter-tribal code when we were going to effectively self-regulate ourselves, and so the permit itself is a means to assess the harvest of fish to provide an advance notice to the DNR. I think the tribes also recognize that it is an imposition on their tribal spearers to have to obtain a daily permit for an exercise of their right. I think the tribes also understand that the right would be meaningless unless it was adequately enforced and adequately monitored.  
**QUESTION:** Both of you mentioned that your sides had made some concessions in reaching these agreements, could each of you say what you think would be maybe a couple of the three of the significant concessions that you made in coming to terms there.  
**SCHLENDER:** I indicated that the tribes made concessions to accommodate biological concerns and you can see in George's summary that any sort of limitation on the exercise of the treaty right constitutes a tribal concession. There was the recognition by the tribes of the fish refuges which certainly recognizes both what the tribes have stated all along; that the resource is the number one goal in our minds, and we recognize the need for those fish refuges. We recognize the need for a limited season, recognizing, not so much a biological

# Press Conference

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concern perhaps, as a recognition of the non-Indian public's need to harvest trophy fish. The bag limits themselves are a concession. And so I think there were a number of significant concessions by the tribes with respect to biology and social concerns that the state might have.

**MEYER:** From the other standpoint, I think there are significant concessions from the state's viewpoint. I think the bag limits that have been proposed in this agreement are significantly in excess of state bag limits. We think they are responsible biologically and taken into account the number of treaty fishermen, but there is a fairly significant difference from state bag limits. The extended season for certain species is a significant change from state regulations. The allowance for the method of spearing surely is fairly significant that will have some biological impact and maybe Jim Addis can address that more fully, but obviously it has some law enforcement impacts also. A significant concession from the State of Wisconsin is the fact that there will be a study regarding gill netting, obviously we would rather not see that every have to occur, but in light of reasonableness and a clearly of the Judge Doyle's decision, that is included in this agreement.

**QUESTION:** How many tribal fishermen are we talking about in fact when you're talking about number of tribal members that will fish, hook and line, spear, and gill netting?

**SCHLENDER:** For gill netting there won't be any, we can be definite of that. With respect with the number of hook and line fishers, that is anybody's guess, but I wouldn't consider that to be significant. With respect to spears, I think we indicated when we put forward our inter-tribal code, that we thought there would be no more than 600 spearers. I think what is also significant and probably something that should be recognized and so the practice of it is not something that all tribal members have carried on without, certainly without the threat of prosecution. The practice that we are trying to estimate is certainly something that has to reestablish itself among many of it's tribal members that shows not to violate the state regulations during the time that they were denied the treaty right.

**QUESTION:** How do you think your own constituencies are going to react to this agreement?

**SCHLENDER:** I think in the interest of moving forward with this season, in the absence of no season at all, we will for the majority of the tribal members provide a meaningful exercise of the treaty right. I think there will also be some tribal members that will say that any sitting down at all with the state of Wisconsin and trying to reach an agreement through a negotiation is a concession that we shouldn't make at all, and I don't think that those are the majority of the tribal members, just as I am sure that there are a majority of non-tribal members who have the opposite view, or perhaps the same view that we shouldn't be sitting down at all. How they will react to that is something that has to be measured. Today is really the unveiling of the agreement, but generally I feel as a Lac Courte Oreilles representative and other representatives that were there that this negotiated agreement, even though it does contain some significant concessions, will provide a meaningful exercise of the treaty right, that would allow tribal members to go forward with the harvesting of resources off the reservation.

**MEYER:** I think David Jacobson is probably a little closer to the situation, and can address it from a northwest perspective.

**DAVE JACOBSON:** I suspect that like Jim, there are going to be people who are going to view this as an unfavorable agreement regardless of how good the agreement is in fact. I am not real concerned at this point, I think that the agreement recognizes the biology of the fishery and the agreement is really designed around that. Even if the maximum number of tribal members in the state exercise this right, biologically it is going to be insignificant. I think that is what we have to keep in mind here, we don't know exactly how many tribal members will exercise this right, but I would suspect that if it were 20 percent of the resident population that probably would be a pretty significant number. I doubt that many will choose to exercise it.

**QUESTION:** Jim, are you in agreement with that?

**SCHLENDER:** I have always been in agreement with that. I think that if all of our members went off and exercised their right that it wouldn't begin to compare, particularly in fishing, with the number of fish that are harvested by non-Indian fishers. From that perspective, when you put it in the characterization of a total harvest, I think that our part of the harvest has always been insignificant biologically and it has always been fitted in around the margin.

**JOE CHISHOLM:** The reason I asked that question is that there are a number of people outside that would tend to argue with you on that. I am sure they would, I am sure that those people are the same ones that say we took their trophy fish or their trophy deer and simply because they didn't get it but to attribute it to that is I think a volume judgement as well.

**MEYER:** I might mention that there are some changes here that might reflect our concern for spreading the impact. There are places where it would be possible to impact on a given water, for example, but you notice that the difference in this agreement that some of the tribes had earlier pursued at one time was 49-50 lakes that had been proposed, and that has been taken out of the agreement. It is our hope that we can spread the impact of tribal exercise of these rights over the broadest water base that we can, so it shouldn't be a significant impact on any water. We are hoping that that would be accepted by the public more readily than to identify a specific lake, we would rather not do that, and we have not done that in this agreement.

**QUESTION:** George, how do you feel about Representative Jim Holprin's suggestion that additional wardens be placed in the north in the ceded areas during the times when there are going to be treaty rights exercised and do you think that these people are going, to be needed now during the fishing season?

**MEYER:** We do not disagree with Representative Holprin's proposal, and as I understand what Representative Holprin has said is he has suggested the hiring by the department, or authorization for hiring of additional special conservation wardens which are part-time employees, to assist the Department wardens to monitor and enforce the provisions of any special agreements with the Chippewa tribes that occur during their high wardens peak work season right now, which is spring spawning and the fall hunting season starting roughly from September to November. We are at peak work load during those period of times and already are very stretched thin and there are times when we are stretched too thin. Being able to bring on temporary people would greatly assist protection of the resource. We believe in assisting our enforcement capabilities during those two times a year, and we think it is a very good idea.

**QUESTION:** What about exercise of the treaty rights later in the year?

**MEYER:** We will be, this will cover part of that time when we are having, when we will be fairly tight, I think we are going to try to reallocate some internal resources to be accommodated this fall, I think we will be able to do that. For the long term that may not be possible without Representative Holprin's proposal, but in the short-term I think we will be able to accomplish it by reallocating it through other funds.

**QUESTION:** Jim, Representative David Obey had made some rather strong comments in a letter to you on the Task Force, regarding the tribes going to court. Does that have any effect on the negotiations after you went back to the table, and is your relationship any better there?

**SCHLENDER:** I don't think that it had any effect at the negotiating table, if fact, his letter never arose in the context of negotiations, with respect to the on-going relationship, we feel that we have been trying to maintain an on-going good relationship with the congressmen. We recently sent them a letter stating our position with respect to his letter, and some of the concerns that he raised there. We disagree with him on some points, and I think that is healthy.

**QUESTION:** I haven't heard from Jim Addis yet, do you want to sum up the DNR position.

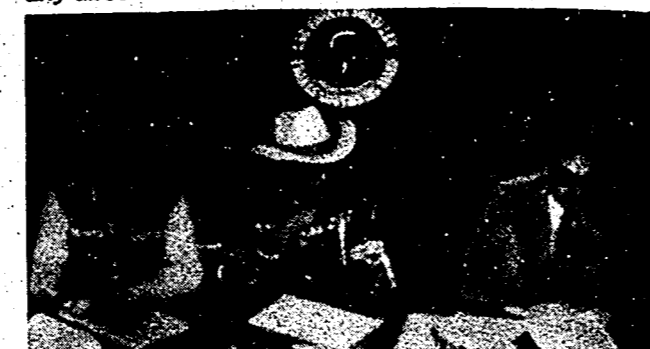
**JIM ADDIS:** I think that what we have done is established a long-term working relationship with the Indian Fish and Wildlife Commission and the tribal biologists and that has paid off. The biological concerns were substantial and they were addressed with willingness by both sides and I believe that it is accurate to say that with the enforcement that can be put in place with the presently proposed agreement is that the resource will not be damaged. In my view the averages Wisconsin angler will not notice that there has been any change that has taken place in the next fishing season. So the discussions that we were concerned about earlier relating to spawning populations and other things were accommodated by the tribal members and we recognize that with out lack of specific knowledge on spearing we had to have some meaningful exercise of spearing in order to collect information and the permit system will help us do that, so I believe that it is a victory for both resource and both peoples.

**QUESTION:** I am wondering if you can, without going into details, give us any indication of where the State will stand with upcoming deer season for tribal members.

**SCHLENDER:** Yes, we have established a date between the tribes and the Task Force to negotiate for next season's deer hunting, and we will be meeting July 11 or 12 to negotiate that. In addition, there has been some discussion on establishing some negotiations in regard to harvesting wild rice. On thing I would like to point out is this particular issue ended up in court a few months ago. I don't that is a reflection of the on-going relationship between the tribes and the DNR. I think when we all started this process we felt that open-water fishing would be by far the most difficult issue to resolve. Up to that point in time we had resolved all issues through negotiation and after we did have a court hearing in regard to this; we resolved this by negotiation. I anticipate that that negotiation process will be the predominant method of resolving these problems between the tribes and the Department for the length of these, in the agreements and also for the term resolution of this matter.

**QUESTION:** Can you give us any indication as to where you expect problems, or is that a question not to ask before you get into it?

**MEYER:** I would hesitate to pre-judge problems. I suspect we are going to have some of the same issues coming up that came up last year, but whether they will be problems or not is hard to tell. Both sides have not had any direct communication regarding those issues.



Tribes At Negotiating Session

## DNR Secretary Sets Priorities

13 Priorities

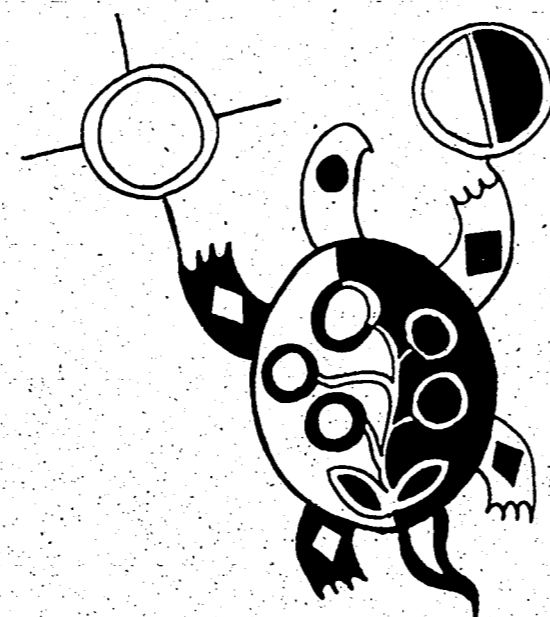
**Editor's note:** In January, secretary Buzz Besadny presented his 1984 goals to the Natural Resources Board. Following is a summary of the memo given to the board.

"As you know, the department is involved in many important activities, so I don't mean to diminish the importance or value of other goals and activities we have by only listing these 13 areas. But by identifying key areas, we will focus our energies to improve performance. Our goals and priorities also shape the character and direction of the department and emphasize to the Legislature and public we share their concerns about immediate issues that confront us all.

"This year finds the economic picture in the state and nation much improved from this time last year. Most observers of the economic scene are increasingly optimistic about the rebounding economy in general. There are still some specific concerns, however, about the long term economic and resource future of Wisconsin. I will continue to stress the important relationship between the health of Wisconsin's natural resource base and a healthy economy. This point will be especially important as the legislature and governor discuss and determine future budgets and legislation.

"With these introductory remarks, I would like to list the key issues I feel merit our collective attention in 1984:

- 1) Wetlands Protection: 2) Groundwater Program Development: 3) Toxics Materials Management: 4) Mining Regulations: 5) Recycling: 6) Radioactive Waste: 7) Acid Rain: 8) Environmental Education: 9) Endangered Resources: 10) Wisconsin Conservation Corps: 11) Regulation/Permit Review: 12) Wildlife Damage/Land Leasing: a) Wildlife Damage Abatement and Claim Program: b) Accelerated Leasing of Public Hunting Rights: 13) Chippewa Treaty Rights in the Ceded Area: The federal courts have recently held that the six Chippewa tribes have treaty rights to hunt, fish and gather on the public lands and waters that they ceded to the federal government. The federal district court of the Western District of Wisconsin, over the next two years, will be fully defining these rights and also defining the scope of permissible state regulation over these rights.
- During the next year, the department will be:
- a) Developing, with the attorney's general's office, the state's positions for the litigation and the long-term settlement with the Chippewa tribes;
  - b) Developing, with the tribes, interim agreements to govern the exercise of their treaty rights on ceded lands;
  - c) Developing a program of public information and education on major developments on this issue; and
  - d) Developing a program to gather public input on proposed regulations on the exercise of the treaty rights in the ceded area.



# SCHLENDER RESPONDS TO OBEY



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David R. Obey  
U.S. House of Representatives  
2217 Rayburn House Office Building  
Washington, D.C. 20515

Dear Mr. Obey:

I am writing at the direction of the Inter-Tribal Task Force on the Voigt Decision in response to your letter of April 30, 1984. The matters discussed in your letter have been the subject of extensive review and discussion by that body, and I will attempt to relate accurately the contents of the Task Force's response.

It is of great concern to the Task Force that your letter is based, at least in part, on inaccurate and/or incomplete information. It is helpful to discuss open water fishing in the broader context of the record of the Task Force in dealing with the aftermath of the Voigt decision.

Within three weeks of the announcement of the decision of the appellate court on January 25, 1983, the affected Lake Superior Chippewa tribes formed an inter-tribal organization: the Inter-Tribal Task Force. Its purpose and mandate was to develop an inter-tribal response to the mammoth task of implementing the decision, through the securing of technical biological expertise, the development of sound biological natural resource management plans and the regulations through which they would be ensured, the development of enforcement personnel, and producing the disseminating information to the general public concerning the Task Force and the decision.

The formation of the Task Force resulted in a joint statement by the tribal leaders instrumental in it's organization. The statement emphasized that the Tribes had as their paramount concern the protection and enhancement of the resource base upon which their treaty-protected right to hunt, fish, and gather depends. The Task Force was charged with the ensuring that the actions of the Tribes through that body would not cause harm to the fish, wildlife, and plant resources of the ceded territory. The Task Force has kept that charge as it's central policy.

Legal proceedings continued during the spring and summer of 1983, but during that period all member Tribes of the Task Force asked and obtained the cooperation and understanding of tribal members in not taking immediate actions to implement the decision. Attention focused on the efforts of the Task Force to obtain financial support and technical biological expertise.

The Task Force was therefore the logical entity with which to discuss the possibility of interim agreements through which treaty hunting, fishing and gathering activities could occur during the pendency of the litigation in federal court. With the refusal of the United States Supreme Court to review the appellate court's

decision, the desirability of seeking areas of agreement was evident to both the tribes and the Wisconsin Department of Natural Resources. The result has been a series of agreements, tied to a particular activity and limited in duration, concerning deer gun hunting, ice fishing and trapping. All concerned have expressed their satisfaction that the agreements were carefully designed and carried out so as to pose no danger to the fish and wildlife species taken by tribal members.

The public reaction to these agreements, nevertheless, has not been uniformly favorable, as you know. The media began to carry, as far back as last January, predictions that open water fishing would present the greatest challenge to the Task Force and the DNR, because of the fears that any off-reservation fishing would threaten northern Wisconsin's greatest tourist season: the summer resort user.

The conduct of the open water fishing negotiations may also be useful to review, for the Task Force's preparation for the discussions is typical of the effort made by the Tribes to focus discussions on the issues. A technical committee, composed of tribal representatives to the Task Force and interested tribal members, was formed in January, 1984, and directed to develop a proposal for the manner, means and season for treaty fishing for the Task Force's consideration. The work of the technical committee was assisted by the expertise of the Task Force's fisheries biologists, with consultant skills provided by the biologists of the Great Lakes Indian Fish and Wildlife Commission and the U.S. Fish and Wildlife Service. The resulting proposal was presented to State negotiators during the two-day session of March 8 and 9, 1984. The session ended on an inconclusive basis, due to the lack of authority in the State negotiators to discuss matters central to the Task Force's position on open water fishing. There matters remained, with the chronological and biological clocks moving forward. The Task Force had to make a decision as to whether or not it would be possible for the State negotiators to obtain authorization to discuss central matters prior to the break-up of the ice on the inland waters of northern Wisconsin.

Several hours-long meetings of the Task Force were held to discuss the possibility of reaching an agreement. It was the unanimous determination of the Task Force members that an agreement did not appear possible, and that other means to ensure a meaningful exercise of the judicially-recognized treaty right would have to be instituted. It was the further unanimous determination of the Task Force members that the only other available means to resolve the parameters of a 1984 open water treaty fishing season was the federal district court. Lawless unrestricted exercise was rejected.

Obviously, the case now before Judge Doyle does not include the Task Force as a litigant; each tribe is a party, represented by it's own attorney. Each Tribe through it's governmental body made the determination whether to request the court to resolve the issue. It was then the responsibility of the Tribe's attorney to develop the legal documents which would cause the court to decide the question. The method developed was to request a preliminary injunction, limited in it's scope to prohibiting the State from applying it's fishing laws to those tribal members who were fishing in accordance with the Tribe's fishing ordinance.

The development of the open water fishing ordinance was the responsibility of the Task Force. It charged it's technical biological support staff with devising regulations which protected the target fish species from overharvest and which were practically enforceable. Comments on the ordinance were also solicited from the U.S. Fish and Wildlife Service and biologists in the academic world. Due to the fact that the DNR was not available to discuss the elements of the ordinance, DNR biologist input was not obtained until the State responded in court to the preliminary injunction motion. All biologists agreed, however, that the impact of the ability to spear and net on the limited number of lakes would not be significant on the resource. The serious threat to the resource, if any is presented, is based on the assumption that the activity will take place on the same

bodies of water over a number of years and that the level of non-Indian fishing activity will continue to increase. (The description of the open water fishing code adopted by the member Tribes and the biological underpinnings of it are part of the Tribes' submission to the court; it is enclosed for your information and review).

Since your letter was written, Judge Doyle has announced his decision concerning the Tribes' request for a preliminary injunction. Although the request was denied, the judge's opinion is very instructive relating to other concerns raised in your letter. It is enclosed for your information and review. It should be noted that the court clearly recognizes that the Tribes have the right to fish off the reservation under the treaties; and that the right includes the right to spear and net. He declines at this time to enter a preliminary injunction for legal reason which are not necessary to discuss in this letter, but the point should be made that the Tribes, through the Task Force, do not see the effort in court as premature or counter-productive and that view is shared by the judge. The Task Force has already announced publicly it's intent to meet the State negotiators on June 15, 1984, to discuss open water fishing. Obviously, neither side feels that the negotiation process is dead or dormant. In addition, the Task Force is already communicating with State negotiators on possible dates for beginning discussions on the 1984 treaty deer season.

The member Tribes of the Task Force do not share your view that the decision to go to court was reckless or irresponsible, or a barrier to future discussions outside the courtroom with the State. The Task Force member Tribes believe the utilization of the litigation process already on-going is a perfectly legitimate means of attaining the goal which precipitated the filing of this lawsuit 10 years ago - the recognition of the State of Wisconsin that members of the Lake Superior Chippewa Tribes of this State have the right under treaty to hunt, fish and gather using methods and during seasons which were used in treaty times. The resource, however, will be protected - either by State regulation authorized by the court, or by tribal regulations authorized by the court. It is highly unlikely that the Tribes and the State will be able to agree on all issues raised in this case in negotiation; the court will be called upon to make decisions concerning those issues. The fact that the Tribe wanted to have a decision on one such disagreement prior to the final decision is simply availing themselves of a procedure available in courts in all lawsuits, which is a preliminary injunction.

It would have been greatly appreciated if the concerns raised in your letter of April 30, 1984, had been solely addressed to the Task Force. Release by your office of it's contents to reporters Jim Lee of the Wausau Daily Herald and Rocky Barker of the Rhinelander paper increased the difficulty of the Task Force in dealing with the letter as a personal statement of your views.

It is also unfortunate, in the Task Force's view, that your letter is being used by such groups as the Wisconsin Alliance for Rights and Resources, Inc., as demonstrating your support for their efforts to obtain abrogation of all treaties between Indian tribes and the United States.

The Task Force has interpreted your comments concerning federal funding of tribal programs and projects as voicing your fear that the Voigt decision could hinder tribal efforts in Congress to secure funds. The Task Force members understand that the public prominence of the case may result in additional inquiries to your office concerning funding for Indian programs, and that all citizens have the right to question public expenditures. It is difficult for the Task Force to understand the relationship between the two matters, however, for Congressional funds not tied to legislation such as the Snyder Act (25 U.S.C. s. 13) have always been discretionary, and even statutorily mandated programs for Indians seldom contain mandatory funding levels. In addition, federal funds for tribal programs should not be conditioned upon the Tribes not seeking recognition of their rights under treaties with the United States through the system accorded by federal law for the resolution of disputes involving federal rights, i.e., the federal courts.

The Task Force is not asking you or any other person, elected official or private citizen, to defend the indefensible. It is hoped that this letter contains sufficient information for you to determine that it's actions are perfectly understandable and defensible. The Task Force will attempt in the future to enhance the communication levels with your office so that such a problem does not arise again. It must be understood, however, that the implementation of the Voigt decision will not be easy, or accepted by all persons, and that it will require further legal proceedings. Please give the Task Force the credit that it will not endanger the natural resources upon which all depend while participating in this delicate and intricate negotiation and litigation process.

If you would like further information, or have questions concerning the matter discussed in this letter, please feel free to contact me at your convenience.

Sincerely yours,  
James H. Schlander  
Chairman  
Inter-Tribal Task Force

# A HISTORY OF HUNTING AND FISHING BY CHIPPEWA

## A PRELIMINARY CONSIDERATION OF THE HISTORIC INDIAN FISHERIES AND SUBSTANCE PRACTICES OF NORTHERN MICHIGAN, NORTHERN WISCONSIN, AND EASTERN MINNESOTA

By Charles E. Cleland, Ph.D.  
Michigan State University  
April 5, 1984



**Introduction**  
Ojibwa (Chippewa) Indians who occupy the land ceded to the United States in the treaties of Fort Snelling in 1837 and La Pointe in 1842 are, along with their relations in northern Minnesota and adjacent Ontario, known as the Southwestern Ojibwa or Lake Superior Ojibwa. The history of the Ojibwa people is well known and has been summarized in works by Warren (1957), Ritzenthaler and Ritzenthaler (1970), Hickerson (1970) and Danziger (1979).

In briefest of detail, the Southwestern Ojibwa began migrating into the region from the eastern end of the Lake Superior basin after the middle of the seventeenth century. To the west and south of Lake Superior they encountered Siouan speaking tribes with whom they engaged in sporadic and intense warfare until and somewhat after the Treaty of Prairie du Chien in 1825. During both the seventeenth and eighteenth centuries the Southwestern Ojibwa followed a traditional way of life and were actively engaged with first the French and after 1760 with the British in the fur trade.

The decline of the fur trade after the first third of the nineteenth century, the depletion of game and the beginning of American control and settlement during the second quarter of the century produced great social and economic changes for these Indian peoples. Treaties with the United States in 1835, 1837, and 1854 resulted in the vast diminution of their tribal estate and the beginning of reservation life. Permanent settlement on reservations at Lac Court Oreilles, Lac du Flambeau, Mole Lake, Red Cliff, Bad River, St. Croix and Keweenaw Bay was ruinous to the traditional seasonal subsistence round and forced greater and greater reliance on government annuities and scarce wage labor. Great economic hardship, starvations and widespread disease was the result.

During the last third of the nineteenth century, lumbering, mining, and fishing interest began exploiting the natural resources of the region and while producing some jobs, most valuable resources on the land escaped Indian hands (Kellar 1978). The General Allotment Act of 1887 provided a vehicle for the exploitation of Indian resources.

The early twentieth century found Ojibwa people of northern Michigan, Wisconsin and Minnesota impoverished, with little land and without the means to compete equally with the white immigrants who were their new neighbors.

Despite their incredibly traumatic history, or perhaps because of it, the Ojibwa of the Lake Superior basin have retained strong cultural traditions based on language, kinship ties and special relationship to the resources on their homeland.

### Subsistence Patterns of the Ojibwa

Understanding the economic adaptations of specific groups of Ojibwa during the nineteenth and twentieth centuries requires some knowledge of the Ojibwa in general. In fact, they are a populous and widespread people extending from the Hudson Bay drainage in the north to the Mississippi drainage in the south and from the Quebec border in the east to the prairie margins of the central United States and Canada. Within this huge territory the Ojibwa inhabit several very distinct biophysical provinces, each exhibiting a unique subsistence-settlement system.

Cleland (1983), in a consideration of the major subsistence regimes of the Upper Great Lakes region notes three distinct adaptations. The Ojibwa to the north of Lake Superior, those who occupy the boreal forests, are mainly hunters who lived in small scattered family groups. They make their living by hunting, primarily moose, and trapping but also use gill nets to fish the many lakes which dot the Canadian Shield (Dunning 1959, Rodgers 1962). In the conifer-deciduous transition forests at the head of Lakes Michigan and Huron and to the south and west of Lake Superior, the Ojibwa are primarily fishermen. Cleland (1982) and Rostlund (1952) have described the origin and development of this fishing complex which is called the Inland Shore Fishery. In this region, the Ojibwa occupied large lakeside villages during the warm seasons of the year and took fish with many devices but primarily with the gill net to take whitefish and lake trout. After spawning runs the villages broke up for the winter, each family going to the interior to hunt. Occasionally, as climate permitted, these Ojibwa fishermen planted gardens but agriculture is in no region an important subsistence enterprise for Ojibwa people.

A third economic adaptation existed south and west of Lake Superior in the transition forests of that region. Here, primary dependence for subsistence was on wild rice (Jenks 1900) but with a variety of resources including those obtained from both hunting and fishing being important. Hunting for deer took place along the woodland-prairie margin where this animal was plentiful and where the Ojibwa came into fierce competition with Dakotan agriculturalists for this resource (Hickerson 1970). Fish were also important and a wide variety of species were taken during the spring and fall spawning season with a variety of devices but primarily with gill nets. In main, this adaptation was much more complex than the other two since it involved movement between resources which were often unreliable.

When we look at the economic and environmental adaptations of the Ojibwa there are several common denominators which hold from region to region. First, they never depended substantially on horticulture, second, hunting is always an important winter activity and finally, over their whole range fishing with gill nets provides an important hedge against the failure of other resources if not an economic staple.

### The Subsistence Pattern of the Southwestern Ojibwa

The development and evolution of the subsistence practices of the southwestern Ojibwa are more fully known than those of Ojibwa in other regions because it developed at a time when Euro-Americans were in contact with these people and leaving written descriptions of their observations. Basically, the subsistence adaptation of the southwestern Ojibwa developed out of the Inland Shore fishing complex of the south-eastern Ojibwa. These people expanded westward from the eastern Lake Superior basin in the mid-seventeenth century as a result of pressure from hostile Iroquoian speakers from the east. First settling at La Pointe on Chequamegon Bay, Ojibwa immigrants soon established villages all along the south shore of Lake Superior. Warren (1957:97) tells us that the Ojibwa at La Pointe lived primarily by fishing but that they also had gardens and hunted moose, bear, elk and deer which at that time were abundant on the shore. The *Jesuit Relations* for 1669-1670 describe the gill net fisher and add that "these people who default on hunting and corn, live for the most part only on fish" (Twaites 1959:153, 153). While whitefish, herring and trout were the principal species taken with nets, sturgeon were also important species, as were suckers, pickerel and pike, taken in streams and rivers. Sturgeon were taken in great numbers at wiers placed across the Ontonagon and Montreal Rivers and at Fond du Lac (Williams 1958:120, Birk n.d.: 211).

There is no doubt that the Ojibwa who settled at L'Anse Bay, the Ontonagon, Bad and Montreal Rivers at Chequamegon Bay and west to Fond du Lac continued to support themselves as fishermen as their ancestors to the east had done for countless generations.

Travelers in the seventeenth and eighteenth centuries continued to observe these fishing communities including Schoolcraft in 1820 and 1832 as well as Lanman in 1847 and Kohl in 1855, who all left detailed accounts. In addition, Nute (1926) provides information about the commercial fishery of the American Fur Company at La Pointe from 1838-1842 which occupied a great many Indian men and women in catching and processing fish. In as much as they practiced an Inland Shore fishery, the Ojibwa of the south shore of Lake Superior and those that lived near the lake on larger rivers settled in large, fairly permanent villages. During the spring these people made maple sugar and exploited the runs of sturgeon, suckers, and pickerel in the rivers and streams. These were taken with both nets and spears. During the summer, some crops were raised, plant foods were collected and periodic hunting forays were made into the interior. Fall brought the onset of the offshore gill net

fishery which reached a peak in November and provided a stock of surplus fish for winter use. Hunting and trapping were the main winter activities but men continued to set nets and to spear fish under the ice on rivers and lakes. The importance of fish in this region was not lost on Henry Schoolcraft, a student of the Ojibwa and Indian agent who noted in 1820 that "fish constitute a considerable part of the food of all Indians on this extensive frontier. Deprived of this means of support, they must absolutely perish" (Carter 1943).

During the late seventeenth century families from the Lake Superior shore began to expand into and permanently occupy the forested regions south and west of Lake Superior. Small villages were located on the smaller inland lakes and rivers which had been formerly occupied by Siouan speaking people. Residence in the interior required an economic readaptation to new conditions and resources and even though based on the same technology, the new subsistence-settlement pattern was unique. The distinction between people of the lake and people of the woods made by Baraga in 1847 and echoed by Kohl in 1855, who distinguished between *gens de lac* and *gens de terra* signals the recognition of two distinct economic adaptations of the Ojibwa on the south side of Lake Superior.

The least amount of adaptive change was required west of Lake Superior and in the Boudry Waters Country where deep lakes populated with whitefish, tullibee, trout and pike could be fished using the same techniques as those used in Lake Superior. Long (Kane et. al. 1978), Pike (Jackson 1966), Schoolcraft (Mason 1958) and other travelers and fur traders report the use of 60 to 100 fathom nets on Leech, Cross, Red Cedar and Sandy Lakes as well as lakes to the north. In addition, this country also produced wild rice which as a storable grain, became a very important subsistence and commercial commodity. Since the Ojibwa of this region were also involved in the fur trade and as commercial hunters, the production of fish, a male enterprise in the context of the Inland Shore fishery, south of Lake Superior was taken over by women (Densmore 1970). Although red meat was undoubtedly important in the diet, particularly in winter, the propensity to romanticize this aspect of life may have led to an overemphasis of the role of meat in the reports of Euro-Americans. It is also true however, that Northwest Company traders developed the strategy of trading liquor for rice in the fall and thereby deprived of one of their major subsistence staples during the winter months, Indians were forced to hunt to provide meat for their families and furs for the traders. Although the country south of Lake Superior was poorer in terms of resources and relatively inaccessible by water from Lake Superior, it too was occupied by Ojibwa who developed a mixed rice-fishing-hunting subsistence system. At the turn of the nineteenth century northern Wisconsin and adjacent parts of western Michigan and eastern Minnesota was divided into three administrative units of the Northwest Fur Company. These were the Folle Avoine, Court Oreilles, and Lac du Flambeau Departments (Birk n.d.). Journals of traders, John Sayer (Gates 1965), Michel Curot (1911) and Francois Malhot (1910) provide a description of some aspects of subsistence in the area between 1803 and 1805. Later descriptions are provided by Schoolcraft (Mason 1958) for 1832, Charles Lanman (1847) for 1832, Baraga (1976) for 1847 and Kohl (1956) for 1855.

It is clear from the fur trader accounts that a wide spread of resources were being used in the district. Fish were taken with gill nets and by spearing, not always with great success. Malhot (1911:186) facetiously remarked about the low water levels in Lac du Flambeau in August of 1804 by observing that the nets had caught no fish and adding that it was "easier to catch frogs in the nets than fish". On another occasion however, he recorded a catch of suckers, Mucquinongue and sunfish. Net twine was one of the commodities carried by traders and was in demand by Lac du Flambeau Indians (Malhot 1911:205). Indians traded not only in furs but also hides, rice and fish. Malhot (1911:193) in reference to rice in the fall of 1804, said that "we are threatened with famine because Indians are cacheting rice to go to war - we find ourselves with very little which we shall have to purchase at its weight in gold." His prediction was true for in the spring of 1805 men were sent by Riviere Mauvoise (Bad River) to try to purchase fish. The Indians at that locality responded by sending a canoe load of sturgeon. In the meantime, Malhot was reduced to eating a half rotten fish he found on the beach (Malhot 1911:213-215).

Continued On Page 11

### WCA Chooses Coop...

The nature of resolutions passed both by the Wisconsin Counties Association (WCA) Board of Directors June 22, and the Northern Counties Conference on Treaty Rights, June 1, indicate some of the ambiguities and ambivalence in county attitudes towards treaty rights issues; however, tribal-county cooperation is coming out on top to date.

At their June 22 meeting, the WCA Board of Directors passed a resolution approving the creation of a tribal-county committee to discuss the implementation of treaty rights and their impact on county government.

The Board's action endorsed a resolution from the WCA Conference on Treaty Rights which resolves that the "Northern Counties Conference on Treaty Rights go on record supporting and encouraging cooperation between the tribes, state, federal and county governments in the development and implementation of hunting, fishing and gathering rights that protects the interests of all Wisconsin residents."

On the other hand the WCA Board also supported and passed another resolution stemming from the Northern Counties Conference which asks Governor Earl to create a \$30 million fund in the 1986-87 budget to protect resources and the economy from permanent damage by the exercise of treaty rights.

The WCA Northern Wisconsin Counties Conference did also consider two resolutions advocating abrogation of treaties or legislative action to change the treaties. One of these failed to pass the conference vote; another was tabled. Encouraged by tribal leaders present at the conference to seek cooperative efforts, a motion was ultimately passed to that effect.

With WCA Board endorsement of a tribal-county committee came the appointment of five county representatives to that committee, including Charles Tollander, Burnett County Board Chair; Tony Lorbetse, Oneida County Board Chair; Larry Gleasman, Dane County Supervisor; Al Skinner, Barron County Supervisor; and George Schroeder, Outagamie County Board Chair.

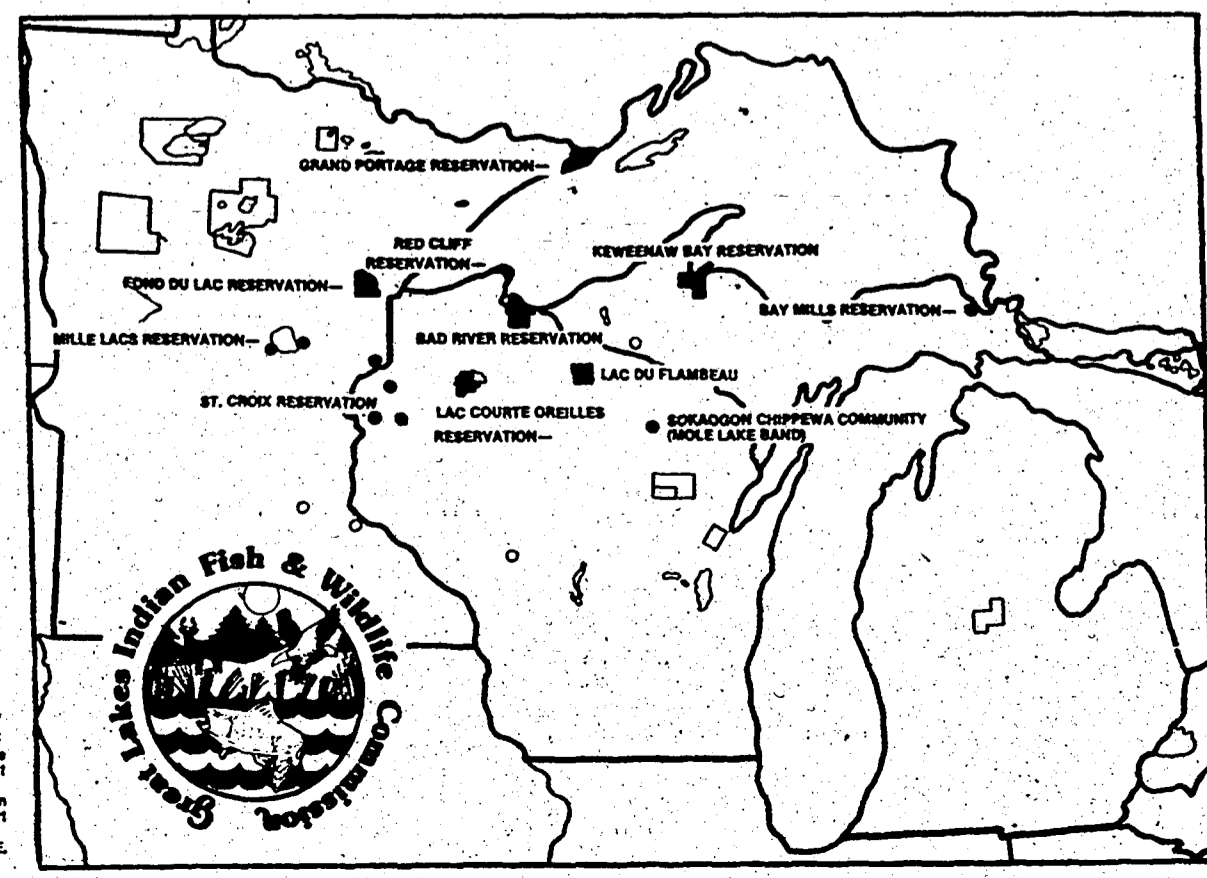


GLIFWC Executive Administrator Henry Buffalo Jr. welcomes Sam Deloria, shown right, who arrived from New Mexico to address participants at the GLIFWC Annual Conference, Telemark, Deloria, Director of the American Indian Law Center, University of New Mexico, spoke on national trends in state-tribal relations. He also addressed the northern counties' "TREATY RIGHTS CONFERENCE" sponsored by the WISCONSIN COUNTIES ASSOCIATION earlier in the month.

### Great Lakes Indian Fish & Wildlife Commission Members:

- Grand Portage Band, P.O. Box 428, Grand Portage, MN 55606, (218) 475-2279.
- Fond du Lac Tribe, 105 University Road, Cloquet, MN 55720 (218) 879-4593.
- Mille Lacs Business Committee, Star Route, Onamia, MN 56359 (612) 532-4181.
- Red Cliff Tribal Council, P.O. Box 529, Bayfield, WI 54814 (715) 779-5805.
- Bad River Tribal Council, Route 2, Box 400, Ashland, WI 54806 (715) 682-4212.
- St. Croix Tribal Council, Star Route, Webster, WI 54893 (715) 349-2295.
- Lac Courte Oreilles, Route 2, Hayward, WI 54843 (715) 634-8934.
- Lac du Flambeau Tribal Council, Box 67, Lac du Flambeau, WI 54853 (715) 588-3306.
- Mole Lake Tribal Council, Route 1, Box 552, Crandon, WI 54520, (715) 478-2604.
- Keweenaw Bay Indian Community, Route 1, Baraga, MI 49908, (906) 353-6623.
- Bay Mills Indian Community, Route 1, Box 313, Brimley, MI 49715 (906) 248-3241.

## GREAT LAKES INDIAN FISH & WILDLIFE COMMISSION, POST OFFICE BOX 9, OLANAH, WISCONSIN 54861 • 715/682-6619



**LAC COURTE OREILLES RESERVATION**— Located in Sawyer County, northwestern Wisconsin, the Lac Courte Oreilles (LCO) reservation encompasses about 80,000 acres of land. The tribe has a Conservation Department composed of several wardens, an assistant tribal forester and a stream enhancement project crew. They also maintain their own Tribal Court system and have sought to ensure the protection and enhancement of the reservation's natural resources through the enactment of a Fish, Hunting, Trapping and Fencing Code, adopted in 1978. LAC COURTE OREILLES, ROUTE 2, HAYWARD, WI 54843—PHONE 715/634-8934.

**LAC DU FLAMBEAU**— There are 128 lakes on this inland reservation which has 70,000 acres within Vilas, Oneida and Iron Counties. The reservation is abundant in natural resources, particularly timber and fish. The tribe has a large Fish and Game Department and for many years has maintained an extensive conservation program including a tribal fish hatchery. Lac du Flambeau also has its own Tribal Court system, with a conservation code inclusive. LAC DU FLAMBEAU TRIBAL COUNCIL, BOX 67, LAC DU FLAMBEAU, WI 54853—PHONE 715/588-3306.

**SOKOOGON CHIPPEWA COMMUNITY (MOLE LAKE BAND)**— The Sokogoon Chippewa Community is one of the smallest reservations with a contiguous land base. They have about 2,000 acres in Florence County and are the eastern-most Chippewa reservation in Wisconsin. The Community is in the process of establishing a Tribal Court and does have a conservation warden staff supervised by the Keweenaw Bay Tribal Council. COMMUNITY, ROUTE 1, BOX 552, CRANDON, WI 54520—PHONE 715/478-2604.

**MICHIGAN**

**Keweenaw Bay Reservation**— With about 58,000 acres, this is the largest reservation in the state of Michigan. It is located at the eastern base of the Keweenaw Peninsula and the reservation is physically separated by the Keweenaw Bay. Keweenaw Bay Indian Community, Route 1, Baraga, MI 49908—PHONE 906/353-6623.

**Bay Mills Reservation**— This reservation in Michigan's upper peninsula has 2000 acres. Bay Mills has two separate areas; one about twenty miles west of Sault Ste. Marie and another about five miles east on Sugar Island. They are located near the mouth of the western St. Mary's River to Whitefish Bay. THE BAY MILLS INDIAN COMMUNITY, ROUTE 1, BOX 313, BRIMLEY, MI 49715—PHONE 906/248-3241.



**2. Spearing and Snagging**

a. All hook and line bag and size limits and seasons are applicable to spearing with the following exceptions:

| Species                           | Bag Limit   | Size Limit  | Last Date Of Season   |
|-----------------------------------|---|---|---|
| b. Muskellunge                    | 2/day   | 32" minimum before 10/1; After 10/1 until close of season 32" minimum & 45" maximum | October 31  |
| c. Walleye                        | Before 10/1 no limit. After 10/1, a total harvest of 5,000 pounds of walleye is allowed in the aggregate for the six tribes | None  | The season closes on 10/31 or whenever the aggregate 5,000 pound limit is reached, whichever is earlier |
| d. Bass (smallmouth & largemouth) | 5 maximum of each after 9/30  | none  | 10/31   |

e. There is no spearing or snagging on the Lake Superior tributaries.  
 f. The season for spearing other species closes on 10/31 except for lake sturgeon and lake trout which close on 9/30.  
 g. Spearing is defined as reducing or attempting to reduce to possession by means of a hand held spear or other similar device which is directed by the spearer for the purpose of impaling the target fish. Snagging activities are included within the definitions of spearing. Spearing with the aid of an artificial light is permitted.  
 h. Spearing on inland trout streams and spring ponds shall end on September 30, 1984. A trout stream is any body of water so classified by the state of Wisconsin and listed as a trout stream in Wisconsin Trout Streams, D.N.R. Pub. #6-3600 (80).  
 i. Fishermen using spears must obtain from the tribal Conservation Department a daily spearing permit except that a 3-day permit may be issued on Friday for the weekend.  
 The daily spearing permit shall be uniform for all spearers and shall have printed or written on the front side the spearer's name, address, phone number, tribal identification card number, and shall indicate the lake or lakes to be speared pursuant to the daily permit. The reverse side of the spearing permit shall be in the form of a creel census questionnaire to be completed by the spearer when required by this agreement.  
 The Tribes agree to notify the Department of all permits issued for that day by 3:45 p.m. of that day or by 3:45 on Friday if for the weekend. Notice shall include the landing to be used, identity of the permit holders, and the lakes selected, and shall be given to the appropriate Department District Office.  
 i. Any lake from which a potential overharvest could occur may be closed to further spearing activities. The decision to close a lake shall be made by the Great Lakes Indian Fish and Wildlife Commission fisheries biologist.  
 k. The Tribe agrees to provide no later than November 15, 1984, a summary of data gathered during the spearing season. Both parties agree to provide the other with access to raw biological data including the Tribe's permit data.

-Black Elk-

**AGREEMENT**

**By and Between the Tribal and State Parties in Lac Courte Oreilles Band v. State of Wisconsin Governing the 1984 Summer and Fall Chippewa Indian-Subsistence Off-Reservation Open Water Fishing Season for the Ceded Area**

This agreement is made and entered into this 22nd day of June, 1984 by and between the following parties: the Plaintiff, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ("Lac Courte Oreilles"); and the Intervenor, the Red Cliff Band of Lake Superior Chippewa Indians ("Red Cliff"); the Bad River Band of the Lake Superior Tribe of Chippewa Indians ("Bad River"); the Lac Du Flambeau Band of Lake Superior Chippewa Indians ("Lac Du Flambeau"); the Sokaogon Chippewa Community of the Mole Lake Band ("Mole Lake"); the St. Croix Chippewa Indians of Wisconsin ("St. Croix"); (hereinafter collectively referred to as the "Tribes"); and the Defendants, the State of Wisconsin, the Wisconsin Natural Resources Board; Carroll D. Besadny, Secretary of the Wisconsin Department of Natural Resources; James Hunton, Administrator, Division of Resource Management; and George Meyer, Administrator, Division of Law Enforcement (hereinafter collectively referred to as the "State").

**Introduction**

The purpose of this agreement is to state the terms and conditions which the parties have agreed will be in effect for the purposes of regulating subsistence open water fishing during the 1984 summer and fall Chippewa Indian Off-Reservation Treaty Open Water Fishing Season ("1984 Treaty Season"). This agreement is effective from the date of execution to December 1, 1984. It may not be used for any purpose in this or any other proceeding after the expiration of this agreement, except that provisions of this agreement shall remain in effect to the extent needed for the prosecution and defense of violations occurring during the term of this agreement. This agreement shall apply to treaty fisher open water fishing activities on inland waters within the ceded territory located outside of the exterior boundaries of Chippewa Indian Reservations in Wisconsin.

**Article I**

The parties agree that open water fishing activities by members of the Tribes during the 1984 Treaty Season will be subject to the following conditions and regulations:

- Hook and Line**  
 For hook and line fishing tribal members will be subject to the following bag limits, size limits, and season closures:

| Species   | Bag Limit  | Minimum Size | Last Date Of Season           |
|---|--|--------------|-------------------------------|
| a. Lake Sturgeon                                  | 1 per person per season                                      | 45"          | 11/30                         |
| b. All trout from inland waters except lake trout | 15 per day   | none         | 9/30                          |
| c. Lake trout                                     | 4 per day  | 17"          | 11/30                         |
| d. Muskellunge                                    | 2 per day  | 32"          | 11/30                         |
| e. Bass (smallmouth & largemouth)                 | 15 per day in the aggregate                                  | none         | 11/30                         |
| f. Trout in Lake Superior tributaries             | 10 in aggregate of which no more than 4 may be rainbow trout | none         | pursuant to state regulations |

g. For all other species no other bag or size limits are applicable, with the season ending on November 30.  
 h. Hook and line fishing is defined as reducing or attempting to reduce fish to possession through the use of a rod and reel or similar device. It includes motor trolling but does not include snagging.  
 i. Each treaty fisher while hook and line fishing may use no more than six lines with a maximum of two hooks or lures per line. All lines must be attended at all times. Attended means within sight of the lines.  
 j. Treaty fishers may motor troll on lakes open to non-Indian anglers as well as on the following named lakes: Flambeau Flowage (Iron), Lake Tomahawk (Oneida), Squirrel Lake (Oneida), North Twin Lake (Vilas), Lac Vieux Desert (Vilas), and Trout Lake (Vilas).

**GENERAL**

- The following live fish are prohibited for use as bait by members fishing pursuant to this agreement: carp, goldfish, redbreast, fresh water drum, burbot, bowfin, garfish, buffalo fish, lamprey, alewife, gizzardshad, smelt, goldeye, mooneye, carpsucker, quillback, chub and crayfish.
- Tribal members must carry tribal identification documents or licenses on their persons when fishing off their reservation. Tribal members holding such documents or licenses, which shall be displayed upon reasonable request by state or local law enforcement personnel, are not required to hold or obtain a state license to fish under this agreement. The Tribes agree to verify membership during normal tribal business hours. Fees for state fishing licenses authorizing fishing activities during the 1984 State Fishing Season shall be refunded to members of Tribes submitting their license and a copy of their tribal identification to:  
 License Section  
 Department of Natural Resources  
 P.O. Box 7924  
 Madison, Wisconsin 53707.  
 Such requests must be postmarked no later than July 31, 1984.
- Special restrictions applicable to lakes upon which the Wisconsin Department of Natural Resources is conducting fish management experiments shall apply to tribal members fishing pursuant to this agreement. The following lakes have current ongoing research projects and are specially regulated: Spruce Lake (Vilas County), Mystery Lake (Vilas), Pallet Lake (Vilas), Escanaba Lake (Vilas), Nebish Lake (Vilas), Long Lake (Iron), Bone Lake (Polk), Lake Winter (Sawyer), Big Lake (Vilas), Pine Lake (Iron), Clear Lake (Oneida), Little Bass Lake (Oneida), Wildwood Lake (Vilas), Kimball Lake (Langlade), Mueller Lake (Langlade), Sawyer Lake (Langlade), Balsalm Lake (Bayfield), Beaver Lake (Bayfield), Little Star Lake (Bayfield), Spring Lake (Bayfield), McGee Lake (Langlade), Little Arbor Vitae Lake (Vilas), Little Rock Lake (Vilas), the Namekagon River (Sawyer) and the Wolf River (Langlade) beginning at the Soo Line railroad trestle southwest of Hollister downstream to the location known as Direcks Irrigation Pond. The State of Wisconsin agrees to enter into discussions with the Tribes on the design and funding of future joint state-tribal fish management research projects on off-reservation waters in the ceded areas.
- No tribal member shall unreasonably waste, injure or destroy, or impair natural resources while engaged in fishing activities pursuant to this agreement.
- No tribal member shall leave or discard cans, bottles, debris, refuse and other solid waste or deposit debris on private or public property.
- This agreement does not authorize trespass onto private property.
- The Tribes agree not to fish by any method in the following state refuges:

| Refuge                   | County   | Administrative Code Authorization |
|--------------------------|----------|-----------------------------------|
| Manitowish River         | Vilas    | NR 26.01 (68) (a)                 |
| Tribby Lake              | Vilas    | 26.01 (63) (c)                    |
| Flambeau River           | Iron     | 26.01 (26) (a)                    |
| Chippewa River-West Fork | Sawyer   | 26.01 (57) (a)                    |
| Flambeau River           | Rusk     | 26.15 (54) (a)                    |
| Brule (7/15-10/31)       | Douglas  | 26.10 (16) (a)                    |
| Sioux (9/1-5/31)         | Bayfield | 26.11 (4) (a)                     |

**ARTICLE II**

1. There is not total agreement on the respective prosecutorial jurisdiction of the parties. The Tribes asserts exclusive jurisdiction and the State assert concurrent jurisdiction over violations by Tribal members of this agreement. The agreement does not waive either party's claim to jurisdiction and this paragraph shall be construed as an interim measure.  
 All violations by treaty fishers of regulations described in this agreement shall be referred for prosecution to the tribal court of the person's tribe, provided that the Tribe maintains a Tribal Court with jurisdiction over fishing by its members, and further provided that the Tribe has adopted and agreed to enforce a code of regulations incorporating the regulations described in the Agreement which are in force at the time of the violation. A copy of the codes shall be supplied to the Department upon their adoption. Said regulations shall apply to the tribal members when fishing during the 1984 Treaty Open Water Fishing Season. In addition, the state reserves the right to prosecute egregious violations of the regulations described in this agreement in the appropriate state court. In addition, prosecution of endangered, threatened and protected species violations may be in state, federal and tribal court.  
 The parties agree to work diligently to develop a satisfactory mechanism or mechanisms for resolving jurisdictional controversies, disputes or misunderstandings concerning enforcement of the terms of this agreement.  
 The mechanisms may include but not be limited to the following:  
 a. Exploration and discovery of any legal obstacles to the use of a liquidated damages provision for breach of an agreement conferring broad prosecutorial discretion;  
 b. Review the legality of developing legislation which permits DNR rebate of state court fines to affected Tribes;  
 c. Exploration of possibilities for an internal dispute resolution mechanism;  
 d. Exploration and development of a proposal for mediation of disputed jurisdictional and evidentiary issues.

In addition, the state will develop, in consultation with the tribes, specific criteria for referrals to state court of violations of this agreement, and guidelines by which confiscation of seized equipment will be sought in state court.  
 2. The only state regulations governing the act of open water fishing or the natural result thereof which may be enforced against treaty fishers of a tribe not maintaining a tribal court and ice fishing code are those regulations consistent with the regulations contained in this Agreement.  
 3. It is understood and agreed that state enforcement personnel will conduct themselves in the same manner whether the citation, if any, to be issued would be to Tribal Court or to state court.  
 4. The Tribe agrees to follow the State's endangered, threatened and protected species regulations as set forth in s. 29.415, Stats., and s. NR 27, Wis. Adm. Code. Such protected species include: Goldeye, Gravel Chub, Pallid Shiner, Striped Shiner, Slender Madtom, Starhead Topminnow, Crystal Darter, Bluntnose Darter, Speckled Chub, Blue Sucker, Black Buffalo, Longear Sunfish, Gilt Darter and Ozark Minnow.  
 5. The Department will strongly encourage state law-enforcement personnel to use the utmost discretion in the retention of seized equipment of tribal members apprehended in a violation of this agreement, thereby recognizing the hardship such retention may have on the exercise of the tribal member's treaty rights. Every reasonable effort shall be made to return the equipment as soon as possible when confiscation is not sought and when retention is not needed for prosecution.  
 6. The discussions between the parties which have resulted in this agreement have been conducted on explicit understanding of all offers of settlement, and writing and discussions relating thereto, are and shall be privileged and shall be without prejudice to the positions of the parties and are not to be used in any manner in connection with this proceeding or otherwise. The parties agree that all such offers, writing and discussions are inadmissible as evidence in this proceeding pursuant to Rule 408 of the Federal Rules of Evidence.  
 The parties to this agreement establish a technical working group for the purpose of advising on matters relating to the fisheries. The working group consists of coordinators Thomas Busiahn, representing the Tribes, and Ronald Poff, representing the Department. The coordinators are authorized to have full access to all pertinent data, to solicit involvement on specific issues by other biologists regardless of their affiliation, to solicit professional opinions, and to commit program support to special investigations as requested jointly by the parties to the agreement.  
 For purposes of this agreement, the following assignments are made in priority as listed:

- Develop an experimental design to assess the impacts of gillnetting on target and non-target species, initially tested through an assessment on Escanaba Lake. The experimental design and plan of action is to be approved by the parties to this agreement before the assessment is initiated. This activity includes a literature review on the impact of the use of gill nets in inland lakes.
  - Develop a walleye population model to predict the impacts of tribal spearing in spring. The model should have utility for all evaluations relating to walleye harvest. Develop an experimental design to validate the model through monitoring of spring spearing.
  - Develop criteria and methods for adequately monitoring muskellunge harvest by all fisheries, realizing that it's implementation is not possible during the period of this agreement.
- Parties to this agreement must approve all experimental designs and appropriate schedules prior to initiation of field assessment activity.  
 7. The parties agree to undertake cooperative efforts between state, tribal and intertribal enforcement agencies necessary to ensure the effective enforcement and success of the Agreement during the 1984 open water season. The Department agrees to direct it's conservation wardens to exercise their expanded authority to arrest individuals committing criminal acts against treaty fishers in the presence of the wardens.  
 8. The Department agrees to assist the Lac du Flambeau Tribe in developing an on-reservation forage lake.

**ARTICLE III**

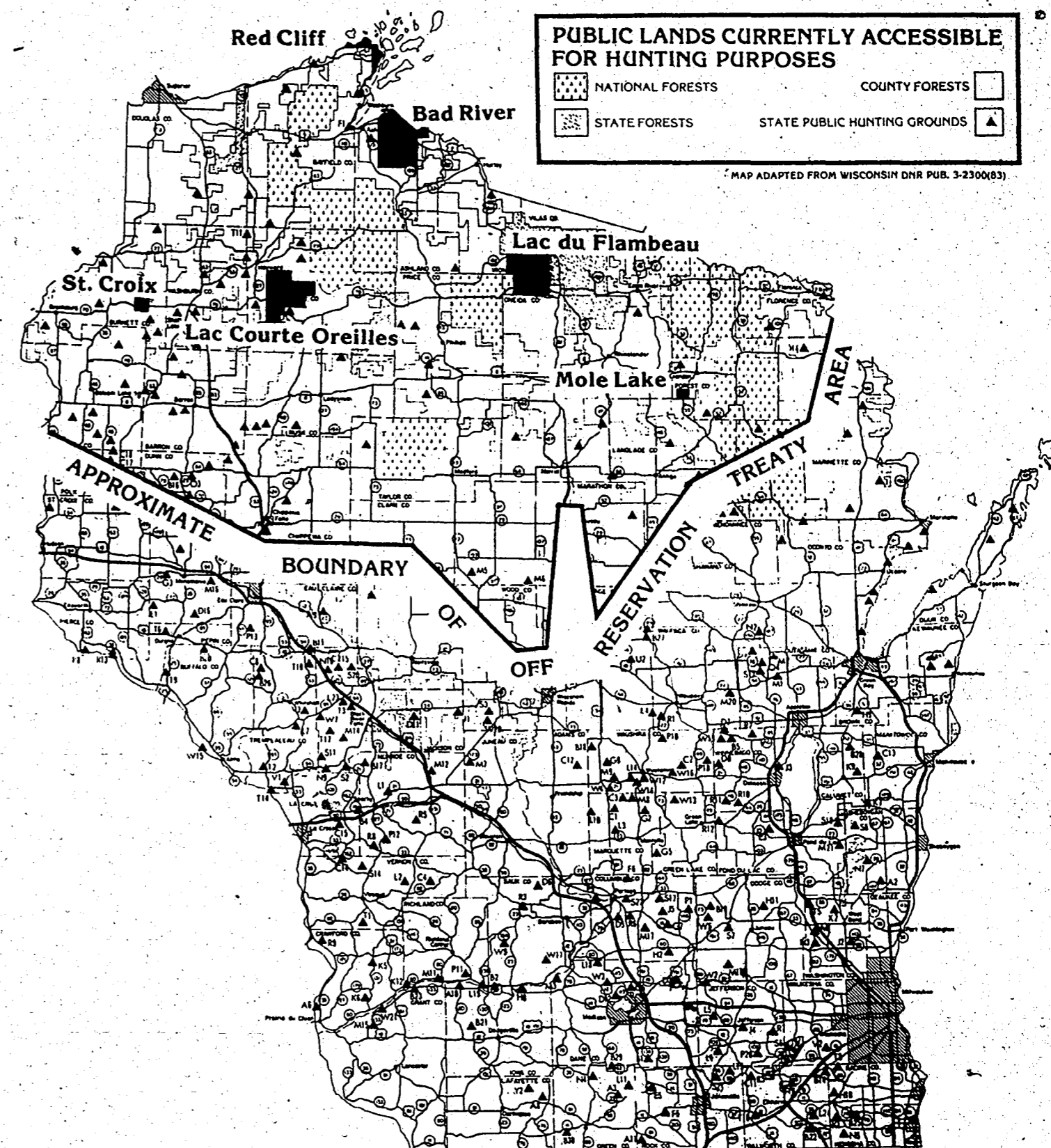
- The filing and acceptance of this agreement, and the issuance of an Order approving the stipulation of which it is a part, shall not in any respect constitute a determination as to the merits of any allegation or contention, whether legal or factual, made by any party in this proceeding now or in the future.
- After the date of expiration of this agreement, the Order approving the stipulation of which this agreement is part shall neither establish nor constitute any principle or precedent binding in this or any other proceeding upon the parties.
- The execution and submission of this agreement shall not be deemed in any respect to constitute an admission by any party that any allegation made in this proceeding is true or valid or that any contention of law is correct or binding and shall not be deemed to foreclose any party from making any allegation or contention in this or any subsequent proceeding involving the same subject matter.

**ARTICLE IV**

1. The parties agree that any controversies, disputes, differences or misunderstandings arising out of this agreement (except for violations of regulations listed in Article I) shall be referred to designated representatives of the parties for consultation before any further action is taken by any party.

# CEDED TERRITORY UNDER VOIGT DECISION

## WISCONSIN ONLY



This map of Wisconsin shows the overall territory of the lands impacted by the Voigt Decision. Shown here are the locations of the six Chippewa Reservations, the approximate southern boundary on the ceded territory, and the Wisconsin DNR listing of public lands currently open to hunting.

For more specific details contact your Tribal Council or District DNR office.

**715/682-6619**

Great Lakes Indian Fish & Wildlife Commission  
 P.O. Box 9, Odanah, WI 54806

INDIANS, TREATIES, AND MY LIFE AS AN OSTRICH



and raised on land that had belonged to the Chippewa Indians for hundreds of years and didn't even know it. I knew more about the Huns of Germany and the Roman Empire than I did about Indians in Wisconsin. If only those teachers had known. I may have even liked history if they'd brought it closer to home.

Joe Bresette - he's the Chief or Chairman out there at Red Cliff - was more than willing to answer my questions and he brought some of his staff into the office to help. We musta' talked for three hours. Course there was interruptions what with phone calls and secretaries comin' in for his signature on things, but it was a good talk.

I asked right off about treaties. Ray DePerry, the Tribe's attorney, explained how treaties was the way sovereign nations related to each other. What that boiled down to was that the United States government was agreeing that Indian tribes was sovereign just by the fact they made treaties with 'em. Like the United States Government don't make treaties with the City of Milwaukee or U.S. Steel or the State of Wisconsin. That don't mean they don't do business with 'em, just that they use methods other than treaties. Treaties are only made with nations like Russia, Canada, Panama and Indian tribes. Ray told be that treaties signed in 1837, 1842 and 1854 was the ones most important to these negotiations I been readin' about.

My eyebrows went up a little at that. After all. That was a hundred thirty-four years ago, long before I or even my grandparents was around. I sure didn't vote on no hundred and forty-year-old treaties. Then Joe - he's a cagy one - started talkin' about our government; I mean our government. The U.S. of A. He talked about how it was set up, you know, with a President, Congress, Supreme Court and all. He talked about laws, the Bill of Rights and other things guaranteed in the Constitution. Well, nobody has to hit me over the head with a two-by-four. He was really saying that everything our government does and stands for is based on that Constitution which was written over two hundred years ago, and I sure didn't vote on that, either, but I'm glad it's there.

One question led to another. First, because it seemed so important to Joe and the others, I wanted to know just what was meant by "sovereignty". Joe admitted it's not easy to understand, but a simple definition is - and I wrote this down - "the supreme power form which all specific political powers are derived." Joe said nobody can give sovereignty to anyone. It's something that just is. "Inherent" is the word for it. It becomes real because over the years the people directly affected by it have accepted it. Like peaceful or warlike natures could be inherent traits of a special group of people. The plain truth is, them treaties didn't give sovereignty to any tribes; they just recognized it. Indian tribes was sovereign when people in Europe was still afraid they'd sail off the end of the ocean. And, besides that, they'd be sovereign even if the U.S. government didn't recognize it.

Funny. For some reason, I never thought of Indian tribes way back havin' governments and laws and systems, but when I think about it, it was pretty dumb to imagine they didn't. They lived together in villages, had families, religion, dealings with other tribes, disputes between themselves, special needs, crime and criminals - of course they had governments and laws. I wanted to kick myself for thinkin' they didn't and makin' myself look foolish. To top it off, Joe showed me a book where Thomas Jefferson said tribes had democratic forms of government unheard of in Europe at that time. In Europe they had mostly kings and barons and such. He - Jefferson - used a lot of ideas he got from tribes when he wrote the Constitution. I had to wonder again where my old history teacher went to school.

Still, conceding that tribes are sovereign and have the right to govern themselves, didn't they give up them rights when they signed the treaties and accepted the land we give 'em? (I asked that but wasn't so cocky about it. I could just about figger there was a good answer, and there was. Joe said it was a good question, though, because it was a question that took over a hundred years to answer, and it still wasn't answered completely).

To begin with, and I shoulda' known better by now, the treaties didn't give land to Indians for reservations because it was already theirs. Not just the reservations, either. They showed me a map of Wisconsin before these treaties was signed and the Chippewa territory covered half the State almost. Indians was given altogether about \$71,000 a year for twenty years for all that land. One hundred and forty-five thousand dollars was used to settle traders' claims and \$115,000 was given to influential half-breeds. My guess is that land musta' been - even then - worth several billion dollars.

One of the hardest things for me to understand was that Indians had a whole different idea about land than white people did. But the treaties was all written by white men and worded so they - the whites - could understand them. Ray showed me a copy of the Treaty of 1854 and where the Indians had to sign, it always said "his mark." Indians didn't have no written language and most of those that signed probably didn't understand English. (I wondered if them "influential half-breeds" could have been the interpreters?)

According to them people at Red Cliff, it probably wouldn't have made much difference if the Chippewas had been able to read English. The concept of money was pretty new and the whole idea of putting a price on a piece of property was inconceivable to the Indians. They called the land Mother Earth and it was held in reverence, kind of like a god. You don't go around "sellin'" a god.

Indians never thought about land as something that could be owned by anyone. It was just there for everyone's use. Kind of like the sky we enjoy or the air we breathe. Now this is hard for me to understand, so it figgers that the idea of ownership of land, which was foreign to Indians at that time, was just as hard for them to understand. One thing I know for sure. You can't use a double standard. If the U.S. Government was using it's own standard when they wrote the treaties, then it's plain immoral to say Indians had a different standard so it was all right to take unfair advantage of them.

The Chippewas at that time probably didn't think they was givin' up anything because they didn't think it really belonged to them or anyone else. They was probably thinkin' these "treaties" was just agreements to share the huntin' and fishin' grounds. I imagine they had agreements like that between tribes. It's easy to imagine one tribe huntin' in a certain place and another comin' into the same place and have a battle break out. The Chiefs - governments - would likely get together after that happened and agree on who would hunt where. Anyplace was all right because the land belonged to everybody. I'm just guessin' about that. Nobody told me it happened for sure.

Anyway, to be fair, you have to look at the history at the time the treaties was signed and figger out how the Indians interpreted them. That's what the Supreme Court says you have to do and it makes sense to me now. It was a pretty one-sided deal and - though I don't like to admit it - it seems like the main thing was to get control of all that land and timber and copper and furs and fish. After all, this was the Land of Opportunity and I doubt if my ancestors would pass one up, specially if they thought Indians was willin' to give up that land so easy. They maybe wasn't really so dishonest, just thoughtless or not able to understand.

But, as Joe and Ray and the others explained, even if we use the treaties as they was written, there's nothin' that says the Chippewas would limit huntin' and fishin' to the reservations. Huntin' and fishin' rights are a coupla' of the few things that was mentioned specifically in the treaties.

Of course there's a lotta' things that still need to be worked out with the state and the tribes, but it seemed to me they was all tryin' their best to be fair and at the same time honor commitments that was made a long time ago and long past due.

Talkin' to them people at Red Cliff was good. I'm not worried anymore that they're just playin' games with legal loopholes so they can go out and have a mass deer roundup or somethin'. They're sincere about sovereignty, treaty rights and their ability to govern themselves. They feel Indian people are by nature pretty good conservationists. Years ago, in order to stay alive, they had to make sure there was always enough fish and game around so they never took more than they needed. I guess you'd call Indian conservation an "inherent trait," too. (I learn pretty fast, don't I?) That doesn't mean they won't have some violators, but I just read a story in the newspaper about a bunch of buys picked up in a nearby town with a whole mess of deer meat they was sellin' and they wasn't Indians. People is people.

The trip to Red Cliff didn't answer all my questions but that was partly because I didn't know how much I didn't know. There was no way I was gonna' learn everything in three hours, but it sure gave my brain a good workout. Now I'm anxious to learn more.

Joe invited me back anytime. I need some time to let what I learned sink in and I think I'll spend a little time in the library tryin' to find books my history teacher didn't have, but I intend to go back. After all, though my roots are actually on the other side of the ocean, I like it here. If I really want to understand what this land is all about, where can I get better information than from the only people who have a legitimate claim to American heritage?

# A HISTORY

Continued From Page 6

The same subsistence pattern is evident from the journals of Michel Curot and John Sayer on the Snake River and Curot on the Yellow River. Apparently, life was very hard at this period at Lac Vieux Desert, prompting Malhot (1922:209) to remark "all the savages at that place starve more than the others and have almost nothing."

Some of the most useful information concerning southwestern Ojibwa subsistence practices comes from the expedition of Henry Schoolcraft who in 1832 led a party in quest of the source of the Mississippi. The most detailed journals were kept by Lt. James Allen and by Schoolcraft himself. The exploratory party passed west along the Bad River to Kaginogumms Lake and down the Namakagon River to the St. Croix. Reascending the Namakagon and visiting Lac Court Oreilles, they then descended to the Mississippi by means of the Chippewa River. On return, the party ascended the Wisconsin River to the Fox River portage and then down the Fox to Green Bay.

Schoolcraft and Allen (Mason 1958:93, 223) were both impressed by the country of the upper St. Croix or the Folle Avoine "wild rice" country remarking on its many lakes and the relative abundance of game. Allen tells us that the Indian inhabitants had rice, fish and game in such abundance that it could be "spared to traders who depend on it." Schoolcraft noted that the Ojibwa of the region "are not to any extent cultivators of the soil but more exclusively hunters and warriors" and that "they find a common resource in fish and along with this, enjoy the advantage of reaping wild rice." Referring to the Court Oreilles as well as the Lake Chetac and the Red Cedar and upper Chippewa River valley, Schoolcraft (Mason 1958:115) tells us that "abundant resources and a mild climate yields shorter intervals of extreme want among the populace of the region."

Detailed information about the land and Indians further east was furnished to Lt. Allend by Charles Oates who was the principal fur trader for the American Fur Company at Lac du Flambeau. Oates' district included the area between Lake Superior and Green Bay and between Green Bay and the Wisconsin River. Allen (Mason 1958:175) says that the Indians of this district "subsist on the resources of the country, game and fish. In the fall and winter they kill great numbers of the common red deer, which is very plenty (ful) about the Chippewa River. In spring and summer their subsistence is principally fish and berries and a few furred animals."

One of the best descriptions of Indian fishing in the forest and shallow lake country south of Lake Superior comes from the traveler and fisherman Charles Lanman, who visited in 1847. Lanman saw the torches of Indian spear fishermen flickering over these lakes at night, suggesting the very name of Lac du Flambeau derived from this method of fishing (Lanman 1847:123). Warren (1957:192) confirms that this is the case since the Ojibwa name for Lac du Flambeau is *wass-was-im-ing* or the lake of the torches. The muskaloonge, Lanman (1847:113) tells us, "is somewhat of a sluggard, and owing to this size and hyena-like character (rising to bait), is the very fish of others for spearing by torch light."

Lanman reported that Indians of the region took pickerel (walleyes), perch, muskaloonge, pike, black bass and trout and that "the Indians employ a great variety of modes for taking all these fish, but the gill net, spear and the bow and arrow are the most successful ones" (Lanman 1847:113). Kohl (1956:326) recorded the Ojibwa names of various fishing modes in 1855. Thus, *nin-pagidawa*, I catch fish with nets; *nin-pagibadi*, I catch fish with a line on which there are many hooks; *nin-akuawa*, I spear fish; *nin-wewebanabi*, I fish with a single line and hook; and *wass-we-win*, torch light spearing. Densmore (1970:21) also records the Ojibwa name for large mesh (*name-asub*) and small mesh gill nets (*sugwa-sub*). The fact that specific terms exist in a language is taken by anthropologists as indicative of the cultural importance of these things or activities. Certainly, the Ojibwa vocabulary relating to fish and modes of taking fish reflects the importance of fish in Ojibwa life.

Conclusions  
A review of the historical accounts relating to the country ceded to the United States in the Treaties of 1837 and 1942 by the Ojibwa clearly indicate two quite distinct subsistence patterns were in practice. That is, the Inland Shore fishery on the Lake Superior coast line and a mixed rice-fish-hunting economy in the interior. This division between lake Indians and interior Indians was clearly established at the time of the Treaties. In passing, it might be noted that faunal remains from prehistoric archaeological sites on Manitoulin Island of the Apostle group and from many sites on the upper St. Croix indicate that these two patterns have considerable antiquity (Smith and Cleland n.d. a, Smith and Cleland n.d. b).

In the case of the Lake Superior region various Ojibwa bands were settled along the Lake shore particularly adjacent to fishing grounds, either offshore shoals or at

river mouths. In the spring these people used gill nets to take whitefish, herring, and lake trout offshore and nets and spears to take sturgeon, walleyes, and suckers in the rivers. Some fishing continued in the summer along with some gardening, collecting wild plant foods and hunting. The major fishing season was in the late fall when gill nets were used to take lake trout, whitefish, herring and burbot. After the fishing season these people hunted in the interior and in the spring made maple sugar. As game resources along the shore were depleted in the early nineteenth century as a result of the fur trade the Ojibwa from Sault Ste. Marie to Fond du Lac became even more dependent on their fisheries.

The mixed rice-fishing-hunting pattern in the interior country south of Lake Superior can in itself be subdivided into two subunits as a result of the differential abundance of resources. The country at the headwaters of the St. Croix and west - the "Folle Avoine" - apparently produced more rice than the country to the east and therefore provided a more secure economy for its Indian inhabitants. In the headwaters of the Chippewa and Wisconsin Rivers - the Lac du Flambeau district - rice was still the staple but seems to have been less reliable. Food obtained from fishing and hunting was therefore more important in the economy. This is particularly so at the time of the fur trade when traders deliberately induced Indians to hunt by depriving them of rice stores.

In both subareas however, the seasonal subsistence round was one in which summer was taken up with fishing, collecting plant foods and some amount of gardening. Both men and women fished - men primarily spearing muskellunge, suckers, pike and walleyes and women using gill nets to catch these same species plus sunfish, perch and bass. Since these waters straddle the Great Lakes and Mississippi River drainages which have different faunas, the type of fish taken in any particular lake or river could vary significantly. In the fall great attention was given to rice harvest after which families

dispersed to winter hunting grounds in pursuit of deer, elk, bear, and fur bearing animals. In the spring, maple sugaring provided an important food resource since it provided food at a critical time when animals were in poor condition and hard to hunt and before the spring spawning runs commenced. The latter were heavily utilized by the Ojibwa as the only reliable and consistent food resource of the spring season. Occasionally, bands near the upper reaches of rivers of the Lake Superior drainage would descend these rivers for the purpose of taking fish at this season.

Douglass Birk (n.c.:208-218) provides a very detailed analysis of the ecological conditions of these regions in his excellent study of the Fond du Lac district of the Northwest Fur Company for the years 1790-1805. Figure 1 is taken from Birk's study and illustrates the cultural-natural zones of the treaty area. Zone Ia and b is the area in which the Inland Shore fishery predominates. Birk's Zone II is the wild rice district and unlike Birk's configuration this discussion suggests that it should be divided into a western and eastern subzone at the headwaters of the St. Croix. Birk's Zone III was a politically unstable area, a "no-mans-land" between hostile Ojibwa and Dakota factions. It was important however, on a seasonal basis as a hunting territory particularly for white-tailed deer which abounded in this zone.

Finally, it can be said that the Ojibwa people of the treaty area at the time before and up to the time of the treaty displayed a great degree of economic flexibility. First, we see Ojibwa immigrants into the area adopting traditional technology and social-political systems to the demands of new ecological conditions of the interior. The mixed result of intense fur trading activities in the region. While the trade brought technological change, i.e. guns for bows, iron fish hooks and ready-made net twine, the traditional subsistence economy remained intact in regard to species taken at various seasons. It is clear however, that these Indians were quickly drawn into a Euro-American commercial system in which they were producers of raw materials for both local and international markets. In the years just preceding the treaties, Ojibwa of both the Lake Superior shore and in the interior were producing not only furs, but also rice, fish, meat and sugar for sale to local traders and travelers as well as for their own benefit.

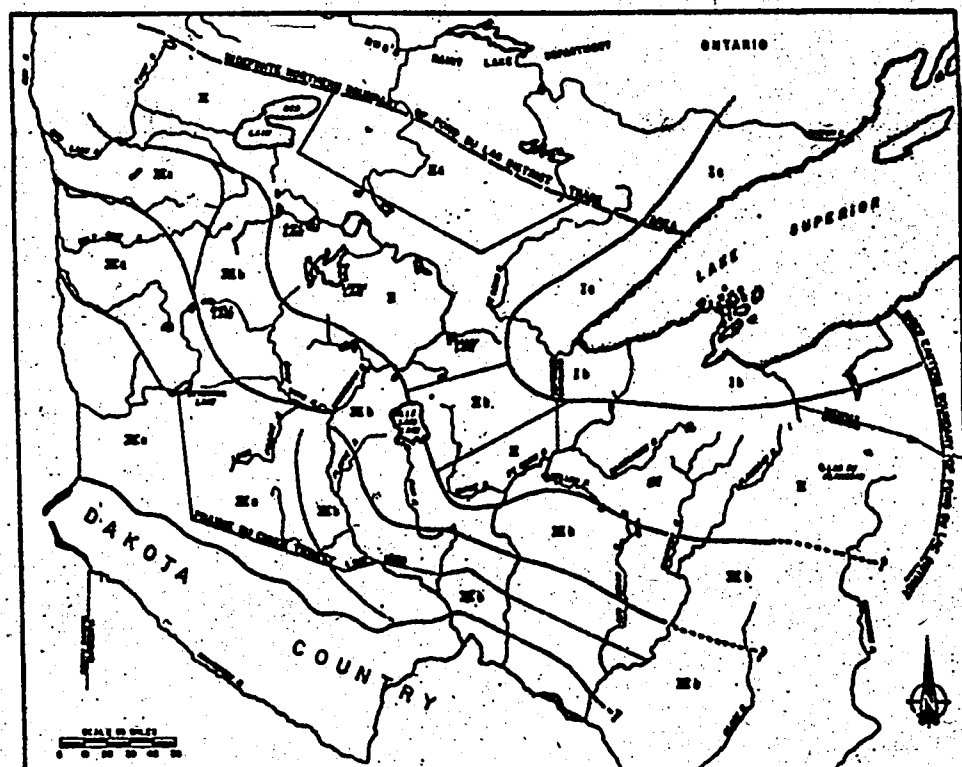
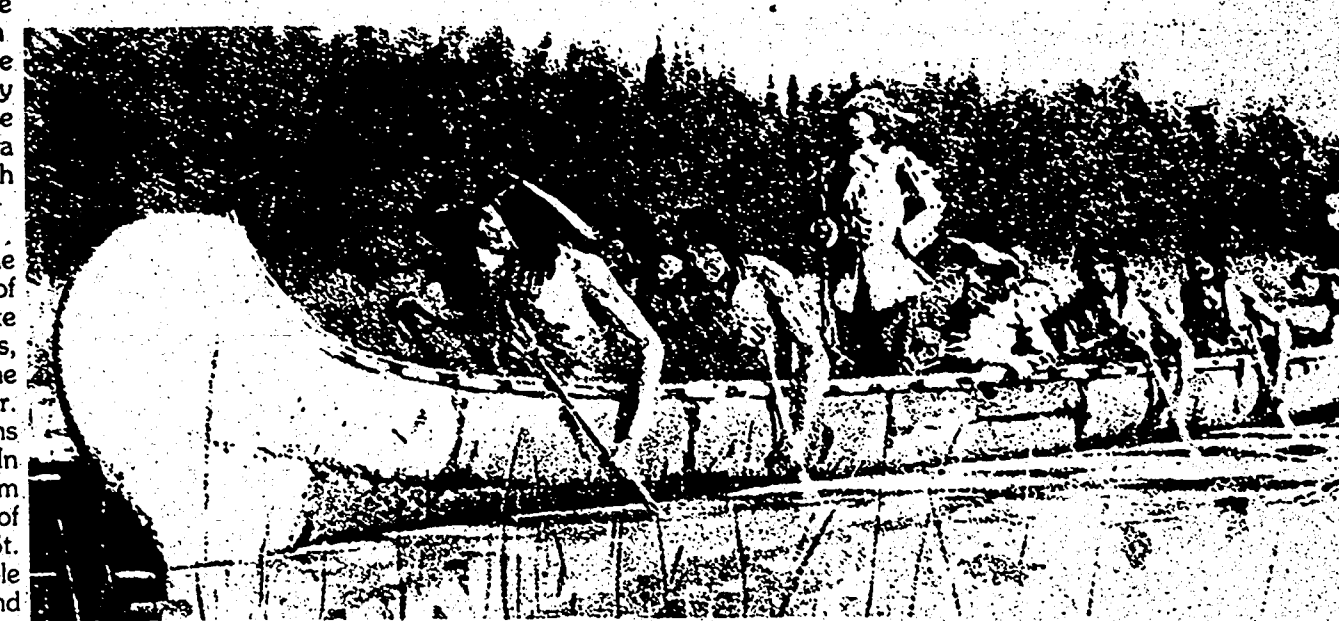
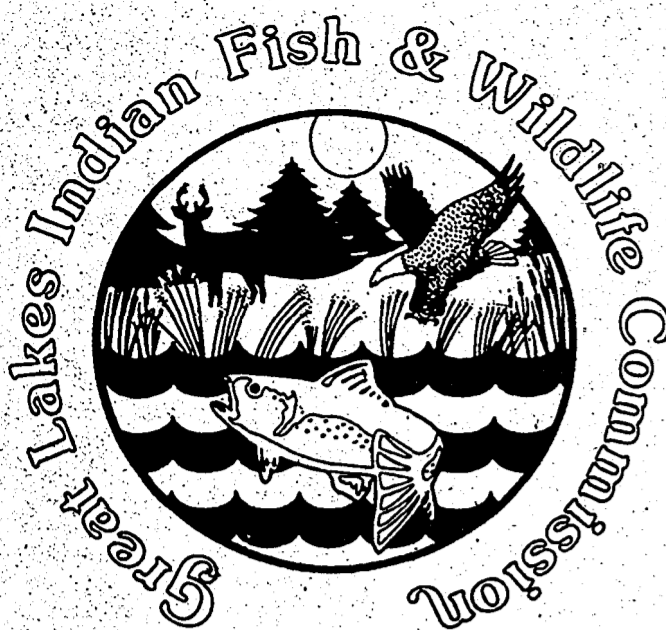


Fig. 1. Cultural-Natural Zones in the Fond du Lac District (ca. 1790-1805). Zone II, especially in the Red Lake River drainage and the headwaters of the Mississippi, St. Croix, Chippewa, and Wisconsin rivers, was the area most densely inhabited by the southwestern Ojibwa and the scene of greatest WUXIJC competition. Zone IV, the "contacted zone," was the area of greatest Dakota-Ojibwa competition. (From Birk n.d.).



Frederic Remington's painting, "Radisson and Groselliers," first appeared in Collier's Weekly in 1906.



## INTRODUCTION

The long-awaited re-assumption of cooperative tribal authority over the vast natural resources has finally come into sight. The tribe's traditional role of fish and wildlife managers has been re-established and now the tribes are faced with the challenge to develop the necessary tools that will guide tribal decision-makers as they exercise these treaty responsibilities.

Early in 1982 six Lake Superior Chippewa bands were faced with a rapidly expanding tribal fishery on the Great Lakes with minimal to non-existent resources to meet the self-regulation needs. Individually there had been limited success in attracting the resources necessary to carry out tribal management responsibilities. This experience and greater competition for dwindling funds led the tribes to conclude that the proper vehicle to achieve common goals was to organize as an inter-tribal unit. The mold was set and the Great Lakes Indian Fishery Commission was established. The original members include: Grand Portage and Fond du Lac in Minnesota, Red Cliff and Bad River in Wisconsin, and Keweenaw Bay and Bay Mills in Michigan.

The second important phase of the organization's development occurred on January 25, 1983 when the 7th Circuit Court of Appeals reversed a lower court ruling, reaffirming the existence of the treaty rights to fish, hunt and gather in the territories ceded by the Lake Superior Chippewas in the treaties of 1837 and 1842.

The expanded responsibilities included and expansion of the number of tribes to the present 10. The Commission provides coordination of inland and lake activities, biological services, public information, inter-tribal enforcement and administration of the PL 638 contract to meet the tribal goals to protect, conserve and enhance the valuable off-reservation resource ensuring a meaningful exercise of the treaty reserved rights.

The Commission, in carrying out the policies and mandates, have accomplished the following in its short existence.

- Administrative:**
  - Develop organic documents for the organization
  - Developed a comprehensive Personnel Policy and Procedure Manual, Property and Financial Management Systems
  - Expanded staff size from an original three employees to a present total of 21.

### Biological Services:

- Reports Written:**
  - Report to the Fond du Lac Band of Lake Superior Chippewas: Potential Yield of Major Fish Stocks in Western Lake Superior.
  - Lake Trout Stocking Patterns in the Upper Great Lakes, with Special Reference to Treaty-Ceded Waters.
  - Assessment of Tribal Fisheries Management Program Needed.
  - General Description of Great Lakes Treaty Fisheries.
  - Summary of Technical Data Pertinent to Great Lakes Tribal Fisheries Management.

### Fish and Wildlife Priority:

- The Grand Portage and Keweenaw Bay Bands have commercial fisheries on Lake Superior, but not biological programs. GLIFWC commenced data collection from these fisheries in 1983, beginning to give those tribes the ability to verify or contradict the conclusions of state resource agencies. Also trained tribal wardens and fisheries aides in data collection procedures.
- The Biological Services Division has also provided assistance in the development of biological data and follow up monitoring of several agreements dealing with the inland resources.

### Public Information Office:

- Published a bi-monthly newsletter "Geego-ikay."
- Published an informational brochure "The Indian Fisher" on the Great Lakes.
- Published an informational newspaper on the Voigt decision called "Masinaigan."
- Developed a series of news releases on the activities of both inland and lake activities.
- Published an article in the newsletter "Horizons" for their Spring Issue, 1984.

Various staff have participated on panels on informational forums and presentations to the general public and special interest groups.

Staff has appeared in two documentaries, one specifically dealing with treaties produced and presented in Northern

Michigan and the second in a presentation on the State, shown nationally.

Staff has also participated on numerous radio programs discussing impact of exercise of treaty rights.

### Enforcement

In response to establishing inter-tribal enforcement capabilities the tribes have hired 6 seasonal and 6 full time officers to carry out duties as assigned.

### Inter-Agency Liaison:

In order to fully implement tribal resource management the tribes have initiated dialogue with federal, state and tribal entities. This dialogue has produced a spirit of cooperation which has resulted in:

- The establishment of an official seat on the Lake Superior Lake Trout Technical Committee, a sub-committee of the Great Lakes Fishery Commission.
- Establishment of four interim agreements between the State of Wisconsin and the six Wisconsin tribes providing an exercise of the rights reserved by the treaties of 1837 and 1842.
- Establishment of inter-tribal agreement between the six Wisconsin bands and the Mille Lacs Band that provide for exercise of their rights in Wisconsin.
- Support for on-going discussions of both lake and inland committees.
- Assisted in initiating contacts between the bands located in Michigan and Minnesota and the respective state agencies.
- Established contacts with resource biologists in State, tribal, provincial, federal and inter-national agencies.

The benefits of the organization and its resultant accomplishments will not be fully understood until the organizational needs are fully met. Until then it may seem that some tribes are benefiting more than others. Part of the reason for such an observation is the diversity of individual tribal needs. This is basically a matter of time and hopefully patience will prove a valuable characteristic to those tribes who are parties to this effect. If the organization continues at its present pace it may be sooner than planned.



## GLIFWC HISTORY

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

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

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

Original members of the GLIFC were the Grand Portage Band and the Fond du Lac Band, Minnesota; the Red Cliff Band and the Bad River Band, Wisconsin; and the Keweenaw Bay Band and the Bay Mills Indian Community, Michigan.

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

for the development and management of the fishing industry, one second only to timber in importance for the area.

Consequently they formed the GLIFC and for the first sixteen months operated with only a director, one Great Lakes fisheries biologist, and a part-time secretary. Their first initiatives included biological assessment of the tribes' impact on the resource and ultimately, providing the essential data to members which would enable them to regulate their fishing industry. Secondly, they were concerned with obtaining a voice in the international Great Lakes Fishery Commission, which acts as the policy-making body for Great Lakes commercial fishing activities. Currently, the GLIFWC has representation at the technical committee level on the organization. They still seek representation on the Commission.

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

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

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

With the expansion of resource management and regulation responsibilities, both in terms of area and in the kind and quantity of resources, the GLIFWC has increased its technical staff to provide expertise also in wildlife management and inland fishing.

The GLIFWC currently recognizes as areas of primary responsibility the provision of 1) Fish and Wildlife Management 2) Fish and Wildlife Enforcement 3) Public Information and Education for its member tribes. The goal is assure the protection of treaty hunting, fishing and gathering rights for its members using the biological tools necessary to establish, maintain, compliment and enhance their tribal role as co-managers of the resource.

### TECHNICAL ASSISTANCE TO TRIBES

Soon after the formation of the Great Lakes Indian Fisheries Commission, it became evident that Keweenaw Bay and Grand Portage had the greatest immediate need for technical assistance. Both of the tribes have commercial fisheries on Lake Superior, yet have not fisheries management programs. In the spring of 1983, the biological staff initiated a lake trout population assessment program at both reservations, in which the catch of tribal fishermen was sampled for biological information. In the fall of 1983, Keweenaw Bay hired two Fisheries Aides to collect the field data. GLIFWC's biological staff has trained the aides in data collection, and has performed the necessary technical analysis of the data. This arrangement seems to work well, making use of tribal and GLIFWC capabilities. Reports on the 1983 data collection were prepared for the tribes, and were presented at the Great Lakes Fishery Commission's 1984 Lake Superior Committee meeting.

Data from the tribal fisheries was utilized along with information provided by other agencies to formulate management recommendations for Grand Portage and Keweenaw Bay. Detailed analysis of stocking records along the Minnesota shore was also utilized in recommending a lake trout harvest limit for Grand Portage. Management recommendations to Keweenaw Bay include a closure of the lake trout spawning season (even though the state-regulated fishery remains active during that period) and fishing effort limitations. The Keweenaw Bay Tribal Council enacted the recommended regulations prior to the 1984 fishing season.

In 1983 the Fond du Lac Band requested an estimate of the potential yield of fish stocks in the waters of interest to the tribe (southwestern Lake Superior). Potential catches were estimated for lake trout, herring, walleye, smelt, and chubs, and were presented in a report entitled "Potential Yield of Major Fish Stocks in Western Lake Superior."

Other requests for assistance were received from biologists working for member tribes. The staff participated on a technical committee comprised of biologists from the U.S. Fish and Wildlife Service, the Wisconsin Department of Natural Resources, and the Red Cliff Fisheries Department, investigating the status of the lake trout population on the Gull Island Refuge. The committee concluded that the native lake trout of the refuge are still increasing, and should be afforded refuge protection for at least a few more years.

The staff was requested by Bay Mills biologists to participate in some work of the Tripartite Technical Working Group for the 1836 treaty-ceded waters of Lakes Superior, Michigan, and Huron. The group defined the approach and methodology necessary for the determination of whitefish total allowable catches (TAC's). GLIFWC staff provided support for the preferred approach of Bay Mills' biologists and performed computer simulations comparing gradual and sudden changes in TAC's.

## INLAND FISHERIES AND WILDLIFE INLAND FISHERIES

The inland fisheries and wildlife components of GLIFWC are in a very early stage of development. They were initiated in response to the "Voigt" decision affirming the treaty-protected right to hunt, fish, and gather on public lands and waters in the territory ceded by the Treaties of 1837 and 1842. Two biologists hired by the Voigt Intertribal Task Force in early 1984 became part of the Biological Services Division with the merger of the Task Force and GLIFC in March 1984. The current inland staff consists of two wildlife and two fisheries biologists.

### INLAND FISHERIES

The inland fisheries staff provided biological advice to the Intertribal Task Force for use in implementing off-reservation fishing rights in early 1984. The traditional gear of Ojibwa fishermen -- spears and gill nets -- have long been prohibited by the State of Wisconsin because of their efficiency and the potential conflict with recreational fisheries. The major task of the inland fisheries biologist was to quantify the efficiency of these gear types and to devise regulatory strategies to accommodate their use without harming the resource.

Creel survey data from past years provided by the Lac du Flambeau Fish and Game Department was invaluable in estimating catch rates of fishermen spearing through the ice, and was utilized in negotiations with the State of Wisconsin. The negotiations led to an agreement regarding off-reservation ice fishing for the winter of 1984.

The biological staff initiated a winter creel survey on lakes on or adjoining the Lac Courte Oreilles Reservation to obtain further data on the efficiency of spearing, as well as its selectivity for species and sizes of fish. Input was also provided on the design of the 1984 winter creel survey at Lac du Flambeau. As required by the tribal/state agreement, data from the creel surveys was provided to the Wisconsin Department of Natural Resources.

The staff also worked with Intertribal Task Force representatives to develop a proposal for open-water fishing in 1984, with spearing, gill-netting, and hook-and-line provisions. The central feature of the proposal was a walleye and muskellunge quota system, to be applied to each lake on which spearing or gill-netting were to be allowed. The quotas, based on the surface area and productivity of each lake, were to be enforced with a tightly regulated permit and monitoring system. The quotas were intended to hold fishing mortality at or below the rates considered acceptable by the DNR.

The tribes' proposal was never put into effect, as it became the subject of a court hearing in which the tribes were unsuccessful. At this writing, the immediate future plans of the inland fisheries staff must remain flexible until the courts settle the issues of the extent of the treaty right and the jurisdictional authority of the state. The inland fisheries staff will continue to work on the central questions of efficiency and selectivity of spears and gill nets, and their impacts on fish populations. The possibility of cooperative assessment projects with DNR is being explored, as well as the establishment of tribal/state technical working groups. Negotiations on treaty fishing issues are expected to continue, and GLIFWC biological staff will play a major role.

Longer range plans include adapting DNR surface water inventories for tribal use; development of adaption of biologically sound lake and stream classification methods; refinement of fish population and community assessment techniques; and identification of fish populations and/or habitats most sensitive to traditional Ojibwa harvest methods. Monitoring of the quantity and biological characteristics of treaty harvest will remain a top priority.

### WILDLIFE

An agreement regarding deer hunting for the late fall and winter of 1983-84 was negotiated without a biologist to represent the tribes. Nevertheless the treaty deer season was carried out successfully, with only relatively minor problems.

The wildlife biologist, beginning employment in February 1984, had the responsibility for summarizing and analyzing the harvest and biological data obtained from mandatory deer registration, which was presented in a report entitled "Summary of the 1983-84 Off-reservation Treaty Deer Season."

The wildlife biology staff also provided technical assistance during negotiations which led to a tribal/state agreement on trapping for the winter of 1984.

As a first step in assessing the impacts of traditional Ojibwa deer seasons and methods, a pellet group survey was conducted on the Lac du Flambeau Reservation in early spring 1984. This data, as well as deer surveys conducted by tribal conservation staff on the Lac Courte Oreilles and Bad River Reservations, will also provide an independent verification of DNR deer population assessments. Ruffed grouse roost counts and snowshoe hare data were obtained concurrently with the deer survey. A ruffed grouse drumming court survey was also conducted at Lac du Flambeau.

The wildlife staff provided recommendations for the 1984 deer season, consistent with traditional Ojibwa hunting methods and with the DNR deer regulatory system. Negotiations on this topic are expected to begin during this summer.

Future plans of the wildlife biology staff include assessment of hunter pressure through mail surveys and interviews of hunters at registration; expanded deer population surveys on the larger reservations; development of big game population models; vegetative cover type mapping; identification of critical habitats and limiting factors; and continued monitoring of the treaty harvest. The staff will also provide technical assistance to the tribes as needed in the areas of waterfowl and wild rice management.

## INTERACTIONS WITH OTHER MANAGEMENT ORGANIZATIONS

Another major function of GLIFWC on the Great Lakes is the establishment and maintenance of contact on behalf of the tribes within the fisheries management community. Extensive contact has been made with state fisheries agency biologists in Minnesota, Wisconsin and Michigan; various branches of the U.S. Fish and Wildlife Service; the Great Lakes Fishery Commission and its sub-units; and other tribal programs in various regions of the U.S.

GLIFWC holds a seat on the Lake Superior Lake Trout Technical Committee, which is the technical arm

of the Great Lakes Fishery Commission's Lake Superior Committee. This technical committee has made various specific recommendations for furthering the rehabilitation of lake trout in Lake Superior, including desirable genetic strains for stocking and a maximum mortality rate which should not be exceeded if rehabilitation is to proceed. The committee is currently developing a lakewide plan for the rehabilitation of lake trout, which, if enacted by all the jurisdictions, should alleviate some of the tribe's concerns that state-regulated sport fisheries have been favored over the rehabilitation effort.

Additional contacts have been established with several of the universities around the Great Lakes that conduct research in fisheries science. Attendance at the 1982 Indian Fisheries Management Conference (sponsored by the Northwest Indian Fisheries Commission) and annual meetings of the Native American Fish and Wildlife Society has provided opportunity for numerous contacts with tribal biologists, particularly from the Pacific Northwest. The Biological Services Director has been Chairman of the Native Peoples Fisheries Committee of the American Fisheries Society since 1982, and has authored an article for the AFS bulletin Fisheries entitled "An Introduction to Native Peoples Fisheries Issues in North America" (in press).



# Looking Forward

## FUTURE

The Great Lakes tribes face a demanding future as we approach the challenge of full implementation of the reserved rights to hunt, fish and gather in the ceded territories. To date the tribes have continued to take the responsible position of coordination and cooperation with tribal, state, federal and international authorities. The organization has survived its infancy and as we travel through the middle period of our existence we will find distrust and misinformation which will attempt to exploit our weaknesses. Tribal authorities and credibility will be challenged and we must, if we expect to assume these responsibilities, meet these challenges.

Intergovernmental relations must develop progressively in the spirit of cooperation and coordination. This is not only true of the Tribal/State/Federal relations but is also true of the tribe to tribe relations. Intertribal enforcement and education of tribal members to the concept of tribal right vs. individual right will be true tests of tribal government. We must urge flexibility and utilize all available resources to guide the governments down the complex resource management path.

Developing long-term dialogue, formal and informal relationships with other fish commissions will be an invaluable resource that can be tapped for guidance. An example of that has occurred with the first national meeting of fishing tribes that was sponsored by the Northwest Indian Fisheries Commission in 1982 and more recently with the tremendous cooperation received from the Columbia River Inter-Tribal Fisheries Commission in the development of our enforcement component and other organizational assistance.

As we become aware of the authorities that the tribal governments possess and choose to exercise, we will be faced with jealous and powerful governments who view tribal authorities as a threat to their "possessions." We

have proven already that tribal resource management does have credibility and it will be only a matter of time to achieve full recognition.

Implementation of authority will require the inventory and analysis of all existing management forums for their impact upon the tribal rights. Tribes should no longer be excluded from official decision-making bodies. This will undoubtedly result in the expansion of the issues that we face, including but not limited to pollution, contaminants, acid rain, water quality, water diversion, winter navigation. Tribes must strive toward productive positions and not be relegated to the defensive where our time is spent reacting to decisions that had been made.

In order to be successful the tribes will be relying heavily on the capability of the public information staff. It is this component which must douse the emotional fires with facts and educate those who misunderstand the complex problems that we face not only as governments but also as people who must live side by side and work collectively toward our common goals of resource protection, management and enhancement. It is easy to find issues that the governments can differ on, but we should not follow the easy path, for it will lead toward conflicts and confrontations. Instead we should take the difficult path of identifying the issues that we can agree on, and along the way exchange and learn from the experience. This is why tribal governments should continue to negotiate matters rather than litigate, because if the latter is chosen, it is the resources that will suffer the losses.

May we as governments continue to develop, progress and prosper as we once more assume those responsibilities that were proven to protect all of the creator's creatures. Let us show our critics that we have never forgotten. Henry M. Buffalo, Jr.

# NEWSCLIPS

The following are from various newspapers reporting on the "Voigt Decision."

## US remains honor-bound by old Indian treaties

This in regard to the June 10 letters by D. H. Wendland and J. Sorenson regarding the controversy over Indian treaty rights. Without debating the questions of spearing and gill netting and other matters that must be worked out by the affected tribal groups and the DNR, I would like to correct the common misconceptions about Indian treaties expressed in the letters.

ing rights in the northern third of Wisconsin, but also the responsibility for resource management and the authority to intervene if these treaty-protected resources or habitat are threatened.

In summary, the courts agreed with us that we reserved the right to harvest resources in lands we sold. By implication, the resources and their habitat must also be protected. Therefore, if there is a threat, whether it's airborne such as acid rain, or sur-

At the same time, most tribes already have in place natural resource codes, enforcement and court systems for on-reservation resource activities. In Wisconsin both Bad River and Red Cliff have commercial fishing codes which regulate tribal member activities on Lake Superior. In addition, Red Cliff has an agreement with Wisconsin regarding Red Cliff commercial fishing activity.

In 1982 the Great Lakes Indian Fisheries Commission was ratified and formed by six Chippewa tribes in Michigan, Minnesota and Wisconsin who have territory on Lake Superior. The commission was formed to help protect treaty rights and to provide technical assistance to tribal fisheries. GLIFWC is doing independent biological studies, providing public information about treaty fisheries and meeting with and monitoring other management agencies including state DNR's, U.S. Fish and Wildlife and the joint U.S.—Canadian Great Lakes Fishery Commission.

A NEW ERA  
If history continues and past experiences are repeated, both the tribes and the resources are in jeopardy. First, the tribes, lacking a sound economic base, will have to compete nationally for resource management dollars. Following that process there will be a prolonged attempt to convince agencies that not only are we legitimate co-managers but we are also serious professionals. Following this impasse the tribes and the agencies will face the wrath of the public-interest groups who will ignore the law and adamantly insist that Indians be treated like other minorities.

Having wondered aloud over our relationship, I have a few suggestions for all of us to consider. To begin, the tribes should join hands with environmental groups who have the mutual goals of resource protection. Through regular communications these goals will emerge and strategies can be developed and implemented. The non-Indian environmentalists should view the treaties as another mechanism to protect and enhance the ecosystem. The tribes should view the environmentalists as new resources, both in dollars and expertise. Thus, a partnership that will better guarantee that the resources, regardless of management authority, are properly protected.

The treaties are contracts agreed to by the US and the Indian groups wherein the Indians reserved certain lands and rights as part of a very one-sided bargain in which, outnumbered and outarmed, they relinquished the northern third of the state for a fraction of its value even in terms of assessed worth at the time.

The Indians bargained in good faith. The same should be said of the US, but the whites cynically expected the Indians to disappear as the Indian death rate in the 19th century exceeded the birth rate. As many government documents of the period show, the government expected to honor the treaties, but not for very long. It boils down to a question of national honor. Either we stand by our word as a nation whose forefathers miscalculated Indian staying power, or we take it out on the Indians by disregarding treaties because the Indians did not oblige us by dying off.

From this perspective, the reluctance of the Supreme Court to intervene in Indian treaties is understandable. Just because treaties are old does not invalidate them. Imagine if the British decided to disregard the Treaty of Paris of 1783, which ended the Revolutionary War, because it was signed so long ago and they never really expected the US to manage independently and it really should be part of Great Britain. After all, times change; we don't wear powdered wigs and knee breeches anymore.

A final comment should be made on the map accompanying the letters which shows the outlines of the four Chippewa reservations established in 1854 (the government didn't get around to making good on establishing Mole Lake and St. Croix until the 1930s). The total of just over 271,000 acres granted by treaty has been reduced to considerably less than half because of the General Indian Allotment Act of 1887. This land grab, opening the reservations to white land buyers and making the reservations checkerboards of Indian and white holdings, was also predicated on the expectation of Indian disappearance. It deprived the tribes of their main capital resource, unbroken tracts of land, for rational economic development to support decent community life in the exercise of tribal sovereignty.

N. O. LURIE

Milwaukee

## Task force asks 'restraint, patience'



Walter Bresette, public information officer for GLIFWC, one of several speakers at a conference being held at Telemark Lodge, Cable. The annual conference deals with "Treaty Rights" issues.

By Staff and AP Reports  
CABLE — Representatives of Wisconsin Chippewa pledged Thursday to use their treaty rights to conserve the state's natural resources, not exploit them.

They said misunderstanding and emotionalism on the sensitive issue threaten to polarize Indians and non-Indians in northern Wisconsin, and it was time to calm hot heads on both sides.

"It's time that we begin to communicate," Gordon Thayer, chairman of the Lac Courte Oreilles, told the first annual conference of the Great Lakes Indian Fish and Wildlife Commission here.

He and other spokesmen for the Chippewa and other tribes emphasized that Indians are anxious to preserve, enhance fish and wildlife resources through their exercise of tribal hunting and fishing rights rather than deplete them.

And several tribal leaders indicated that in five years, the now-heated controversy over the hunting and fishing rights recently recognized by federal courts will likely be forgotten.

"We're asking both the Indians and the non-Indians for some restraint and some patience," Jim Schlender, chairman of an intertribal task force on treaty rights, said.

The first afternoon session of the Great Lakes Indian Fish and Wildlife Conference held at Telemark Lodge Thursday, dealt mainly with off-reservation treaty rights issues.

Walter Bresette, director of public information for the Great Lakes Indian Fish and Wildlife Commission, introduced the session by asking the audience to attend to the task force decision didn't bring anything into existence that

did not exist before. He explained that the purpose of this session was to explain all sides of the issue.

"One of the most difficult issues of late has been what is popularly known as the Voigt decision. That decision, although it raises some questions and additional issues here, really doesn't set any new laws," Bresette explained.

Members of the panel at this session included Kathryn Tierney, attorney for the Lac Courte Oreilles tribe; Jim Schlender, Chairman of the Voigt Inter-tribal Task Force; Thomas Dunahon, chief biologist for the Great Lakes Indian Fish and Wildlife Commission; and Walter Bresette.

Tierney spoke about the legal aspects that surround treaties in general. She emphasized that although she was using the Voigt case as a reference, treaty rights stem from many varied sources over the years.

"It is very clear, that we wouldn't be in this room talking about off-reservation treaty rights, if it was not based on a formal document or agreement." They don't necessarily have to be, however, in the form of a treaty," she stated.

"There are many other forms of agreement that tribes have with the United States that have resulted in rights that are not tied to the reservation itself."

Tierney explained that the focus of off-reservation rights is on the use of the land's resources, not on the land itself. It is a responsibility to explain what is included in the treaty based on what life was like at the time the treaty was made.

"The area of law simply deals with what kind of agreement was made with the United States," he said, "and how that translates into a

legal problem today."  
He also said that the rights come from the fact that the Indians were here first, and they used the resources in various ways. What must be looked at is what the Indian people gave up at the time the original treaties were made, she explained. Oftentimes they were given the rights to resources on land that had been sold.

"One example of this is right here in the state of Wisconsin," she explained. "When the Menominee reservation was terminated by Act of Congress, several Menominee people were arrested by DNR officials for hunting deer without a state license."

The Wisconsin Supreme Court said that the treaty which was in existence prior to the termination of the reservation, was still applicable. She emphasized that one of the first things to be done in considering off-reservation rights was to look at the wording of the original document and determine whether at some time since then, any of the original rights were relinquished by the Indians. If not, these rights are legally still in effect.

She said the Voigt decision determined that the Indian's hunting and fishing rights are still intact. As the case progresses in Wisconsin, it is a responsibility to explain what is included in the treaty based on what life was like at the time the treaty was made.

Tom Dunahon, chief biologist for the Great Lakes Indian Fish and Wildlife Commission, spoke about how Indians are very unique in the way they treat the environment. He said they tend to be more sensitive to the things involved.

(See Task Force, Page 3)

### Task Force

(Continued From Page One)

"The traditional fishing practices of the Chippewa were outlawed years ago," he said, "resulting that resources are limited and the value of the sporting experience (currently) supersedes the value of subsistence."

He said that economically, the use of fish for sustenance by Indians is very important due to the scarcity of jobs on the reservation. He went on to explain that resource management under these conditions is very difficult because of the social and biological concerns involved.

"These biological concerns are easily resolved by professionals in the field. However, the concerns over off-reservation hunting and fishing can only be resolved by the people who know about the management of these resources."

It is to everyone's best interest to protect these resources, he said. Many fishing and hunting areas are available in Wisconsin. Indians are granted a certain percentage of these resources, but they do not necessarily harvest the total quota. Dunahon said that the public, which is often misinformed, should be more concerned with environmental issues.

Jim Schlender, chairman of the Voigt Inter-tribal Task Force, spoke about the different levels of interpretation of treaty rights. He said the issue of Indian rights has become politicized. There are individuals who use the issue for personal prestige, who are grossly misinformed about the whole situation. This misinformation is based on different interpretations of the resources by Indians and non-Indians.

The rights of the Voigt decision are the rights of the tribe, he said. They are the same rights that were given in the original treaties.

Bresette ended the session with comments concerning the Equal Rights for Everyone group in Ashland. He read from a letter that he had written to them. He said that this group doesn't fit in to what the tribes are doing, because they lack the knowledge and understanding of resource management.

## TREATIES AND THE ENVIRONMENT



the Lake Superior Region

face such as mining or other disturbances, or below surface such as threats to ground water, the tribes through our treaties, have legal standing to stop or remedy these threats.

TRIBAL RESOURCE PROGRAMS  
In spite of this responsibility tribal economies are underdeveloped, consequently there is a perennial problem of understaffing and undercapitalization of resource management, biological studies and enforcement systems. And although the state DNR's and federal agencies are co-managers along with the tribes, previous history dictates that the tribes must establish their own resource management capabilities.

The Voigt Inter-Tribal Task Force, since the January 25, 1983 court action, has successfully found some federal dollars. To date they've hired two biologists, contracted for development of model enforcement codes for regulating off-reservation activity by tribal members, developed judicial and law enforcement training, provided public information sessions, and negotiated agreements on deer hunting, ice fishing and trapping with the State of Wisconsin.

## People's forum

# Information bad, exaggerations outrageous

Editor:

After reading Jack Sorenson's open letter to Judge Doyle (People's Forum, June 12), I felt I must respond. I cannot conceive of what was going through his mind as he wrote that letter. His information is so bad and his exaggerations so outrageous.

In writing the letter, Mr. Sorenson must consider himself to be knowledgeable about the treaty rights and resource management issues. Yet it is obvious he did not read the 1984 Inter-tribal Fishing Code. If he had, he would not have said that the code permitted anyone to "seine, or use gill nets during spawning season." These activities were prohibited under the Code. It is obvious Mr. Sorenson did not

read Judge Doyle's opinion. In turning down the tribes' request for a preliminary injunction, Judge Doyle strongly recognized the treaty right as affirmed in the 7th Circuit Court of Appeals. He did not say that the tribes' proposal was inadequate for conservation of the resource.

He based his ruling on a lack of consensus on biological questions and a lack of a track record in enforcement. Obviously the staff of our young organization has a lot of work to do in both of these areas.

It is obvious Mr. Sorenson does not have a rudimentary understanding of the law regarding treaty rights. The treaty rights are proprietary rights to the use of the

resources, held by the tribal governments on behalf of their citizens. To deny the exercise of a proprietary right is equivalent to confiscation of personal or real property. A similar situation would be the denial of the exercise of mineral rights to a parcel of land. Does Mr. Sorenson's organization, Equal Rights for Everyone, really mean to support the confiscation of property?

I would like to make a proposal to Mr. Sorenson. The Great Lakes Indian Fish and Wildlife Commission will hold its first Annual Conference at Mt. Telemark on June 28-29. The conference features speakers from many points of view, including the Wisconsin DNR,

Wisconsin Wildlife Federation, environmental groups, and the United States Government, as well as the tribes.

The conference promises to be an informative, exciting program, and is open to the public. We are charging a \$38 registration fee to cover conference costs. I will personally pay Mr. Sorenson's registration if he will agree to attend the conference and write a letter to the "Daily Press" about what he has learned. Perhaps some acquaintance of Mr. Sorenson will ask him to call me at 682-6619, or write to GLIFWC, P.O. Box 9, Odanah, Wis. 54861.

Thomas R. Busiahn  
Director of Biological Services, GLIFWC

## THE CHIPPEWA...THEIR BACKGROUND...POINT OF VIEW

# Voigt Decision Said 'Major Victory for Human Rights'

Editor's Note: The following article describes the past and present status of the Chippewa Indians, their rights, the impact of the recent Voigt Decision and their views, objectives and concerns where their interests are concerned. Comments are invited.

By MARY OLSEN

SPOKANE — A canoe ride on a still lake on an unforgettable experience, a gift from the Indians. It is peaceful. Who does not want the right to fish these waters and hunt game on these waters? To the white man, these are America's time activities. To the Chippewa, these are a trip to the spirit world. The Indian catches fish for food, the sportsman catches fish for pleasure and the exercise of fishing skills.

The sportsman is restless. Controversy over the Chippewa reservation fishing rights continues. The DNR claims that the 1983 decision granted by the DNR: game wardens' arrest of three Lac du Flambeau Chippewa for spearing 178 walleyes illegally, by other means, including the number of Indians charged with game violations to 14 by April 25. The Off-Reservation Open Water fishing code proposed by the tribes is considered to be in violation of U.S. District Court in Madison awaiting the decision of Judge James R. Doyle.

Members of Equal Rights For Everyone, a group opposed to the Voigt Decision, and others claim discrimination in favor of Indians. Misunderstandings stem from the fact that the Voigt Decision is a major victory for human rights. Sustained fishing codes ahead of recreational fishing.

Equality has long been denied the first Americans. They were not given the rights to vote until 1964, four years after women's suffrage was won. Only recently have Indian people been given a measure of self-government. Indian people track lowest of any others in per capita income; they have the highest unemployment rate, and the poorest standard of living of any other American people. They are to be allowed to spear and net fish as their long tradition dictates. Neither Indians nor sportsmen wish to surrender their weapons.

Another concern by sportsmen: "Our Constitution says we are all created equal. We want equal rights for Indians." The Declaration of Independence says it is self-evident that all are created equal. This addresses an issue important at the time, the divine right of royal birth. It sets the precedent for the same fishing rights. The Constitution gives us democratic government. It does not give us equality.

Its first important business, the Constitution said free men must pay taxes. This excludes women and slaves. This is not being equal to free men. They were the only people who had money on property at that time. We have a justice system to determine interpretation of laws.

Individual rights are protected. Some are born into wealth, some into poverty. Is there equality in business or government? Our government allocates more than \$18 million annually to the West. The estimated man does not lose a cent.

All the Conservation Congress meetings in Washington County on April 25, 1983, the tribes were discussed and voted on questions having to do with hunting and fishing, sixty people attended, thirty men. After the sportsmen discussed their opposition to the Chippewa treaty rights. By their voting record it was apparent they were a diverse group united in their determination to see the sportsmen's interests protected. The majority, which changed according to individual preferences, voted against treaty fishing, and landowners, fishermen, and hunters, people who wanted to buy a concession made of bear parts (not spore, bear, or in black bear), bottled beverages, traps, snares, and other sportsman. However, it is more apparent that minorities showed their in outdoor sports.

Conservation's philosophy is the rights to respect to the tribes. It means responsibility. The Indian thinks of taking of fish as harvesting, and leads the way. Their decisions in this difficult area will give citizens' help in implementing this new era in conservation.

Liberty and tolerance are reflections of each other. In our free society, no one person's rights can be denied because intolerance threatening any minority threatens all minorities. The long-denied legitimate rights to fish, hunt and gather on their homeland, not only the Chippewa are benefiting, but all of us who live here. The lakes are never discussed or voted on because a more moderate substitute was passed overwhelmingly by voice vote.

The Native American treaties entered into in the past have become inadequate due to changes in today's society," according to the original resolution printed in the convention's official program. The original resolution asked the delegates to "request that the President work with the U.S. Senate and the Tribal Nations to revise and update these Native American Treaties."

The drafters of the original resolution apparently felt that the Indians were being treated more equally than whites. "The federal constitution requires that all persons be treated equally," they wrote. Jack Sorenson, the chairman of the Oneida County Republican Party, was instrumental in drafting the original resolution.

The resolution's philosophy was dangerously similar to the battle cry of a Northern Wisconsin group called Equal Rights for Everyone (ERFE). The group is claiming 800 members. Under the treaties are repealed "there is going to be bloodshed," according to Ed Barth of Thorp, an ERFE spokesman. Thorp said he as the will have a chance to choose a life way in the reserve or elsewhere. Health care is another area of improvement. Alcoholism, however, is a serious problem.

land of these original people. Native-Americans, guaranteed by the Federal Government. A treaty is an adjunct of the Constitution as well as a promise made in good faith.

The Treaty of Importance now as to Chippewa reservation rights, concluded on September 8, 1844, left them with the area of reservation. The area discussed and voted on questions having to do with hunting and fishing, sixty people attended, thirty men. After the sportsmen discussed their opposition to the Chippewa treaty rights. By their voting record it was apparent they were a diverse group united in their determination to see the sportsmen's interests protected. The majority, which changed according to individual preferences, voted against treaty fishing, and landowners, fishermen, and hunters, people who wanted to buy a concession made of bear parts (not spore, bear, or in black bear), bottled beverages, traps, snares, and other sportsman. However, it is more apparent that minorities showed their in outdoor sports.

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# Rep. Obey Opposes Indian Fish Efforts

WAUSAU, Wis. (AP) — Wisconsin's Chippewa tribes might jeopardize federal grants by insisting that they can use gill nets and spears to take game fish from northern lakes, U.S. Rep. David Obey, D-Wis., said Friday.

Obey, in a letter to Chippewa tribal leaders, said he was disappointed at an announcement that the tribes intend to spear and net fish in about 50 walleye lakes, most of which are in Obey's northern district.

Obey said the government, reflecting the feeling that Indians had been victimized by unfair policies of the past, has given special consideration to tribes in allocating federal funds.

But he said the special consideration might be jeopardized if Indians adopt rules which prove harmful to fish resources.

A federal court last year upheld treaty rights of the Chippewa to fish, hunt, trap and gather wild rice on public lands in about the northern third of Wisconsin.

The tribes reached interim agreements with the state Department of Natural Resources to govern off-reservation deer hunting, trapping and ice fishing, but the two sides have failed to agree on rules to govern Indian participation in the inland water fishing season that opened May 5.

The DNR opposed efforts of Indians to permit spearing and gill net-

ting, saying the proposal could lead to depletion of game fish stocks in certain lakes.

A tribal representative, Lac du Flambeau attorney James Jannetta, contended earlier in the week that the proposal was only a limited exercise of tribal rights that would result in a "miniscule" harvest of fish, especially since the walleye spawning season has virtually ended over much of the north.

Jannetta said the Indian proposal would apply to only 49 of the 11,500 lakes in the ceded area, that spearing permits would be good for one night only and that gill nets would be limited to 300 feet in length, considered long enough to harvest 15 to 16 walleye.

The tribes sought a court order allowing them to establish their own code for off-reservation fishing this year. U.S. District Judge James Doyle of Madison is expected to rule on the request later this month.

"I very strongly believe that the decision to return to court was reckless and that the negotiating position taken by the tribes in this instance does not sufficiently protect the vital resource base in question and will prove unwise in the long run," Obey wrote.

"Often in life the greater good in society can be preserved only if individuals and groups demonstrate restraint in exercising those rights," he added.

## Brush with embarrassment over Native American rights averted

MADISON — An embarrassing situation for Wisconsin Republicans was diffused at the last minute as delegates gathered recently for the annual state convention.

Had party leaders and a handful of Native Americans not intervened, the party probably would have passed a resolution which, in effect, called for the repeal of Native American treaties. The resolution was never discussed or voted on because a more moderate substitute was passed overwhelmingly by voice vote.

"The Native American treaties entered into in the past have become inadequate due to changes in today's society," according to the original resolution printed in the convention's official program. The original resolution asked the delegates to "request that the President work with the U.S. Senate and the Tribal Nations to revise and update these Native American Treaties."

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Stan Milam  
Gazette Madison Bureau

Paul DeMain, the head of Earl's Native American Desk, said the actions by the Republicans and the counties association were positive steps in solving the problem of balancing Indian rights with the rights of non-Indians. "Some residents in the north have legitimate concerns about the treaty rights," he said. "There is also an element of loudmouths who don't know what they're talking about."

A common complaint, especially in the area of Oneida and Vilas counties, is that the Indians are depleting the supply of fish by exercising their treaty rights. DeMain said, "What many people don't know is that there is a tribal fish hatchery in Vilas County producing 40 million muskie and walleye eggs a year," he said. "If only 1 percent of the eggs survive, that's still 400,000 fish, and that's more than the Indians have ever gill-netted in one year."

Earl had been supportive in working for a solution through the negotiation process, DeMain said. "He wants to keep this out of the courts, if possible. He understands there is intensity attached to treaty rights."

The "equal rights" group has, for the most part, been ignored by both the state and tribal leaders. The Wisconsin Chippewa Tribes recently announced they would pursue negotiations with the Department of Natural Resources over the fishing rights issue.



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