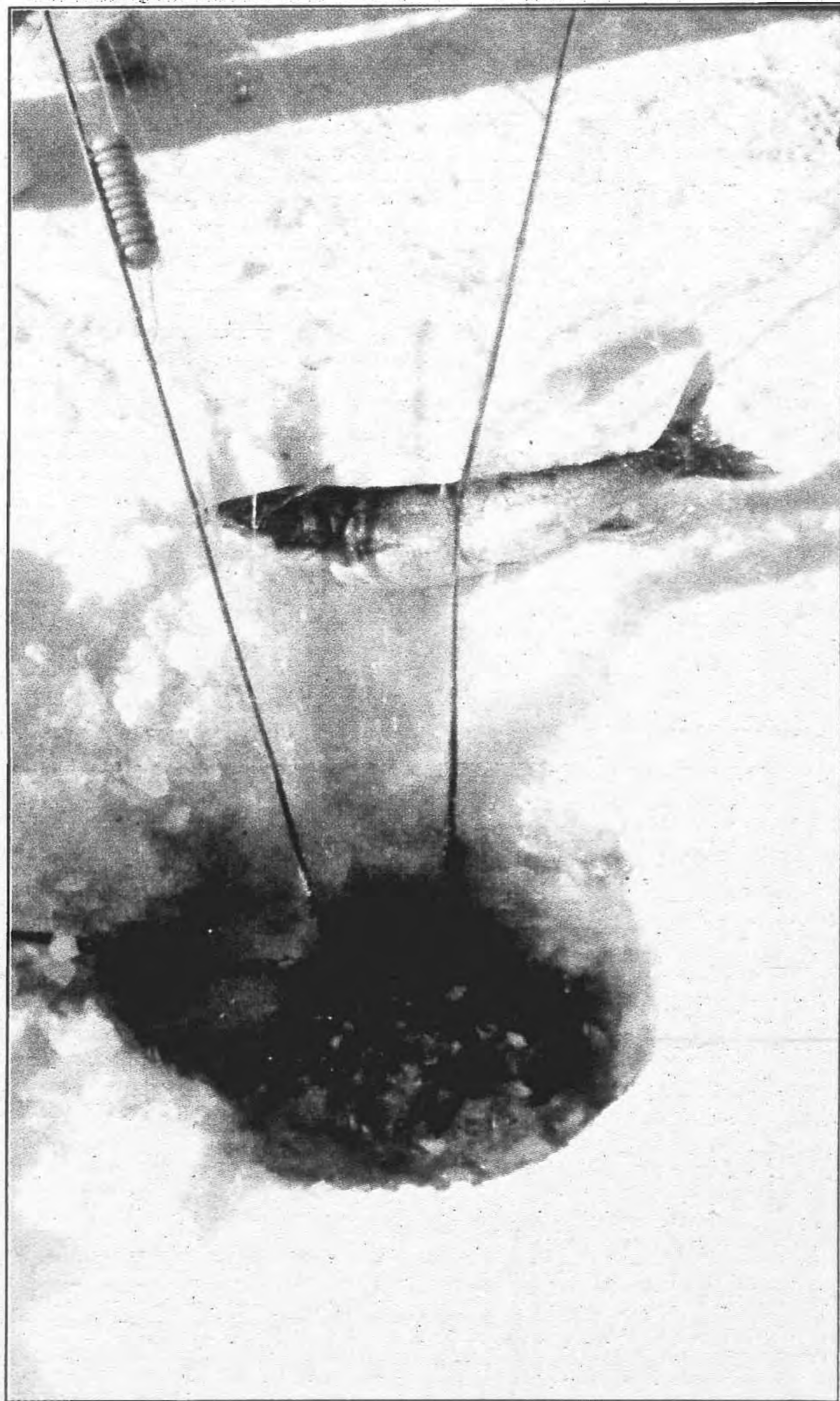


MASINAIGAN

MASINAIGAN (MUZ IN I AY GIN) A publication of the Great Lakes Indian Fish & Wildlife Commission

Spring 1997



Special Focus: 1837 Treaty Case

This edition of the *Masinaigan* provides an in-depth look at the 1837 Treaty case affecting the Mille Lacs and Fond du Lac Bands in Minnesota and six Chippewa Bands in Wisconsin.

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Minnesota 1837 treaty rights: Preserving Ojibwe lifeways

Introduction

The rights of eight Chippewa Tribes to pursue their way of life based upon hunting, fishing and gathering has been recognized and preserved by a recent federal court ruling.

The Mille Lacs, Bad River, Fond du Lac, Lac Courte Oreilles, Lac du Flambeau, Red Cliff, St. Croix, and Sokaogon Chippewa Community (Mole Lake) Bands may now undertake the process of adopting their own regulations and implementing a tribal/state cooperative management system designed to ensure the exercise of these rights and to conserve the resources of the ceded territory.

This edition of **Masinaigan** will focus on treaty rights in the Minnesota 1837 ceded territory. For the Bands, the affirmation of their rights and the approval of their self-regulatory system is historic.

Unless somehow delayed or overturned by the court, treaty guaranteed harvest may now proceed in an area where it has been previously denied once the Bands have enacted their codes and members obtain the proper permits.

Masinaigan hopes to assist in educating Band members and the general public about the Minnesota 1837 treaty rights, including the federal court case affirming them, the regulatory system governing them, important biological issues underlying them, and the myths and misconceptions frequently surrounding them.

This task has been approached with full awareness of the painful history of treaty rights implementation in Wisconsin. The intent is not to evoke images of protest and violence carried on against the lawful exercise of these rights, but to avoid the replication of those images in Minnesota.



Representatives from the six Wisconsin Chippewa Bands and Fond du Lac, all parties in the 1837 Treaty Case, met with Mille Lacs leaders March 8th to discuss implementation of a spring fishing season. Above are: Marge Anderson, Chief Executive Mille Lacs; Don Wedll, Commissioner of Natural Resources, Mille Lacs; Fred Ackley, Mole Lake; Henry St. Germaine, Lac du Flambeau; Tom Maulson, Chairman, Lac du Flambeau; Leo LaFernier, Red Cliff; Matt O'Claire, Bad River. (Photo by Sue Erickson)

Hopefully, information in this issue will lead to the understanding, recognition and acceptance of the 1837 treaty rights and of those issues that underlie everyone's ultimate goal of conserving the resources of the ceded territory.

History of the 1837 treaty rights case

The Mille Lacs Band filed suit against the State of Minnesota on August 13, 1990 in federal court. It claimed that the State's natural resource laws and regulations violated the Band's hunting, fishing and gathering rights guaranteed by the 1837 Treaty.

The Band sought a judgment declaring that the 1837 ceded territory rights continued to exist, defining the nature and scope of the rights, and defining the permissible scope, if any, of state regulation of treaty rights harvest. It also sought a court order prohibiting enforcement of state fish and game laws against Band members except as specified by the court.

The Fond du Lac Band filed a similar suit in federal court on September 30, 1992 regarding both the 1837 Treaty and the 1854 Treaty.

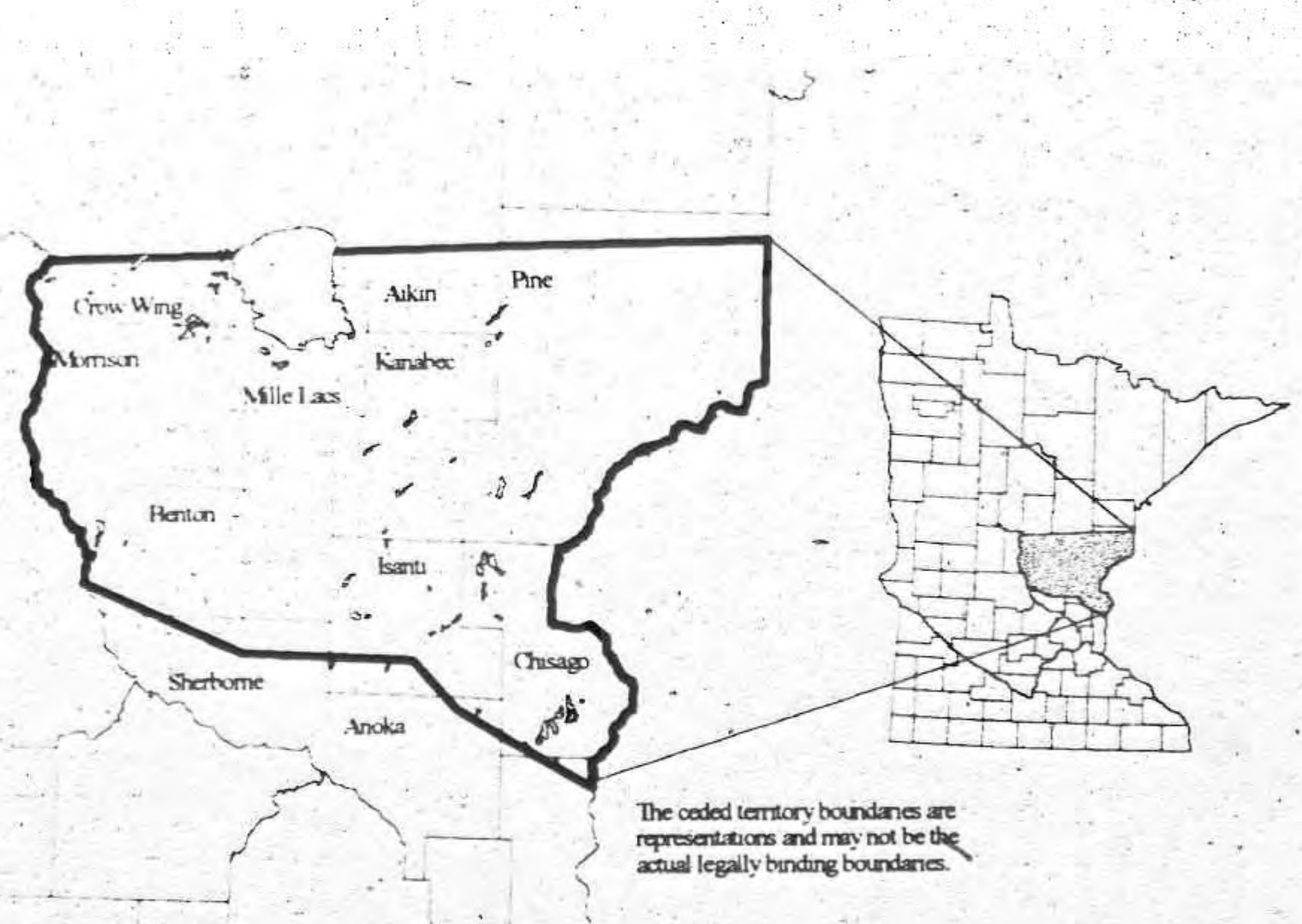
The Mille Lacs case was divided into two phases. Phase I was to determine whether the rights continue to exist, the general nature of the rights, and where the rights may be exercised. If the rights were found to continue, Phase II would address issues of resource allocation between treaty and non-treaty harvests and the validity of particular measures affecting the exercise of the rights.

An attempted effort to resolve the Mille Lacs case through an out-of-court settlement failed in 1994. A proposed agreement was hammered out by Band and State representatives in many months of negotiating. It contained many compromises between the parties.

For example, Mille Lacs would have limited its spearing and netting in Mille Lacs Lake to approximately 4.5% of the lake's acreage in exchange for a fishery under the Bands' control in that area. The Bands' walleye take in that area would have been limited to 24,000 pounds per year. There were many other concessions between the parties, including cash and land consideration for the Band.

The proposed agreement was approved by the Mille Lacs Band, but was rejected by the State Legislature. The agreement would have ended the court case. With its rejection, (See History, page 3)

1837 ceded territory in Minnesota



The ceded territory boundaries are representations and may not be the actual legally binding boundaries.



Tribes secure favorable judgment

The January 29, 1997, final judgment, issued by Judge Michael Davis of the US District Court of Minnesota, ended the trial portion of two 1837 treaty rights cases pursued by eight Chippewa Bands.

The **Mille Lacs Band v. State of Minnesota** case involves the Mille Lacs, Bad River, Lac Courte Oreilles, Lac du Flambeau, Red Cliff, St. Croix, and Sokaogon Chippewa Community (Mole Lake) Bands.

The **Fond du Lac Band v. Carlson** case involves that Tribe's 1837 and 1854 ceded territory claims. This ruling applies only to the 1837 portion of the **Fond du Lac** case. No trial date has been scheduled as yet for the remaining 1854 issues.

Two phases of the case have now concluded. Phase I ended in 1994 with a federal court ruling affirming the existence of the 1837 treaty rights. Phase II took up regulatory and allocation issues of the 1837 treaty right

Ojibwe Bands included in the 1837 Treaty rights case



The final judgment in Phase II of the case resolved all issues of regulation and allocation. Basically, it approved a tribal self-regulatory system governing hunting, fishing and gathering rights in the Minnesota portion of the 1837 ceded territory without interference from the State unless for health, conservation and/or public safety reasons.

Judge Davis' ruling specifically addressed the regulations that will apply to the exercise of the rights, where the rights may be exercised, and the allocation between treaty and non-treaty harvests.

In conjunction with the court's previous rulings in Phase I of the cases affirming the continuing existence of the rights, the January 1997 judgment resolved all issues before the District Court.

The State and other defendants in the lawsuits have indicated that they will appeal both Phase I and Phase II rulings to the US Court of Appeals for the Eight Circuit.

In addition, the State has asked Judge Davis to suspend the Phase II judgment for an initial four-month period while it prepares for implementation of the rights. The county and landowner defendants asked Judge Davis to suspend his ruling while the case is on appeal. Judge Davis denied these requests.

Provisions of the Phase II final judgment

The Phase II judgment addressed and resolved a number of issues outlined below. **Masinaigan** provides first a synopsis of the ruling and then a discussion of the impact or implication of the ruling as provided by James Zorn, attorney and policy analyst for GLIFWC.



Marc Slonim, Mille Lacs litigation attorney

Tribal self-regulatory system:

Ruling: The court approved a stipulation between the Bands and the State that detailed tribal regulations and management plans to govern the exercise of the treaty rights. The State agreed that these regulations and management plans were adequate for conservation, public health and safety.

Although the counties and landowners did not sign the Stipulation, they did not submit any evidence to challenge the Bands' regulations on conservation, public health or safety grounds.

Over the objection of the State, the court also approved two other regulations proposed by the Bands—one allowing deer hunting in December at night while shining over bait and another allowing the use of gill nets in eight lakes under 1000 acres in size. Provided the Bands properly enact

these regulations into tribal law and effectively enforce them, state laws will not apply.

Impact: The court's endorsement of the Bands' self-regulatory system—including their fishery and wildlife management plans—means that tribal members will be exercising the rights under tribal laws and be subject to the jurisdiction of tribal courts.

Although the Bands have agreed that Minnesota DNR wardens may enforce the tribal laws, state wardens must work cooperatively with GLIFWC and tribal wardens in doing so.

Treaty rights cases consistently hold that tribal regulations should govern the exercise of treaty rights where those regulations meet legitimate conservation, public safety and public health concerns. "In this case, it is important to note that the State agreed that the vast majority of the proposed tribal regulations were adequate," Zorn says, "and where the State did not agree, the court also found them to be adequate."

Dispute resolution/ continuing court jurisdiction:

The Bands and the State agreed to, and the court approved, a system for sharing technical information and seeking consensus on resource issues, and a dispute resolution process.

This process calls for the establishment of two committees, one for fishery issues and the other for wildlife and wild plant issues. These committees will be the primary bodies where information will be exchanged, possible regulatory changes (See Provisions, page 4)

History of the case continued

(Continued from page 2)

the litigation proceeded, with judgements ultimately being rendered in the Bands' favor in both phases of the case.

After a lengthy trial, the United District Court for Minnesota ruled in 1994 that: 1) the Mille Lacs Bands' 1837 ceded territory rights continue to exist; 2) the general nature of the rights was that the Band understood that it had given up the right to harvest timber, but that the Band did not understand the Treaty to impose any other limitations on the time, place or manner of treaty harvests; 3) the rights include the taking of resources for commercial purposes; 4) the rights were not limited to the use of any particular techniques, methods, devices, or gear; and 5) the State could regulate the rights only to the extent reasonable for conservation, public safety or public health reasons. The Court ordered that Phase II should proceed.

A similar ruling was handed down in the Fond du Lac case in 1996. There, the Court ruled that Fond du Lac's 1837 Treaty rights are the same as those determined in the 1994 Mille Lacs case decision. It also ruled that Fond du Lac's 1854 rights continue to exist; however, it reserved a ruling on the nature and extent of those rights, and scheduled that issue for further proceedings.

The 1837 Treaty aspects of the Mille Lacs and Fond du Lac cases continued on separate tracks until the summer of 1996. At the State's request, the Court joined the 1837 Treaty issues for Phase II purposes, and, for these issues, the cases proceeded on a consolidated basis until the Court issued its final judgment in January 1997. The final judgment is addressed in other articles in this issue.

Additional parties were added to the Mille Lacs case as it proceeded through the District Court. In 1993, the direction of the Eighth Circuit Court of Appeals, nine ceded territory counties, and six individual ceded territory landowners were joined as defendants in the case. The counties and landowners participated in both phases of the case.

In 1995, the six Wisconsin Chippewa Bands were joined as plaintiffs in the case for Phase II purposes only. In a separate decision in 1996, the Court ruled that the Wisconsin Bands' 1837 rights were already recognized in the 1983 Voigt case for the Wisconsin portion of the ceded territory, that they extend to the Minnesota portion of the ceded territory, and that they are the same rights as the Court affirmed in 1994 for the Mille Lacs Band.



Sewing buckskin and preparing food in the old ways as part of a "Four Seasons" exhibit at the Mille Lacs Ojibwe Museum. (Photo by Amoose)

Provisions of the Phase II Final Judgment

(Continued from page 3)

will be discussed, and issues will be resolved. An initial meeting of the fisheries committee was held on February 11, 1997, and Band and State biologists engaged in a positive exchange of information.

The Bands and State have agreed to mediate any disputes that arise in the future. If mediation fails, either party may ask the court to resolve the matter. The court agreed to maintain continuing jurisdiction over these matters.

• *Impact:* Zorn views the court's approval of the joint fisheries and wildlife/wild plant committees and of the dispute resolution process as a means to ensure ongoing communication and coordination between the Bands and State.

"The parties have every incentive to cooperate in conserving the ceded territory resources," Zorn says. "The possibility of ultimate court scrutiny should keep the parties open and honest in their dealings with each other."

Extent of the State's management authority:

• *Ruling:* The State claimed that it had the exclusive and unreviewable authority to set harvestable surplus determinations and to make what it called "management" decisions.

The court noted, however, that except for the harvestable surplus issue, the parties had agreed on mechanisms to address all other issues raised to date.



Jim Genia, Mille Lacs tribal attorney.

Accordingly, the Court stated that "[t]here is no concrete issue before the court with regard to the State's management authority," and declined to provide an "advisory ruling" on possible disagreements.

As to the harvestable surplus issue, the court disagreed with the State. It ruled that, absent agreement with the Bands, the State only has the authority to establish harvestable surplus determinations that meet the legal standard requiring them to be reasonable and necessary for conservation purposes. It also ruled that such deter-

minations are subject to review by the court to ensure that this standard is met.

• *Impact:* The court's ruling that the State's harvestable surplus decisions are subject to the conservation-necessity legal standard is significant, Zorn says.

"The law requires the State to show that its attempted regulation of the treaty right is conservation based and not discriminatory against the Bands," Zorn says. "So-called 'management' decisions can easily affect harvest opportunity and should be subject to the same conservation-necessity standard."

Treaty harvest throughout all of Mille Lacs lake:

• *Ruling:* The court agreed with the Bands that they should be able fish throughout Mille Lacs lake, including the approximate one-fifth of the lake lying north of the 1837 ceded territory line. The court found that the Bands understood the treaty rights to extend to waters "in and abutting" the ceded territory.

It ruled that the Bands may exercise their rights throughout the lake and that harvestable surplus determinations must be based upon the fish populations found in the entire lake.

• *Impact:* "This ruling not only makes sense from a treaty interpretation perspective, but from a biological perspective as well," Zorn notes. "The fish in the lake don't recognize an artificial boundary and the lake should be managed as a unit."

Hunting on private lands:

The court limited the Bands exercise of their rights to private lands enrolled in Minnesota's tree growth tax program. This program creates a right of public access in exchange for granting favorable tax treatment for those lands.

The court rejected the Bands' position that tribal members may hunt on unposted private land or on posted land with the owner's consent.

• *Impact:* "This ruling means that the overwhelming majority of ceded territory lands is off limits to treaty hunting," Zorn says. "About 85% of the total ceded territory acreage is in private ownership, and only a very small part, if any, of this is in the tree growth tax program."

Allocation/moderate standard of living doctrine:

• *Ruling:* The court rejected the State's and other defendants' requests for an allocation of the natural resources subject to treaty harvest. The court ruled that an allocation is unnecessary at this time.

It found that the State had not shown that treaty harvest would deprive State harvesters of their "fair share" of the resources. "No such showing can be made at this time . . . because the Bands have had no opportunity to exercise their usufructuary rights under the 1837 Treaty," the court concluded.

However, the court noted that "the time may come when an allocation of a resource will have to be made," and ordered that "new proceedings" could be brought "if it should appear that either treaty or non-treaty harvesters will be deprived in the future of a meaningful opportunity to harvest any resource."

• *Impact:* The Bands worked hard to develop a regulatory system that would phase in treaty harvests and allow Band members to determine the extent to which they exercise the treaty rights.

For the most sought after resources, such as Mille Lacs lake walleye, the Bands adopted initial harvest levels that are well below 50 percent of the harvestable surplus, and recognized a maximum harvest level of 50 percent in all other cases.

"I believe the State will come to recognize that the Band system offers many advantages by providing a period of years to adjust to treaty harvests," Zorn says.

"The additional artificial restraints and harvest restrictions sought by the State, counties and landowners were all found to be unnecessary. The impact of the Court's decision is that, at least initially, Band members themselves can choose whether and to what extent to exercise the treaty right, subject to the limitations voluntarily adopted by the Bands," Zorn said.



Mille Lacs elders had front row seats reserved during the State of the Band address last January, which draws hundreds from the reservation and surrounding community. (Photo by Amoose)

Implementation of the 1837 treaty rights

The exercise of the 1837 treaty rights is governed by a number of documents and systems. These include: 1) the Bands' natural resource management plans; 2) the Minnesota 1837 Ceded Territory Conservation Codes; and 3) tribal/state cooperative management agreements.

Management plans

The Bands have adopted two management plans—one applying to fishery issues and the other applying to wildlife and wild plant issues. Both are initial five-year plans, covering 1997 through 2001. They will be followed by second multi-year plans.

These plans provide the structure for treaty harvest while safeguarding the resources. They establish the basis for particular regulations contained in band ceded territory conservation codes, particularly as to allowable harvest methods and the amount of species available for treaty harvest. In some instances, such as for walleye and antlerless deer, the plans set low initial treaty harvest ceilings that gradually increase in following years.

"Our intent is to establish the treaty harvest in a careful and manageable fashion," explains Mille Lacs Natural Resource Commissioner Don Wedll. "We have been conservative at the outset to make sure that we have time to get the information needed to make well-informed management decisions as treaty harvest develops."

Wedll adds that this "phase-in" approach also will allow the State and non-Indians time to adjust to treaty harvest activities.

While the plans provide for a limited, gradual implementation of the rights, they specifically do not limit or waive the full extent of the treaty rights. "The Bands are willing to be careful and practical in reestablishing treaty harvests," Wedll said. "But in doing so, they will not give up their rights."

Fishery management plan

The fishery management plan establishes the framework for fishing in all waters in the ceded territory for all species and methods. Particular provisions apply to Mille Lacs lake, to all other lakes, and to rivers. The plan also contains an intertribal agreement that sets forth how the Bands will work together to declare their harvests for the upcoming fishing year.



Don Wedll, Mille Lacs Natural Resource Commissioner.

Methods

The plan allows for a number of fishing methods that may be used throughout the ceded territory. These include hook and line, open-water and ice spearing, setlines, set or bank poles, and various nets including gillnets, fyke nets and seines.

Some of these methods are limited to certain species and/or locations. In addition, some harvest methods are governed by daily bag limits, while other methods are governed by season ceilings, or quotas.

Mille Lacs lake

As for open-water spearing and netting in Mille Lacs lake, the Bands' principle objectives are: open-water walleye spearing, walleye netting, yellow perch netting, burbot netting, and tullibee netting. These species will be managed by an annual quota which will be divided between each of the Bands selecting these methods.

The tribal annual Mille Lacs lake walleye quota may not exceed 40,000 pounds in 1997, but may increase gradually to 100,000 pounds in 2001. Tribal quotas for that lake for the other species will not exceed 50% of an acceptable target harvest level agreed upon by the Bands and the State.

There will be no open-water spearing or netting for muskellunge in Mille Lacs lake. Muskellunge incidentally caught in a net must be turned over to the Bands.

Also, there will be no open-water spearing for northern pike, and the plan does not contemplate netting targeted for northern pike. However, incidental netting harvest of northern pike will be limited to 50% of an agreed-upon target harvest level. If this cap is reached, netting must cease for all species.

Other lakes

As for lakes other than Mille Lacs lake, the fishery plan authorizes open-water spearing, dip netting, fyke netting and seining in ceded territory lakes. In addition, gillnetting is authorized in all lakes over 1000 acres as well as in Shakopee, Ogechie, Whitefish, Grindstone, Eleven, Pine, Razor and South Stanchfield Lakes.

Very limited open-water spear and net fisheries may take place at what the plan refers to as "threshold" levels. Spearing or netting beyond these levels may take place only if a standard gillnet survey has been conducted within the previous 24 months and a quota has been established. Gillnetting for muskellunge and sturgeon is prohibited in these lakes.

Rivers

As for rivers, open-water spearing and fyke-netting are authorized. No gillnetting in rivers will be authorized under the first five year plan. Lake Sturgeon harvest is closed in rivers except for the St. Croix below Taylor Falls.

During the spawning season, open-water spearing will be open on alternate days only. Muskellunge harvest in the Mississippi river may not exceed 10 per year.

Monitoring

All open-water spearing and netting will be strictly monitored. Spearing permits may not be issued unless a monitor will be present at all designated boat landings. Gillnetting may only take place if a monitor is available either at a designated boat landing or at the location of the net lift.

All fish taken by open-water spearing or by netting must be identified as to species and counted. Length, sex and aggregate weights data will be collected from appropriate harvest samples at designated boat landings or net lift locations.

Notification/harvest closures

No later than March 15 of each year, the Bands will notify the State of their declared open-water spearing and netting harvests for the upcoming fishing year. This declaration will set forth the quotas and caps for each band's open-water spear and net fishery.

The fishery plan also requires that the Bands notify the Minnesota DNR no later than noon of the bodies of water that the Bands have designated for open-water spearing that night and "promptly" of the location of any gillnetting activities.

When a band's quota or a "threshold" level has been harvested, it must stop spearing for that species in the particular body of water. When a quota for any of these species has been taken, gillnetting by that band for all species must stop there as well.

(See Wildlife management plan, page 26)



The management plans adopted by the Bands provide the structure for treaty harvest while safeguarding the resources. Above, Lac du Flambeau spearfishers prepare for a night of spearfishing in Wisconsin off-reservation waters. (Photo by Amoose)

Reductions in Mille Lacs lake angling needed because of conservation concerns

While the State may impose additional restrictions on angler harvest of walleye in Mille Lacs lake this season, the projected small harvest of walleye by Band members should not take the brunt of the blame, according to Neil Kmiecik, GLIFWC Biological Services Director.

Recent comments by Jack Skrypek, Chief of the Minnesota DNR's Section of Fisheries, support this. In a recent **St. Paul Pioneer Press** article (2/28/97), Skrypek said that state walleye angling on Mille Lacs lake must be reduced by 110,000 pounds to stay within what he called a "safe harvest cap." This reduction is necessary even if treaty harvest does not take place.

Don Wedll, Mille Lacs Commissioner of Natural Resources, is concerned that the Bands will be blamed for these angling reductions.

"I hope people understand that the State must reduce angling harvest no matter what happens with the treaty fishing," Wedll said. "Any misunderstanding or misrepresentation of this fact will cause unnecessary tension."

Mille Lacs Lake has been a center of focus for the Bands in developing these management plans and codes to implement the 1837 ceded territory treaty rights. Its walleye fishery is valued as a significant resource not only by State fishermen but also Band harvesters.

Band resource managers have designed an implementation plan for the treaty harvest on Mille Lacs Lake that will protect fisheries resources and provide a meaningful harvest opportunity to Band members," according to Kmiecik.

At a Fisheries Technical Committee meeting on February 11, 1997, State biologists projected that without any regulation changes there would be an angler walleye harvest of 430,000 pounds during the 1997 angling season, Kmiecik says.

State and Band biologists also agreed that the "target harvest" of walleye for 1997 should be 320,000 pounds. This would require state fish managers to reduce angler harvest by 110,000 pounds regardless of treaty harvest.

According to Steve Haeseker, GLIFWC fishery biologist stationed at Mille Lacs, the status of the Mille Lacs lake walleye population requires these reductions. Recruitment has been average or below average since 1988, Haeseker said.



GLIFWC biologists remove a northern pike from an assessment gill net. GLIFWC performed fish community assessments on Mille Lacs lake last summer, using MN Department of Natural Resources' standard assessment procedures to generate indices for fish species in the lake. This assessment will be done by GLIFWC annually. (Photo by Francinevia Browden)

He also added that the spawning biomass of walleye has shown a progressive decline from the early 1980's and that angling exploitation has been exceeding target harvests in many of the recent years. (see Figure 2)

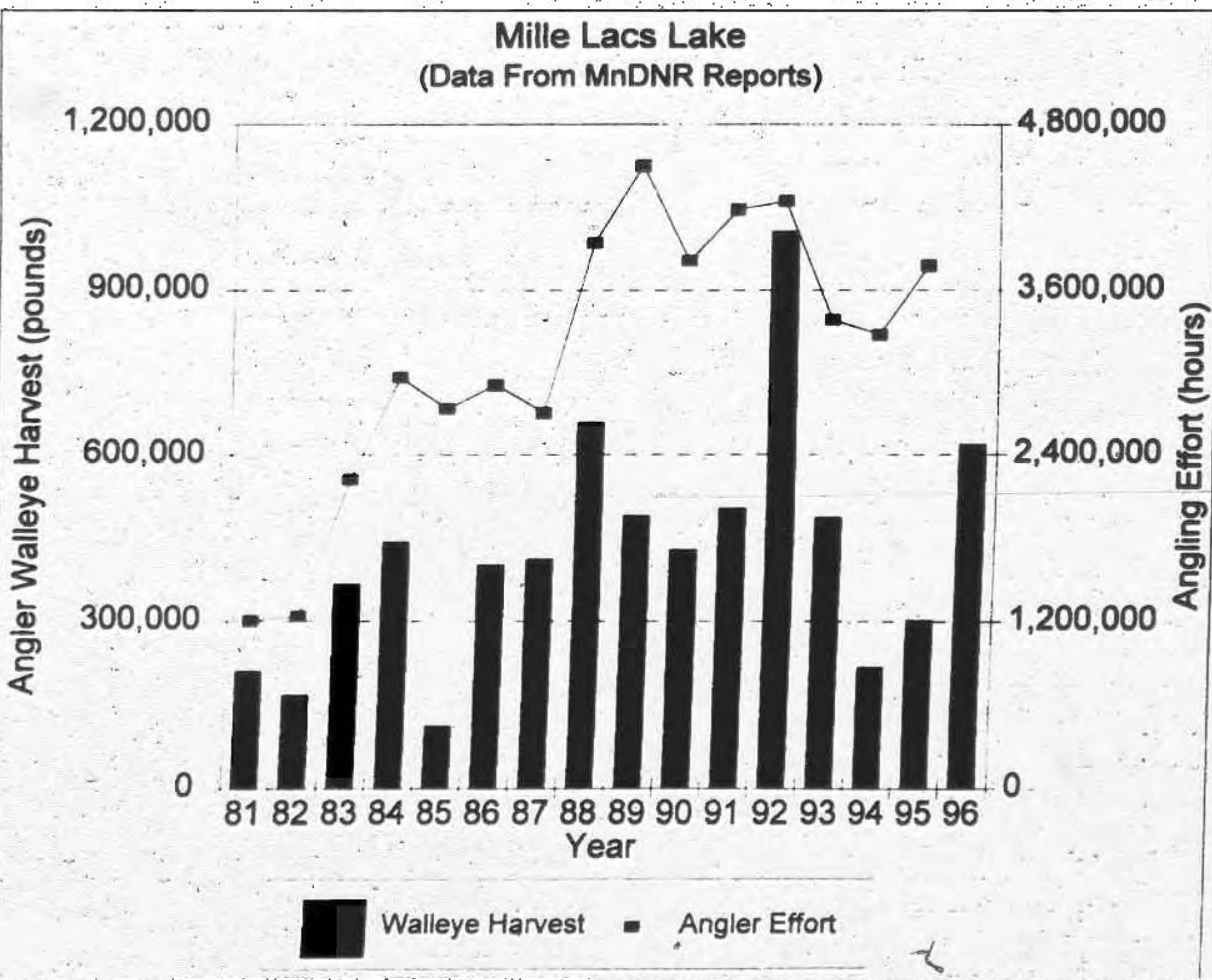
"It is unfortunate that the necessity for more additional regulation of the lake's fishery coincides with implementation of treaty fishing," Kmiecik adds.

The Band management plan allows for only 40,000 pounds of walleye to be taken by Band members in 1997 and provides for a gradual increase in Band harvest over the first five year period.

The Bands have opted for a careful, cautious approach because they care about the fishery in Mille Lacs Lake. The initial year will provide an opportunity for Band members to exercise their treaty right in a meaningful way and at the same time provide resource managers the opportunity needed to gather more information on the fishery, Kmiecik says.

The low Band harvest level of walleye in Mille Lacs Lake leaves plenty of room for sport fishing opportunity, which has long been a valued recreational and economic base for the community.

(See Bands provide opportunity for traditional fishing methods, page 7)



"I hope people understand that the State must reduce angling harvest no matter what happens with the treaty fishing. Any misunderstanding or misrepresentation of this fact will cause unnecessary tension."

—Don Wedll, Mille Lacs Commissioner of Natural Resources

Figure 2.

Bands provide opportunity for traditional fishing methods: Gill nets and spears

(Continued from page 6)

Contrary to popular opinion, gill nets are not inherently evil. Neither is angling inherently good. Like any gear, gill nets can be regulated to produce harvest while protecting the resource. Conversely, without proper control angling can result in overharvest.

In Minnesota under tribal regulation in the 1837 Treaty, the Bands will have the opportunity to use gill nets, a traditional method of fishing, in Mille Lacs lake and a number of other designated lakes in the ceded territory.

However, spring gill netting is limited to only Mille Lacs lake. The other lakes can only be netted in the summer, fall and winter.

Bands in Wisconsin have demonstrated that a tribal spring spearfishery can be effectively regulated and monitored to remain within set quotas while protecting the fishery resources, Kmiecik says. This is essentially the same system that will be used to monitor harvest of spear and net fishery in Minnesota.

Net restrictions

Fishery managers have completed a number of studies on the selectivity of gill nets, meaning that nets can be constructed to target specific species, or specific sizes of a species. This is largely accomplished through mesh size (see Figures 2-3). As mesh size is diminished, the size of fish caught also diminishes (Figure 3).

Under the Bands' conservation code, spring gill netting will limit Band members

to the use of a relatively small mesh, 1.25 inches, which basically targets walleye in the 12-18" size range.

Because of spawning patterns in spring these fish tend to be adult male walleye. In addition, length of net is limited to 100 feet. Naturally, the use of short nets will also serve to limit the number of fish caught.

Intense monitoring

Safe use of gill nets requires routine checking of set nets. The Bands' conservation code requires nets to be pulled twice a day, or more if water temperature concerns warrant it, Kmiecik says.

Nets are required to bring their catch to specified landings each day where biological staff will be present to monitor the number and weight of fish taken as well as record other data needed for fisheries management.

In addition, conservation wardens from the GLIFWC and the Minnesota DNR will be monitoring netters for compliance with the codes.

For netting to occur a monitoring team needs to be present, so all netting will be completely monitored and all catch recorded.

When quotas are reached by a Band, further gill netting will be closed to that Band unless another Band chooses to release some of its quota.

Additional provisions in the code protect populations, such as northern pike, which may be incidentally caught in the nets (see article on management plan, page 3).

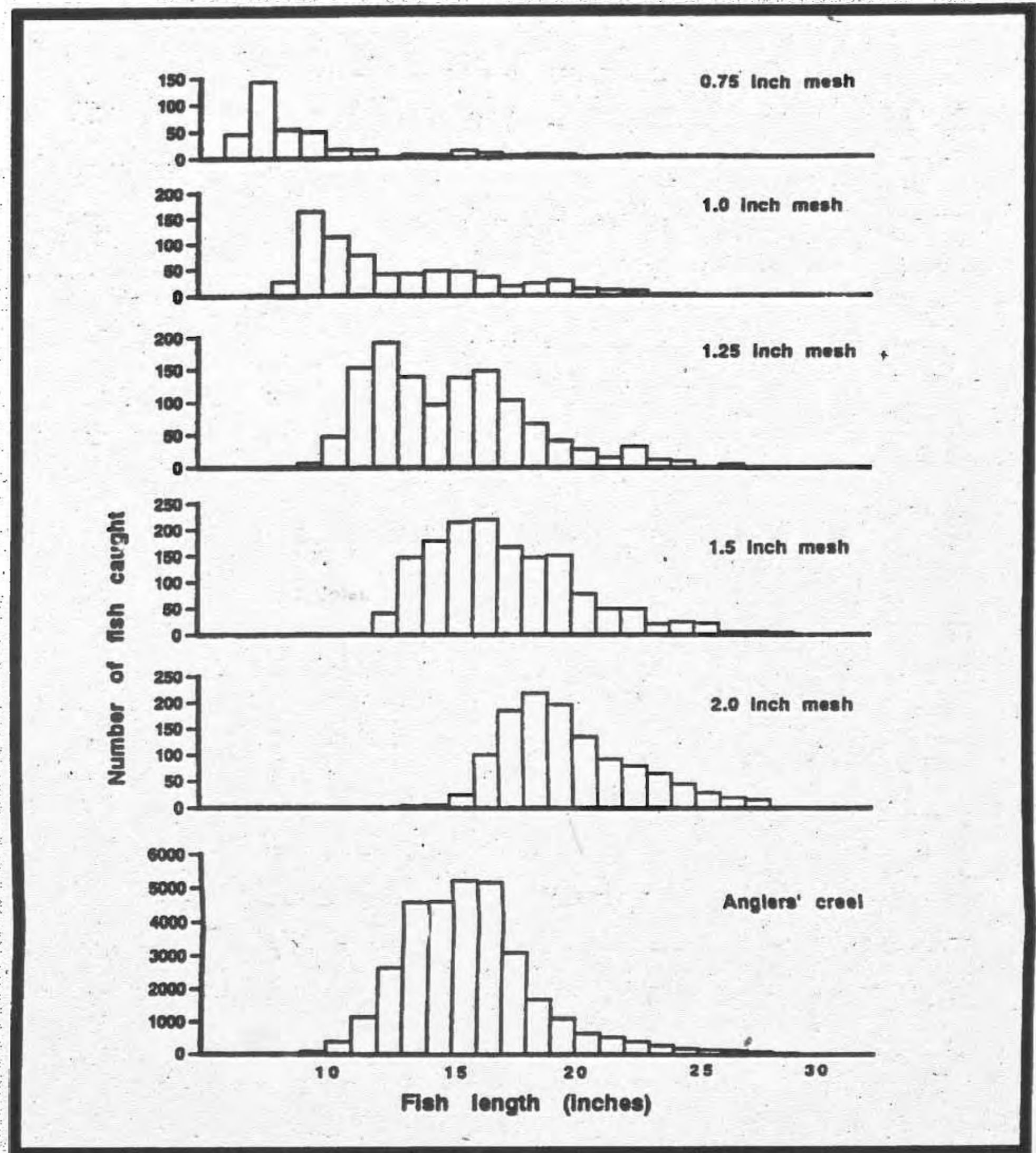


Figure 2. Numbers of walleye caught in five mesh sizes and numbers measured in the anglers' creel in Lake Mille Lacs, 1986-1995.

Spring spearing

Like gill netting, spring spearing can be an efficient means of harvesting walleye. Therefore, the spring spearing season is also very closely regulated and monitored. As stated above, effective management of the spring spearfishery has been occurring in Wisconsin since 1985.

Nightly permits

Spearmen must use designated boat landings to launch and land. Biological and enforcement staff will be assigned to each landing every night of spearing.

Spearmen must possess a nightly permit and will be subject to a bag limit based on the remaining quota of walleye available in the selected lake.

Quotas are adjusted each day to reflect any amount of fish taken on previous nights.

Size restrictions

Spearmen are also limited to walleye 20" or under, with two allowed over 20" and one of those may be over 24".

Daily count

When spear fishermen return to the landing, the fish are weighed, counted and

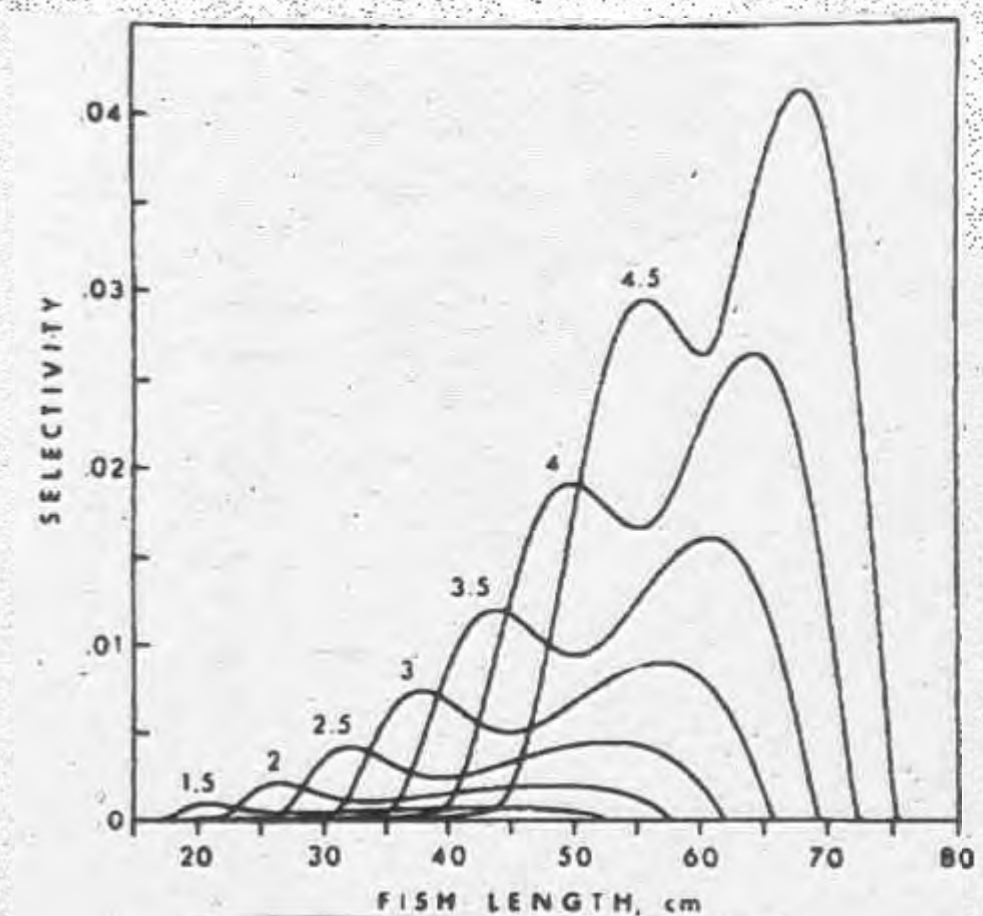


Figure 4. Selectivity of 1 1/2 - 4 1/2 inch gill nets to walleye, estimated directly by gill netting marked fish (Hamley and Reiger 1973).

a sample of walleye will be measured, sexed and weighed before fishermen remove them from the landing. When a lake's quota is reached, it will be closed to further spearing and/or netting.

Consequently, Bands will have a precise knowledge of how many fish are taken by tribal spearmen and netters and won't be reliant on estimated figures.



Tribal spearfishers must possess a nightly permit and be subject to a bag limit. Above, GLIFWC wardens check permits at a spearfishing landing in Wisconsin. (Photo by Amoose)

Bands develop conservation enforcement plan

The Bands' intertribal conservation law enforcement system, as coordinated by GLIFWC, is ready to be implemented and will provide effective conservation law enforcement services, according to GLIFWC's Chief Warden Charles Bresette.

An enforcement plan is in place that draws on over ten years of ceded territory enforcement experience in Wisconsin, and involves communication and coordination with state and local law enforcement agencies.

According to Bresette, "from the outset the Bands developed their ceded territory conservation code and management plans in coordination with enforcement plans designed to effectively ensure compliance."

"The underlying concept is community-based law enforcement," Bresette said. "Wardens are based in the communities they serve and are very familiar with Band member harvest activities."

GLIFWC's wardens are stationed at satellite offices at the Bands' reservations and establish their patrol activities to coincide with the timing and locations of Band member harvest activities.

Three GLIFWC wardens are stationed in the Minnesota portion of the ceded territory and at least nine GLIFWC wardens will be available in Minnesota at any one time this spring. The additional wardens will be from Wisconsin satellite stations and will be assigned to Minnesota as necessary to cover spring fishing activities.

GLIFWC wardens are fully-certified conservation officers. Each warden has completed basic police recruit or equivalent training and each year must attend forty hours of additional in-service training.



Charles Bresette, GLIFWC chief warden.

GLIFWC wardens have attended conservation enforcement techniques training, species identification training, crowd control training, hazardous material training, hunting and firearm safety training, accident investigation training, and boating safety and water rescue training, among others.

All the necessary tools will be available to GLIFWC wardens. In addition to their fully equipped patrol vehicles, wardens will have portable radios, cellular telephones, boats, night scopes, Global Position System (GPS) units, and water rescue equipment at their disposal.

GLIFWC's enforcement activities will be supplemented by Band and State conservation wardens who also are authorized

"Enforcement activities for spearing and netting will be very straightforward. These activities can only take place if the issuance of a permit is coordinated with enforcement personnel and if personnel are available to carry out the required on-site monitoring duties."

—Charles Bresette, GLIFWC chief warden

to enforce Band ceded territory regulations. "There certainly will be no shortage of well-qualified wardens in the 1837 ceded territory," Bresette said.

Enforcement efforts in Minnesota will draw upon similar activities that have taken place in Wisconsin. Since 1984, GLIFWC and the Bands have been enforcing Wisconsin ceded territory codes that are basically the same as the Minnesota code.

"We have substantial experience and expertise to enforce precisely the type of regulatory system that the court has required for Minnesota," Bresette said. "It will be no problem to transfer our Wisconsin experience to Minnesota."

To backup his statement, Bresette points out that, by their design, the Bands' Minnesota regulations and management plans lend themselves to effective enforcement. "The seasonal harvest patterns that the regulations accommodate are known to us," Bresette commented. "We know when tribal members hunt and when they fish."

For this spring, the primary enforcement task will be fishing, particularly spearing and netting for walleyes. "There is virtually no hunting, trapping or gathering activities in the spring," according to Neil Kmiecik, GLIFWC's chief biologist.

"Most seasons are closed and these activities generally take place later in the year. We know that spring typically means spearing and netting for walleyes." Chief Warden Bresette added, "Because of governing regulations, wardens will be present at all spearing and netting locations to help carry out complete on-site monitoring."

Band regulations provide that no Band member may use or possess any spear on any body of water unless the member possesses a valid spearing permit for the that body of water, and a Band may not issue a spearing permit unless a monitor will be present at the designated boat landing.

Similar provisions apply to netting, in particular gill netting. Special permits are required and permits may not be issued unless a monitor is available either at the designated boat landing or at the location of the net lift. "This means that enforcement activities for spearing and netting will be very straightforward," Bresette said.

"These activities can only take place if the issuance of a permit is coordinated with enforcement personnel and if personnel are available to carry out the required on-site monitoring duties."

In addition, the state will have advance notice of Band spearing and netting activities. The Bands must notify the Minnesota DNR no later than noon of the bodies of water which the Bands have designated for open-water spring spearing that night and must "promptly" notify the DNR of the location of any gill netting.

"It will not be difficult for any GLIFWC, Band or state warden to monitor Band spearing and netting activities," Bresette said. "The locations of these activities will be known in advance."

According to Don Wedll, Milles Lacs Natural Resource Commissioner, the Bands will coordinate their fishing activities with enforcement personnel to ensure that the number of spearing and netting locations does not exceed the number of wardens available to monitor those locations.

"No Band spearing or netting will take place at any location where either GLIFWC or Band wardens are unavailable," Wedll said. "This will ensure that there will be a sufficient number of wardens available to monitor harvest activities."

As in Wisconsin, the Bands have committed to the complete on-site monitoring of all inland open water spearing and netting. Enforcement personnel must be present at the designated boat landings on each lake declared open to spearing or netting.

GLIFWC wardens will undertake a number of responsibilities, including: scheduling and supervising the harvest (See Enforcement plan, page 10)



Both GLIFWC wardens and creel clerks monitor spring spearing landings on a nightly basis in Wisconsin. Fish are counted and measured on the landings before they are allowed to leave the site. Citations are issued for any violations. (Photo by Amoose)



Band fishing regulations summarized

The Bands' open-water spearing and netting and their ice fishing regulations for the Minnesota 1837 ceded territory are summarized below. GLIFWC will be preparing similar regulatory summaries for hook and line fishing, hunting, trapping, and gathering. These will be available to Band members in time for these seasons.

Open-water spearing and netting regulations

This is a summary of some of the more important tribal spearing and netting regulations for the 1997 open-water fishing season in the Minnesota portion of the 1837 ceded territory. It does not summarize all the regulations that may apply. If you have questions, contact your tribal office or GLIFWC at 715-682-6619.

Important: The specific regulations of your tribe might be different from those mentioned here and the status of lakes can change from night to night (i.e. whether a lake is open, what the bag limit is, etc). Make sure that you have current information before you harvest fish. You must comply with your tribe's ordinances.

Season: The open-water season includes the period from ice-out to ice-in. During this period, you may use the harvest methods allowed by your tribe on declared lakes.

Daily/nightly hours: There are no set times that spearing or netting must begin or end. However, a monitoring crew must be present before spearing can begin. Also, a monitor must be present whenever a gill net is lifted.

Waters open to harvest: You may spear/net on those lakes or rivers for which you have a valid permit. Check with your tribe to determine which lake or river segments are open each night or day for the method you wish to use.

Rivers: Spearing and fyke netting are allowed; gill netting is not. During the spawning season, rivers may be open to spearing on alternate days only. All waters except tributaries to the St. Croix River are closed to harvest of lake sturgeon.

Permits: A permit is required for all open-water spearing and netting. Permits are typically issued on a "first come, first served" basis. During the day permits can be picked up at the tribal conservation department or headquarters. At night, if permits are still available, they may be issued at the designated boat landing. You must comply with all the terms of any permit that you have been issued.

Landings: You must use the landing designated by your tribe. An alternate landing may be used if weather conditions or safety concerns warrant.

Spears: Spears must have a minimum of three barbed tines, each of which are at least 4.5 inches long.

Seining, dip netting, and fyke (trap) netting: You may not use nets on a lake at the same time that spearing is taking place (except Mille Lacs Lake). Fyke nets can be used in rivers. You must have a netting or seining permit valid for the water you wish to net or seine. All nets must comply with marking and safety requirements. Details on marking and setting requirements can be obtained from the tribal conservation department or GLIFWC. A creel clerk must be present at the landing to monitor harvest.

Gill nets: Your tribe must have declared a netting quota for a lake to be available for netting. You may not use nets on a lake at the same time that spearing is taking place (except Mille Lacs). Rivers are closed to gill netting.

Walleye can be harvested using gill nets in Mille Lacs year around. Walleye in other lakes may be harvested using gill nets during June 1 - March 1. Northern Pike, Large Mouth Bass, and Small Mouth Bass gill netting season runs from June 1 - March 1. Muskellunge may not be taken using gill nets.

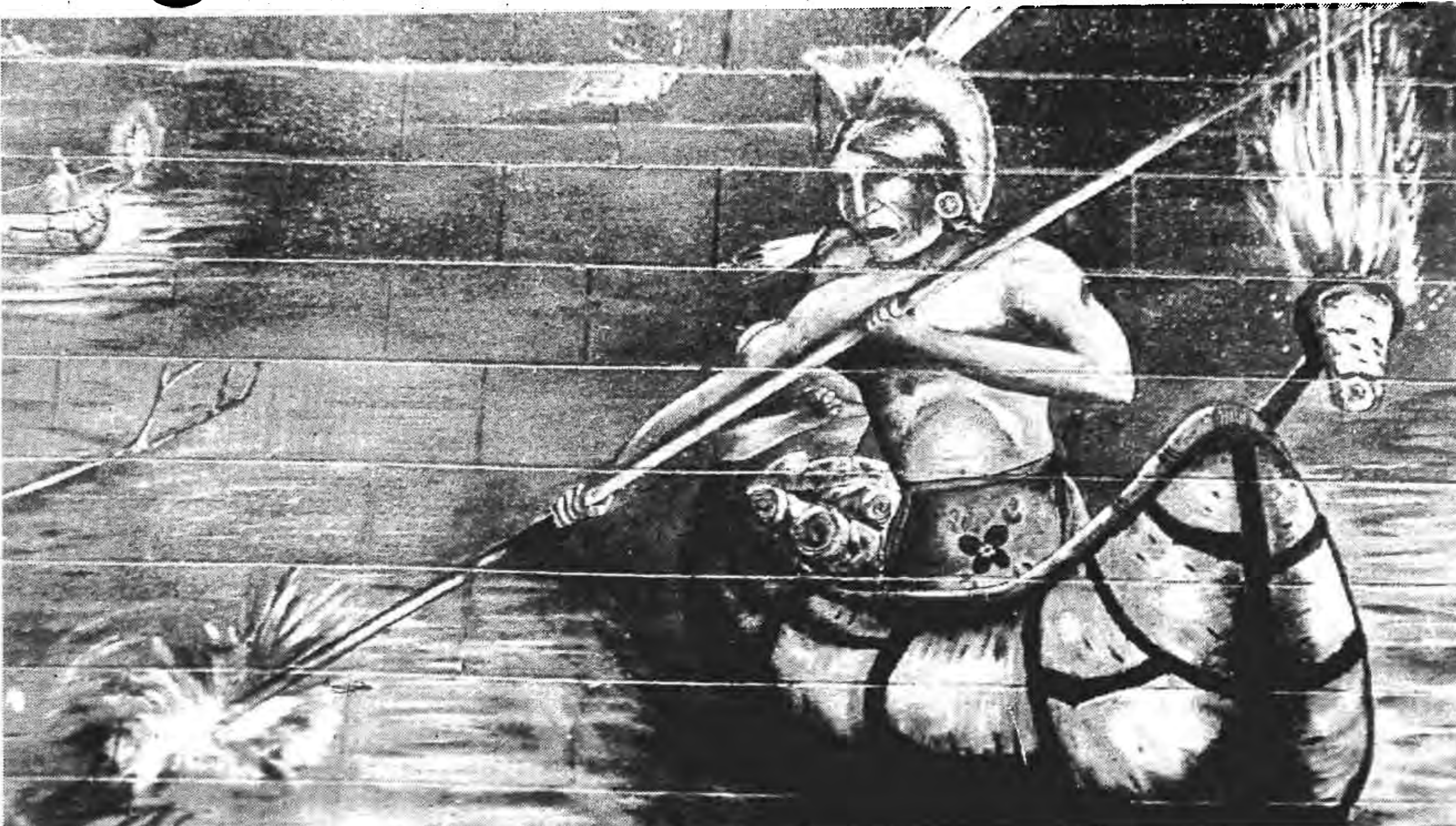
You must possess a valid permit to use a gill net. A monitor must be present when the net is lifted. Subsistence nets may be up to 100 feet in length and 4 feet deep. The allowable mesh size (bar) from March 2-May 31 is 1.25 inches and from June 1-March 1 is 1.75 inches. Commercial nets of 1.75 inch bar mesh may only be set in Mille Lacs Lake from June 1 to March 1 and these nets may be up to 300 feet in length and six feet in depth. All nets must comply with marking and safety requirements.

Mixing fishing gear: You may not combine methods of harvest. When harvesting, you may not possess any other type of fishing gear except the type you have a permit for.

Tribal I.D./permit: Tribal I.D.'s and fishing permits must be carried while fishing and presented upon request to any law enforcement officer or biologist, whether tribal or state.

Creel surveys: You must cooperate with the persons conducting creel surveys. All fish speared or netted will be identified to species and counted, plus length, a scale or spine, and weight will be taken from a sample on each lake each night.

Non-members: No non-members may participate in spearing or netting except that members of your immediate family may operate the boat while you are spearing or may assist in the setting or lifting of nets if you are present during the activity.



Northern pike and muskellunge in Mille Lacs: Open-water spearing of northern pike and muskellunge is not allowed on Mille Lacs Lake. Northern Pike may be taken using gill nets during June 1 - March 1 and year around by other nets. Muskellunge may not be taken by any nets. If capable of surviving, muskellunge taken in nets must be released; if not capable of surviving, muskies must be surrendered.

Bag and size limits for open-water spearing and netting

Species	Bag Limit	Size Limit
Northern Pike		
•Mille Lacs lake	no open-water spearing; gill nets established by permit	any size
•other lakes and rivers	gill nets established by permit; spearing 10 per person per day	any size
Smallmouth and Largemouth Bass	10 per person per day; gill nets established by permit	any size
Walleye	established by permits	spearing: All must be 20" or less, except 1 may be between 20-24" and one can be any size. gill nets: Any size. other nets: Identifiable males only prior to May 1. Maximum of 20" thereafter.
Sturgeon	1 per person per year. All methods. June 1 to March 1 season except 1 sturgeon per lake during spring spearing. tagging required	45" minimum size limit.
Muskellunge		
•Mille Lacs lake	no netting or open-water spearing allowed	
•other lakes and rivers	no gill netting allowed other netting established by permit spearing established by permit	40" minimum size limit any size
Tullibee	none	any size
White Bass, Rock Bass, Bluegill, Crappie, Yellow Perch, Pumpkinseed, Yellow Bass, Catfish	none	any size

(See page 10 for winter spearing and fishing regulations)

Winter spearing and fishing regulations

This is a summary of some of the more important tribal spearing and ice fishing regulations for the 1997 winter fishing season in the Minnesota portion of the 1837 ceded territory. This does not summarize all the regulations that may apply. If you have questions, contact your tribal office or GLIFWC at 715-682-6619.

Ice fishing means fishing through an artificial hole in the ice.

Season: The winter fishing season includes the period from ice-in to ice-out.

Ice holes: While fishing using hook and line, the ice hole cannot be larger than 12 inches in diameter. While spearing, the hole cannot be larger than 24 by 36 inches. Uncovered holes must be marked.

Ice fishing house: Must be equipped with a latch so the door can be opened from the outside whenever the house is occupied. The owner's name and address or the owner's drivers license number must be displayed on the outside of the house on a durable license tag. House or other enclosure must be removed from any body of water on or before March 1 except that portable shelters may be used while ice fishing after March 1 provided the shelter is removed daily from the ice.

Methods allowed: Fishing pole, tip-up, or spear. Spears must have a minimum of three barbed tines, each of which are at least 4.5 inches long.

Permits: A general fishing permit is all that is necessary for winter fishing or spearing and can be picked up your at the tribal conservation department or headquarters. You should also carry your Tribal I.D. when fishing during winter and present it upon request to enforcement personnel.

Sharing gear: Do not share any ice fishing gear, including any spear, with any member who is not a member of one of the Bands unless the person is part of your immediate family and the person is legally fishing under state law.

Bag and Size Limits

Species	Bag Limit	Size Limit
Northern Pike, Smallmouth Bass, Largemouth Bass, and Walleye	10 per person per day	Any size
Sturgeon	1 per person per year (all methods) June 1 to March 1 season. Register and tag by 5:00 pm of working day following harvest.	45" minimum size limit.
Muskellunge	2 per person per day.	40" minimum - Mille Lacs only Any size - all other waters.
White Bass, Rock Bass, Bluegill, Crappie, Pumpkinseed, Yellow Perch, Yellow Bass, Catfish, Cisco, Whitefish	None	Any size.
Lake Trout	5 per person per day	Any size.

What is GLIFWC

The Great Lakes Indian Fish & Wildlife Commission (GLIFWC) serves eleven Chippewa bands in Minnesota, Michigan and Wisconsin.

GLIFWC is an intertribal, natural resources management organization. GLIFWC assists its member Chippewa Bands in the implementation and protection of off-reservation treaty rights in the ceded territories.

GLIFWC formed following the 1983 Voigt Decision which reaffirmed the off-reservation treaty rights of the Chippewa in the ceded territories of Wisconsin.

GLIFWC's policy is determined by the Board of Commissioners, which is comprised of a representative from each member band. The Board is advised by standing committees, each representing different areas of tribal interest.

In order to provide opportunity for harvest and protection of the resource, the Commission provides assistance to member tribes through its divisions: Biological Services, Conservation Enforcement, Resource Planning, Inter-Governmental Affairs, and Public Information.

For further information on GLIFWC and its activities, contact the GLIFWC Public Information Office at P.O. Box 9, Odanah, Wisconsin or e-mail us at pio@win.bright.net.

Enforcement plan for 1837 ceded territory in Minnesota

(Continued from page 8) monitoring personnel; collating and reporting nightly harvest data; providing whatever assistance the Bands might request not only during the night when spearing or netting might take place, but also during the day when the Bands must make the decision as to what lakes or landings will be opened for upcoming harvest; and conducting investigations, issuing citations and testifying in Band courts.

A key component of the Bands' enforcement plan is training and coordination among the various enforcement agencies. GLIFWC and its wardens were kept informed of courtroom developments and have been preparing for a court decision allowing implementation of the Bands' regulations.

GLIFWC wardens were provided copies of the Bands' regulations as they were being developed during the course of

this case and had the opportunity discuss the code with their supervisors and with Band representatives.

On March 12, 1997, GLIFWC planned an interagency training session on the Bands' regulations and management plans. This was required training for GLIFWC wardens.

Band and state DNR wardens also planned to attend, as did many officers from county Sheriffs Departments in the ceded territory.

This training also was to focus on developing cooperation, coordination and communication between the various law enforcement agencies. "One goal was to develop conservation-based law enforcement partnerships for enforcing the Bands' regulations," Bresette said. "An equally important goal was to develop partnerships for ensuring the safety of those exercising their treaty rights."



Fishing through the ice was one of the traditional skills first targeted for a series of programs designed to introduce youth to traditional harvesting methods. The program comes through an ANA grant to GLIFWC. Above, Cory Gordon, Red Cliff, tries his luck. (Photo by Amoose)

Mille Lacs: The non-removable band of Ojibwe

This is their story

Editor's comment: As communities, Indian and non-Indian, seek to live together and share in building a positive and healthy environment for all of the children to come, it is important to understand the perspectives, values, and heritage that our neighbors carry with them.

Without this knowledge and understanding, communication becomes skewed and opinions are formed on the basis of ignorance. To live together, we must respect each other, and to respect each other, we must know and understand each other.

Following is a brief history of the Mille Lacs band, documenting many of the obstacles the band has had to overcome in the last 150 years. The history illustrates much about the nature and values of the Mille Lacs Ojibwe.

As an introduction to the history, *Masinaigan* includes excerpts from the Mille Lacs State of the Band Address, "The Arsenal of Sovereignty," presented by Mille Lacs Chief Executive Marge Anderson on January 14, 1997. Her words provide insight into the meaning of the band's history to the Mille Lacs people of today.



Mille Lacs Chief Executive Marge Anderson delivered her State of the Band address, "The Arsenal of Sovereignty," to a packed auditorium last January. (Photo by Amoose)

One Stubborn Band Member

"Our battle at Mille Lacs for the protection of our land, our treaty rights and our resources is a long and well-documented struggle.

Every time throughout history that the Indian people have had something which non-Indians consider valuable, unscrupulous non-Indians have tried to take it away. Sometimes, along the way, the Band as a whole was involved in the defense of the reservation and its resources. Sometimes, it was one stubborn Band Member.

About one hundred years ago, a Mille Lacs tribal leader named Migizi decided to challenge the United States. After the Congress passed a law called the "Nelson Act" in 1889, a Federal Commission had promised Mille Lacs Band Members allotments at Mille Lacs.

In all, 1,500 Band members were promised allotments of 40 acres each. However, when our People sought to have these promises fulfilled, they were instead told that there would be no allotments at Mille Lacs, and they would have to move hundreds of miles away from their homes and resettle on the White Earth Reservation.

Migizi would not take "no" for an answer. He pursued his promised allotment through the local court systems, and into the Federal system. He finally won his case, and his one allotment near this very spot where we are gathered today remains the cornerstone of our land base.

I tell this story not because of the injustice involved, although it is plainly evident; nor do I tell it to show how the greed of the timber industry played a crucial role in the taking of our land, although it clearly did; nor do I tell this story because it illustrates the need to resolve outstanding issues, although it clearly does.

I tell this story because it shows what one person with determination and courage pursuing what he believes is right and just can achieve.

Robert Kennedy once said: "Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples hold a current which can sweep down the mightiest walls of oppression and resistance."

In a sense, we are all here today because one Band member had the courage to fight for our land base. Migizi, through his refusal to accept injustice, sent forth a ripple of hope. Today in 1997, that ripple has become the crest of a great wave.

Our history, which is rife with so much tragedy, is today one of our greatest weapons. Because we have learned from it. Those same enemies who lied to us, who stole from us, who fooled us 150 years ago, still exist today.

They may have different faces and names, but they are still motivated by ignorance and greed, just as they were 150 years ago. We know ignorance better today than we did 150 years ago, and have learned how to combat it with wisdom. We know greed better today than we did 150 years ago, and have learned how to fight it with truth.

But our recent history, as well, is a very powerful weapon. Seven years ago, we were plagued with poverty and destitution. Seven years ago, we had one of the highest unemployment rates in the Nation. Seven years ago, we had poor health care, substandard housing, and our children attended school in a pole barn. Only seven years ago, we were a People without hope.

These are painful memories, but they are still fresh in our minds. And that is why we will win this battle against those who try to take everything away from us: we have more incentive than they do. Every one of our Band Members here in this room today has already lived in the despair that our enemies seek to send us back to. But we will never, ever, allow our enemies to turn the clock back.

(excerpted from "The Arsenal of Sovereignty" speech)



Mille Lacs youth from Nah-Ah-Shing school performed in the Ojibwe language during the State of the Band address at the Mille Lacs reservation. The band heavily emphasizes programs for youth and reestablishment of the language. (Photo by Amoose)

History of the Mille Lacs Band of Ojibwe

As members of the Mille Lacs Band of Ojibwe, we are citizens of a self-governing tribal sovereign nation based at the Mille Lacs Indian Reservation, located in the state of Minnesota.

Though the headquarters of our tribal government is situated about 100 miles north of Minneapolis/St. Paul, the whole of our community consists of three geographical districts:

District I, which includes our headquarters of government and the established Mille Lacs Reservation;

District II, which is commonly called East Lake and is associated with communities such as McGregor, Sandy Lake and Isle; and

District III, commonly called the Lake Lena Community, which includes

Lake Lena and a community near Hinckley. Together, these three districts encompass about 10,000 acres scattered within Minnesota's Aitkin, Pine, Crow Wing, Morrison, and Mille Lacs Counties.

At present, the Mille Lacs Band includes 2,801 enrolled members. Of our enrolled members, 41.5 percent are age 21 or younger, 49 percent are between the ages of 22 and 54, and 9.5 percent are Tribal Elders age 55 and older. About 1,200 of our enrolled members live within our reservation: 60 percent in District I, 18 percent in District II, and 22 percent in District III.

As a self-governing tribal sovereign nation within the United States, our Band is a member of the Minnesota Chippewa

Tribe, a political consortium of six independent Bands of Ojibwe Peoples located in central and northern parts of the state, organized to work together toward achieving common goals and solving common problems. We also share kinship with other Ojibwe Bands in Wisconsin, Michigan and Canada, along with cultural ties to many other tribal Peoples throughout North America.

Like other Bands within the Minnesota Chippewa Tribe—and like other Ojibwe living elsewhere—we are a Woodland People whose homelands are traditionally located near the lakes and rivers of the great northern forests.

We are descendants of Peoples in the Algonquian Language Group who originated on the East Coast of North America. How we arrived in Minnesota—and the things that have happened to us since we got here—are important factors in understanding our position today.

Ancient traditions

According to oral tradition, ancestors of today's Ojibwe—often referred to by ourselves as the Anishinabe—began migrating west from lands near the Atlantic Ocean about 500 years ago.

Along the way, they established several long-term settlements in places where present-day Montreal, Detroit and Sault Sainte Marie are located, but continued moving gradually toward the interior of the continent for about two centuries.



In the late 1600s, the Ojibwe ancestors split into two groups: one group moved north into Canada, and the larger group—which included those who would eventually settle near Mille Lacs Lake—moved along the south shore of Lake Superior into northern sections of what is now Wisconsin, Minnesota and the upper peninsula of Michigan.

By the mid-1700s, our ancestors had established themselves in the region around Mille Lacs Lake and built the distinct culture which we still strive to preserve today. They supported themselves by hunting deer, bear, moose, waterfowl and small game; fishing the waters of Mille Lacs Lake and other lakes and streams; gathering wild rice, maple sugar, and berries; and cultivating various food plants.

In 1825, we settled our disputes over land with the Sioux nation. But it wasn't long before the self-sufficient way of life we had carved out for ourselves began to be affected by a new presence in our homelands—that of Europeans.

Nearly destroyed.

French fur traders were the first non-Indians to come in contact with the Mille Lacs Ojibwe. Our People exchanged animal skins, meat, fish, wild rice, maple sugar, birch bark canoes, and other native items for European manufactured goods including guns, brass pots, beads, and utensils.

The business relationships between our ancestors and the fur traders were not always equitable, and the French were soon followed by others—including explorers, soldiers, entrepreneurs, lumbermen, land developers, settlers, and politicians—who wanted much more than the furs which we could supply. These people were after our land and natural resources, and in the 1830s they began negotiating what they wanted by treaty.

Over the next several decades, the white society which was taking hold in Minnesota managed to acquire more and more of our land. The Mille Lacs Band continued to deal with these changes, and we maintained our presence throughout our homeland.

For example, in the Dakota War of 1862, our warriors helped the federal government defend U.S. Army Post Fort Ripley from attack by neighboring tribes. For this, it was recognized through treaty that our People should never be removed from our

lands; hence, we were called the non-removable Mille Lacs Band of Ojibwe.

Unfortunately, this treaty was almost immediately violated, and the lumbermen and developers continued to take over our homeland. By the end of the nineteenth century, only a few hundred Ojibwe remained on the Mille Lacs Reservation.

On top of this, the federal government had been taking steps to overwhelm our society and force us to join theirs. Our religion was banned, the teaching of our language and culture was all but forbidden, our right to govern ourselves was virtually taken away, and our traditional means of making a living was made practically impossible.

Even after the great landgrabs and removal efforts had ceased, the damage had been done. Little was left for our People but decades of poverty, powerlessness and despair.

Sustained by strong leaders

Self-sufficiency and self-determination are the two most important goals of any sovereign nation. That's why the Mille Lacs Band has fought for the right to establish our own form of government, our own types of governmental departments, and our own laws and judicial system. We are well aware that only by governing ourselves will we truly be able to determine our own future.

After a diminishment of the hunting/fishing/gathering economy that had sustained our People for centuries, we struggled for generations to find a niche in the new economic system that had been imposed on us by outside forces.

We sought economic development for the Mille Lacs Reservation through a number of tribal-owned businesses, none of which was able to succeed in our region's economically-depressed marketplace, despite the hard work of Band members and the best intentions of our financial backers.

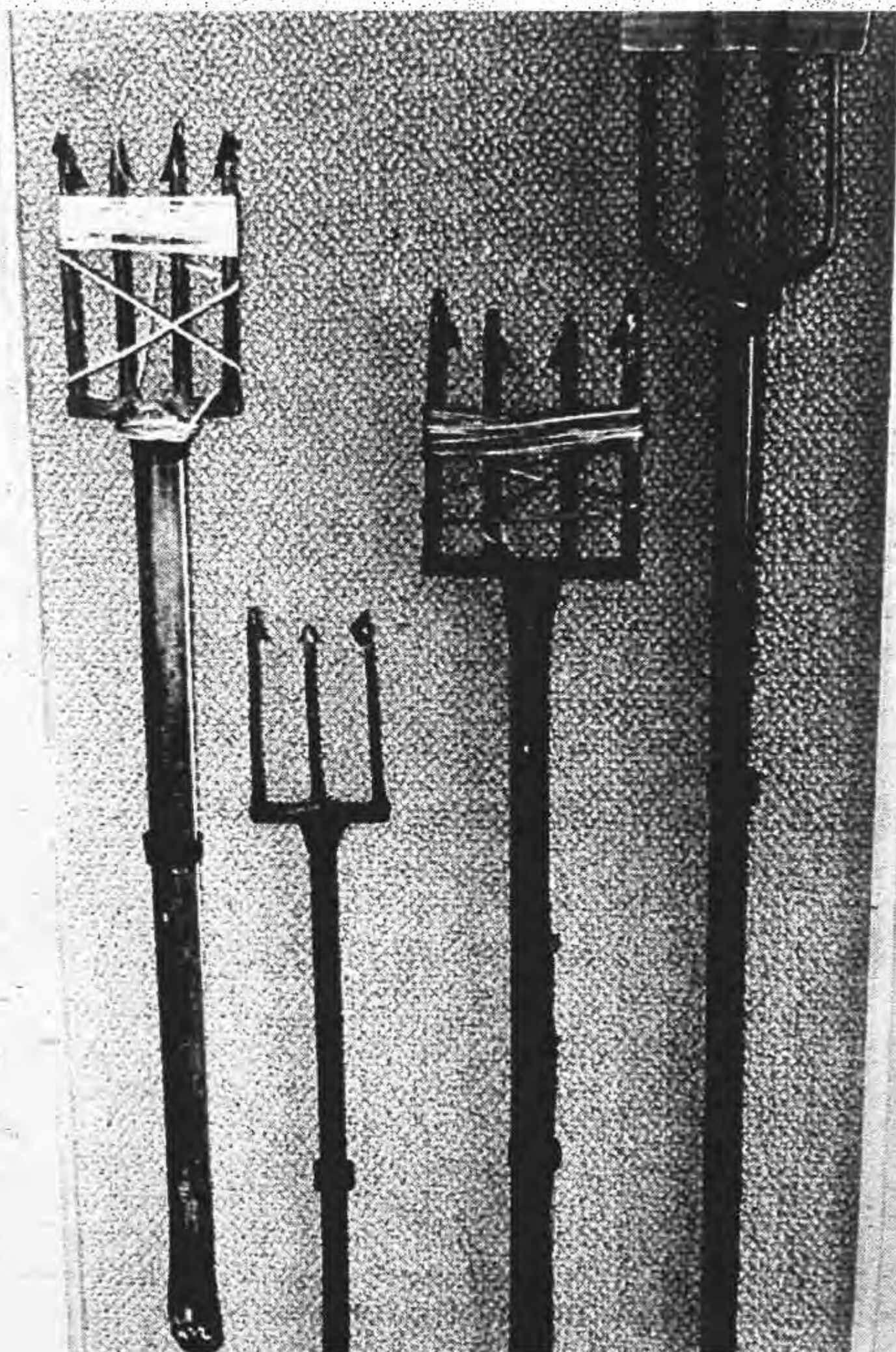
The result was long-term economic stagnation on our reservation, manifested by a 40 percent unemployment rate, a crumbling local infrastructure, and a cycle of poverty which ground away at the hope of a better future for our children.

Fortunately, strong Mille Lacs Ojibwe leaders—like Sam Yankee in the 1960s and Arthur Gahbow in the 1970s and 80s—worked tirelessly to reverse the effects of 150 years of abuse and neglect. Slowly, inroads were made toward achieving our ultimate goal: regaining control of our own destiny.

Thanks in large part to the efforts of such leaders, the federal government gradually began to acknowledge important rights of American Indians.

And in 1988, the U.S. Congress passed legislation which acknowledged a right that would give us the means to rapidly accelerate the rebuilding of our sovereign nation, our reservation economy, our pride, and our hope: the Indian Gaming Regulatory Act (IGRA).

(Reprinted from *Rebuild, Restore, Renew*, Mille Lacs Band of Ojibwe)



Various replicas of spears (anit) used by the Ojibwe when fishing through the ice. The spears are on display at the Lac du Flambeau Museum. (Photo by Amoose)

Minnesota 1837 treaty rights: Basic issues and facts

When ceded territory treaty rights are first implemented, people often have many questions about their nature and the harvest that will take place. Below are basic facts about treaty rights, the 1837 Treaty litigation, and implementation plans.

Treaty Rights were reserved by the Bands, not given to them.

In the Treaty of 1837, the Chippewa Bands ceded the land to the United States but kept the right to hunt, fish and gather that they, as nations, always had. The United States did not give these rights to the Bands.

The 1837 Treaty rights are jointly held by eight Chippewa Bands.

Each of these Bands signed the 1837 Treaty. They are: the Mille Lacs and Fond du Lac Bands in Minnesota, and the Bad River, Lac Courte Oreilles, Lac du Flambeau, Red Cliff, St. Croix and Sokaogon (Mole Lake) Bands in Wisconsin.

The Federal Court has upheld the continuing existence of these rights and has recognized the Bands' self-regulatory system.

The 1837 Treaty litigation was divided into two phases. Phase I determined the nature and extent of the treaty rights. In 1994 the United States District Court in Minnesota ruled in Phase I that: 1) the treaty rights continue to exist today; 2) except for commercial timber, the Bands can sell the natural resources that they harvest; 3) both traditional and modern harvest methods can be used; 4) the Bands may self-regulate under their own conservation codes that are enforceable into the Bands' courts; and 5) state regulations can be imposed on treaty harvest only as reasonable and necessary for conservation, public safety or public health.

Phase II of the 1837 Treaty litigation addressed regulatory and allocation issues. In January 1997, the District Court completed its handling of the case and issued a final judgment in Phase II. In its ruling the Court:

- 1) approved the Bands' proposed Minnesota 1837 Ceded Territory Conservation Code and accompanying fish and wildlife management plans;
- 2) ordered the State of Minnesota not to take any action that would interfere with the exercise of the rights;
- 3) refused to allocate natural resources between treaty and non-treaty harvests until it can be demonstrated that either the Bands or the State are being deprived of their "fair share" of the resources;
- 4) held that State harvestable surplus determinations are reviewable by the Court;
- 5) ruled that the Bands may fish throughout Mille Lacs lake;
- 6) ruled that, at this time, the only private land open to treaty hunting is land enrolled in Minnesota tree growth tax program; and
- 7) retained continuing jurisdiction over the case so that any unresolved disputes in the future could be addressed by the court.

The District Court's Judgment will be appealed.

The State, the counties, and the landowners involved in the case are asking the United States Court of Appeals, 8th Circuit, to overturn the District Court's final judgment.

In addition, the State asked the District Court to suspend its judgment until late May 1997, and the counties and landowners asked the Court to suspend the judgment while the case is on appeal. The court denied these requests. Thus, the District Court judgment stands, and the Bands may proceed with exercising their rights.

The Bands may begin to exercise the rights as soon as they adopt regulations that comply with the Court's rulings.

Unless the Court's final judgment is suspended, treaty harvest may begin once the Bands adopt ceded territory codes that comply with the regulations approved by the Court.

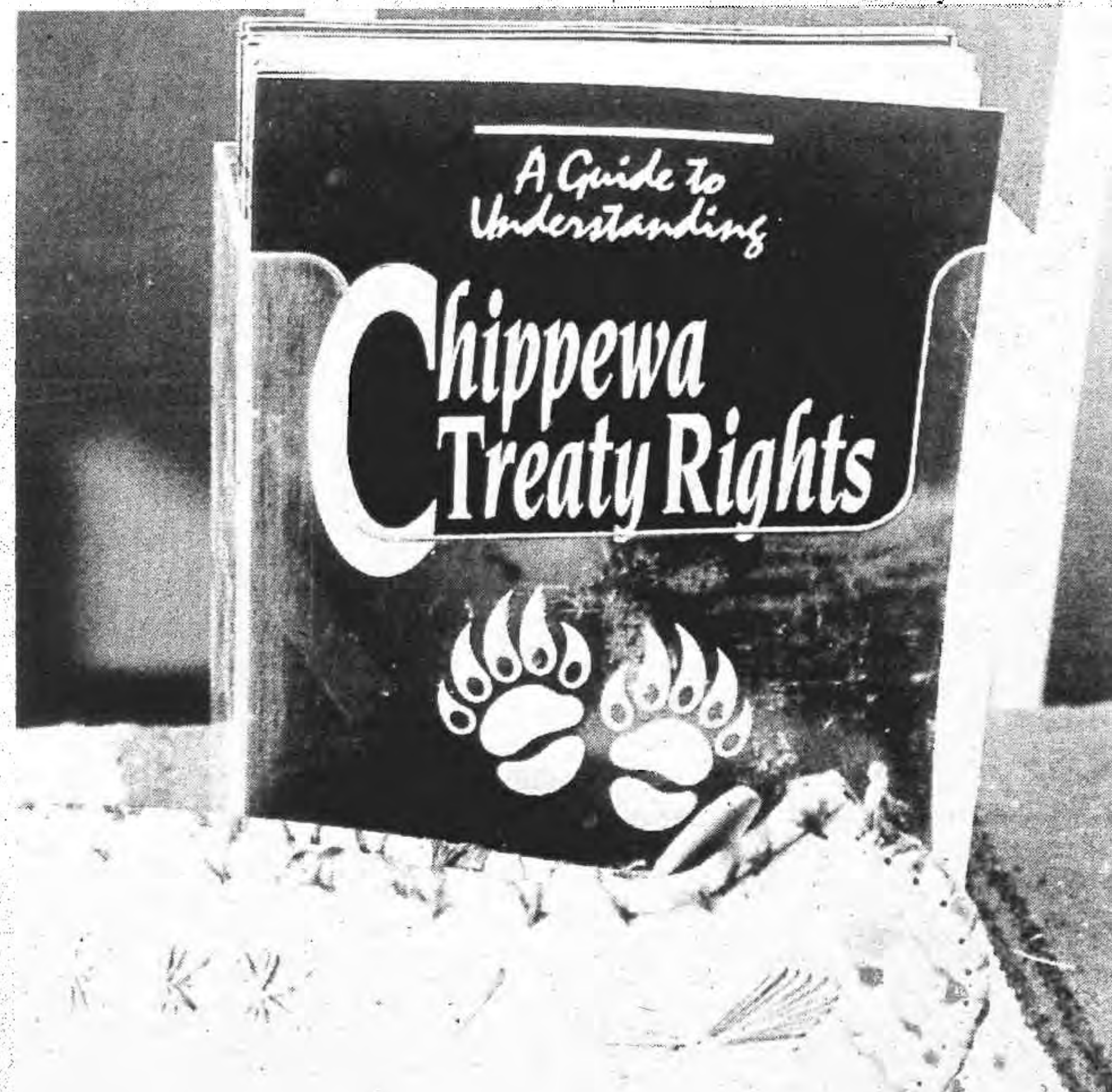
The Bands have voluntarily placed conservative limits on their harvests of walleye and deer for the first five years.

The Bands' fisheries management plan limits the harvest of walleye in Mille Lacs lake well below 50% of the average annual angling walleye harvest. In 1997, they have imposed a 40,000 pound ceiling. This may increase incrementally each year up to 100,000 pounds in 2001.

The Bands and State have agreed that the average annual harvest level for Lake Mille Lacs walleye is 450,000 pounds. The Bands' wildlife management plan limits antlerless deer harvest to 900 per year. This represents less than 10% of the average annual state antlerless deer harvest in the ceded territory.

The Bands' Fish and Wildlife Management Plans provide for a gradual implementation of the rights.

By incorporating conservative management measures for an initial five-year period, including the restrictive walleye and deer quotas, the Plans allow for the orderly development of treaty harvests and, if necessary, provide the State with ample opportu-



A Guide to Understanding Chippewa Treaty Rights is just one booklet available through the Public Information Office of GLIFWC. For more information on off-reservation resource management issues, please contact us at (715) 682-6619.

nity to adjust non-treaty harvests while accumulating new information on the status of the resources. This will ensure resource protection during an initial phase-in period and allow new information about the status of the resources to be collected.

Even without taking into account Band harvest, adjustments to the State-licensed sport fishery will be necessary in Mille Lacs lake to keep harvest within acceptable levels.

For example, in 1997 the State estimates a 320,000 pound walleye harvestable surplus for Mille Lacs Lake. Without even taking into account what the Band harvest of walleyes might be, the State must take steps to reduce this year's estimated 430,000 pound angler walleye harvest by about 110,000 pounds just to stay within the 1997 harvestable surplus.

All fish taken by open-water spearing and gill netting will be counted via on-site monitoring.

Special open-water spearing permits are required, and permits may not be issued unless the designated boat landings will be monitored. Similarly, special gill netting permits are required and permits may not be issued unless a monitor is available either at the designated boat landing or at the location of the net lift. All fish taken by open-water spearing and netting must be counted. Sex and weight data also will be compiled.

The Minnesota DNR must be notified in advance of open-water spearing and gill netting.

The Bands must notify the Minnesota DNR no later than noon of the bodies of water which the Bands have designated for open-water spring spearing that night and must "promptly" notify the DNR of the location of any gill netting.

Gill netting permits may be issued for Mille Lacs lake, other lakes over 1000 acres in size, and eight other lakes.

The other lakes are Shakopee, Ogechie, Whitefish, Grindstone, Eleven, Pine, Razor, and South Stanchfield Lakes. Spring netting is limited to Mille Lacs lake. All other lakes are only open to summer, fall and winter netting.

Gill netting will be strictly regulated by specified length and mesh size requirements and by closures when a quota has been taken.

Regulations agreed upon by the Bands and the State provide particular mesh sizes for various times of the year. Also, the length of gillnet that may be set will be determined (See Basic issues and facts, page 27)



Elders teach youth traditional ways of harvest

ANA grant kicks-off a year of youth workshops

By Sue Erickson
Staff Writer

Red Cliff, Wis.—The fingers of Don Day moved deftly as he attached filament net to the rope strung the width of Red Cliff Youth Center's gym.

Attaching the net looked easy, weaving four mesh lengths and attaching the light, gossamer-like net to the rope with a quick knot; weaving four more mesh lengths, knotting, attaching a plastic buoy. Day moved down the length of the net quickly.

A group of teen-agers watched closely as Day wove and knotted the net, demonstrating a skill he had practiced many times over as a tribal commercial fisherman—making a new gill net.

Day along with Mike Newago, both Red Cliff elders and commercial fishermen, spent an entire Saturday with Red Cliff youth in order to teach them their craft by assembling a 300 foot net.

When Day handed the shuttle filled with thread to one of the youth, progress slowed considerably. What appeared fast and easy as the elder had move smoothly down the yardage of the rope, was not that simple. It took time and patience as the elders worked with the youth, one on one, demonstrating slowly and guiding their hands as they caught on to the technique.

Hands-on, one-to-one training in traditional methods of harvesting is the focus of a new grant from the U.S. Department of Health and Human Services, Administration for Native Americans (ANA).

GLIFWC ANA Coordinator Jim St. Arnold has been working on setting up similar programs on all eleven member reservations, programs designed to introduce youth to traditional skills in harvesting the products of each season.



Elders assist Red Cliff youth in learning how to construct a gillnet during a workshop for youth sponsored through an ANA grant to GLIFWC. Emphasis is on youth learning traditional skills. Above from the left: Mike Newago, Red Cliff elder, Nathan Gordon, Andy Bastin, and Don Day, Red Cliff elder. (Photo by Sue Erickson)

"Fourth to twelfth graders from GLIFWC's member tribes will have an

opportunity to learn how to tap maple trees and make syrup, make and use gill nets, harvest and process wild rice, and take part in other traditional outdoor skill workshops," St. Arnold says.

St. Arnold worked with Red Cliff's Youth Coordinator Marvin Defoe to set up a series of weekends introducing youth to fishing through the ice, making a gill net, setting a gill net, and finally lifting the net. This series was the "kick-off" for the grant's program which will run through January 1998.

While the primary thrust of the program will be hands-on, outdoor experiences, some indoor, classroom work is also incorporated, such as in making the gill nets or a old-style maple sugar tap. Review of regulations is another classroom aspect of the program, particularly regulations relating to the off-reservation harvest seasons.

Besides specific traditional skills, youth will also be taught Anishinaabe values which accompany them, St. Arnold says. Resource management, both contemporary and traditional, is also incorporated into the program, stressing why it is important to protect and respect those things people use.

While use of elders as instructors is a key component of the workshops, GLIFWC

staff will also serve as instructors in some instances, and the U.S. Forest Service has indicated they will provide personnel to assist in various workshops.

In the first weekend, youth at Red Cliff learned that fishing through the ice is not always pleasant, and that some sort of wind break may be an important addition to fishing gear. They experienced between 40-70 mph. winds while learning to fish through the ice the first Saturday of the program, but managed to bring up a few fish regardless!

In the second weekend, they realized that making a gill net is an exercise in patience and precision. If you want an effective and legal net, it must be constructed accurately and handled with care.

St. Arnold looks forward to the coming year and the series of workshops which will be in progress on the various reservations. The potentials for fun, learning, and cross-generational communications are tremendous.

This particular grant was the brain-child of GLIFWC Executive Administrator James Schlender who has been anxious to incorporate more youth involvement in GLIFWC's activities. The proposal was written by St. Arnold and Jim Thannum, director of Planning and Development, GLIFWC. □



People at home will probably hear how rough it was out on the ice putting in a day of ice fishing. (Wah!) Red Cliff Youth Coordinator Marvin Defoe, is the one sleeping on the far left, and Cody Gordon joins him for a snooze. Meanwhile, Nathan Gordon pursues fishing. (Photo by Amoose)



Anit and Okeau: Spear and Decoy

Winter survival techniques of the Ojibwe yesterday and today

By Sue Erickson
Staff Writer

Lac du Flambeau, Wis.—“Ice fishing still affects our whole community. As in times past, the elders receive part of each catch. Fish remains a staple in many families’ winter diet and continues to be prepared according to old family recipes.”

(pamphlet from the “Decoy Exhibit, Lac du Flambeau Museum)

With no grocery stores available, effectively fishing through the ice was a matter of survival for the Ojibwe people.

Though frozen over, the lakes and rivers were the great storehouses of food for the people, and they developed the skills needed to catch the supply of fish

they needed, including the use of the spear (anit) and decoy (okeau).

According to German writer Johann Kohl, who visited among the Lake Superior Ojibwe in 1855, spearing was the only method of fishing used by the Ojibwe during the winter months.

Kohl describes winterspearing of sturgeon as follows: “They perform it on the ice in this way: they cut with their ice-chisel a

round hole about two feet in diameter, and over this hole build a hut of bush-work, which is again covered with a cloth. The fisherman crawls into this hut with the upper part of his body, the legs remaining outside, and places his face over the hole. The light falls through the transparent ice, and illuminates the crystalline waters for a long way round. The artificial darkness over his head keeps off any reflection from the opening, and he can see clearly to a depth of forty or fifty feet, and watch the movements of every passing fish.

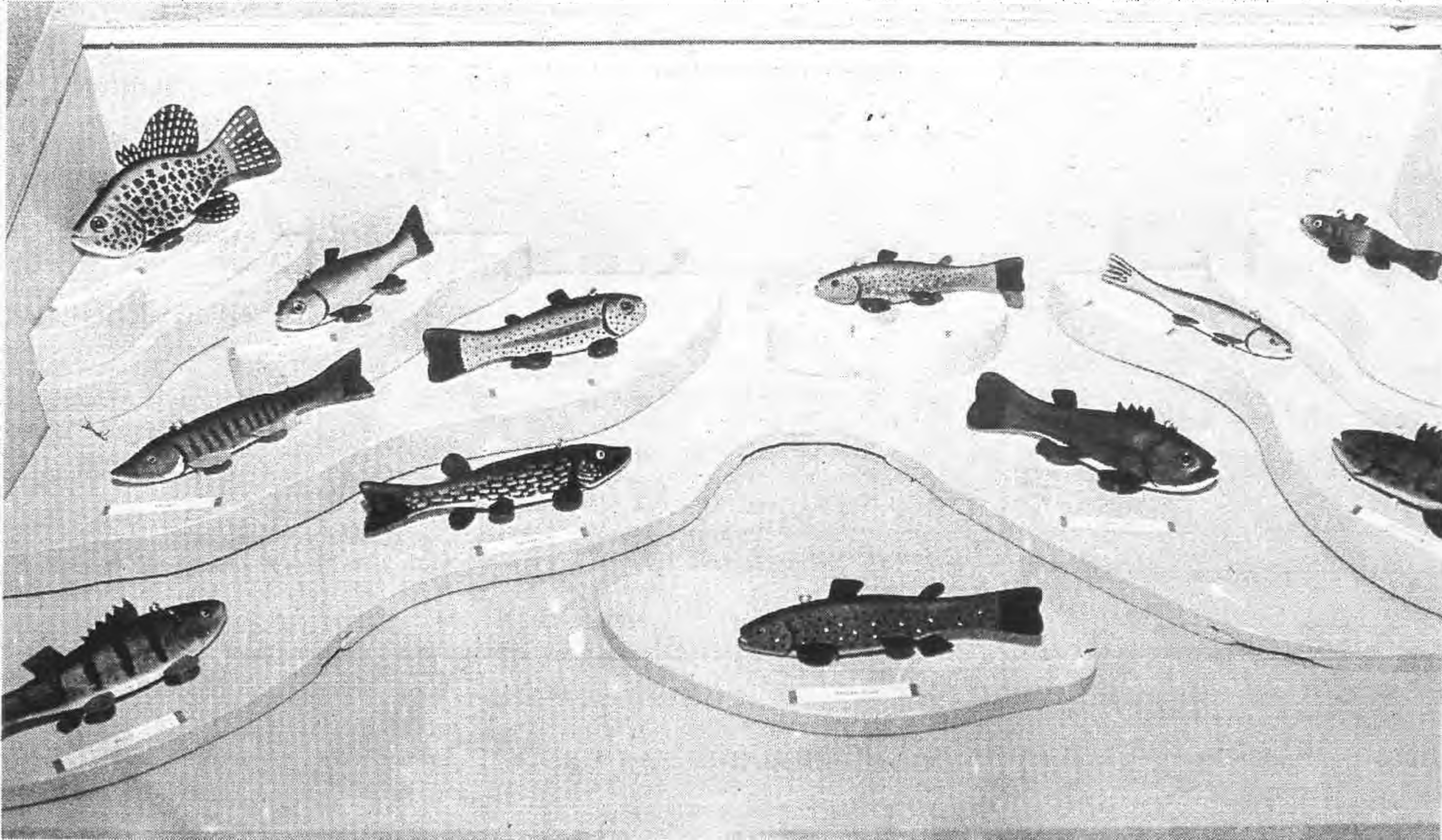
With their long spears and certain thrust, the fishermen strike to an extraordinary depth. Their spears are frequently thirty-five to forty feet in length; but, for all that, they handle them so cleverly that their prey, which they fetch up from such a depth, rarely escapes them.” (Kitchi-Gami: Life Among the lake Superior Ojibway, Johann Kohl)

In The Chippewas of Lake Superior, Edmund Danziger, Jr. describes ice fishermen as being partially covered over with a blanket, enough to cover the fishing hole and the head and torso of the fisherman, who lay stretched out on the ice with anit (spear) ready to strike.

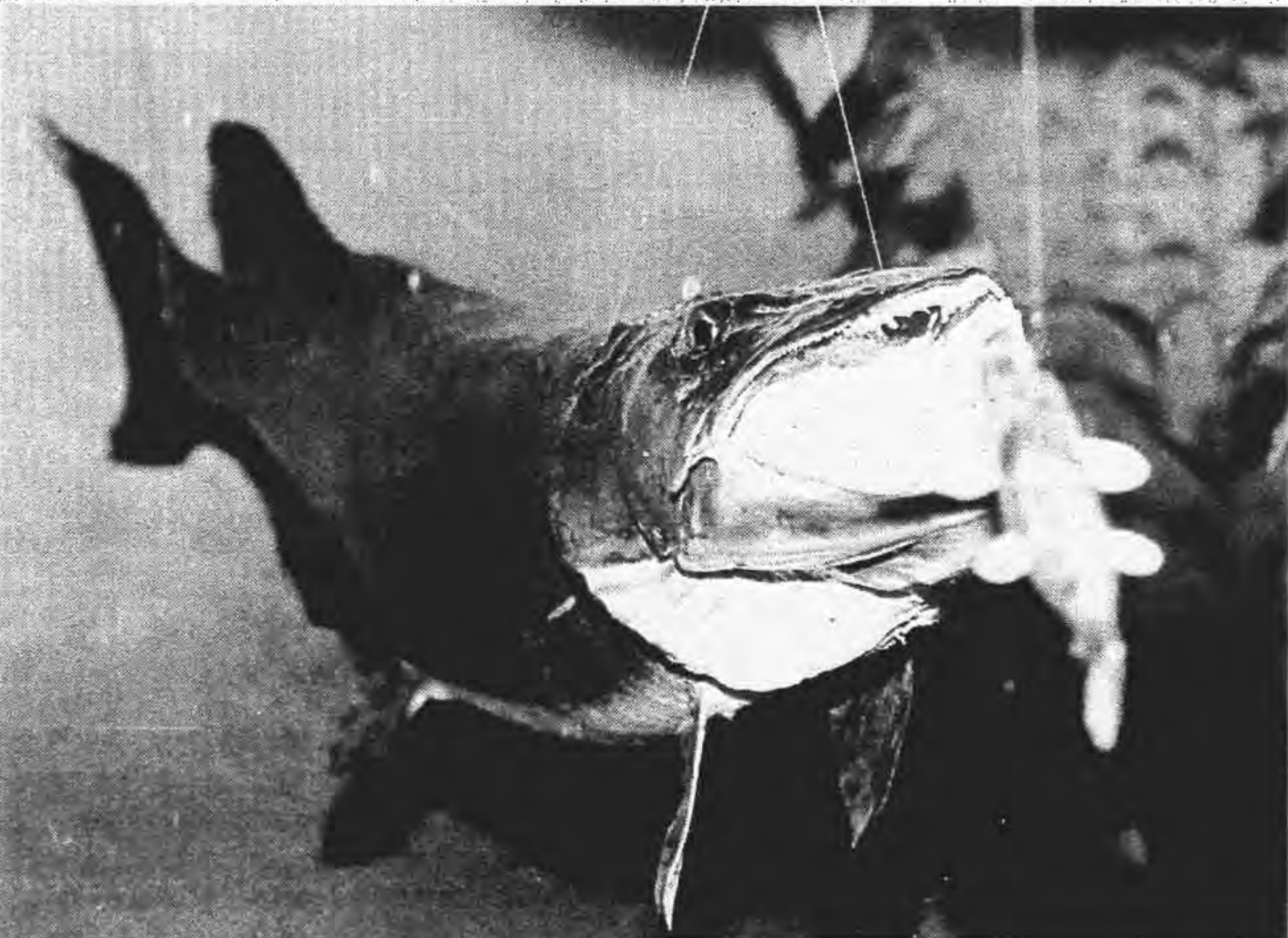
And so it is today, according to the LdF Museum’s publication: “An Ojibwe fisherman lies quietly on his stomach on pine boughs in a darkened tent for hours on end. He holds a spear ready with one hand while ‘swimming’ a decoy in the hole with the other. The movement of the decoy attracts the fish to the hole, where it is speared.”

Both Kohl and Danziger comment on the successful use of decoys when spearing through the ice. The decoys, carved of fish or bone, were “cleverly executed,” according to Kohl, and often resembled a small herring.

(See Anit and okeau, page 17)



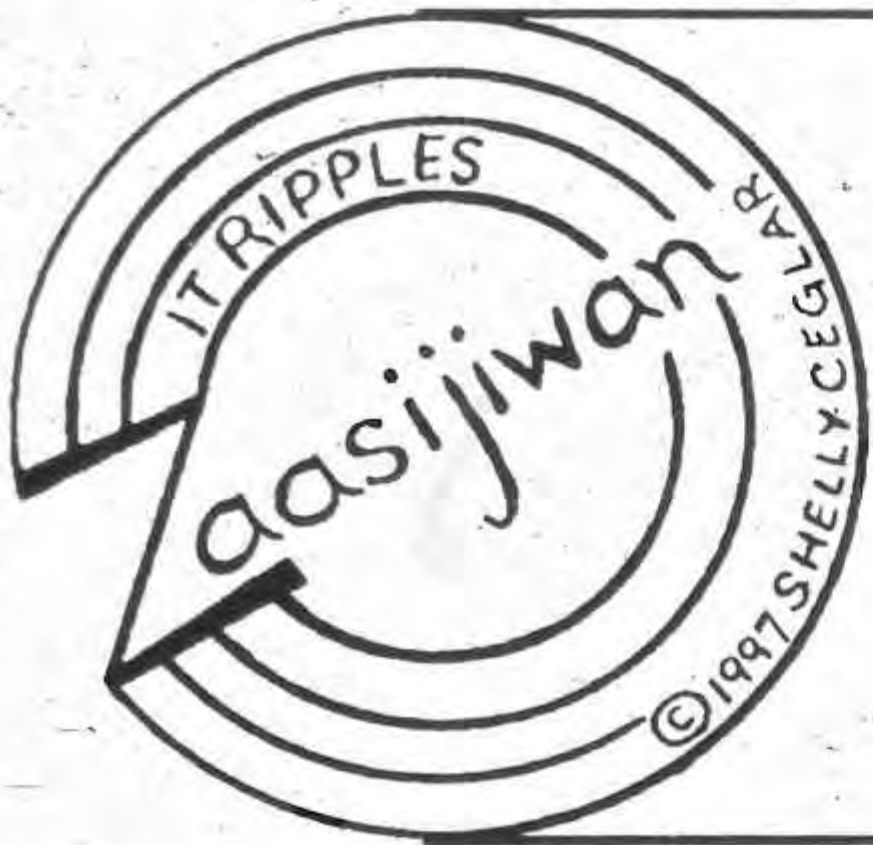
Examples of hand-carved fish decoys on display at the Lac du Flambeau Museum. The decoys go hand-in-hand with traditional spearing through the ice. Ojibwe fishermen have long used the decoys to lure fish close enough to the surface so they could spear them through a hole in the ice. (photo by Amoose)



Part of the Lac du Flambeau Museum’s exhibit depicts how the decoys were used to lure unsuspecting fish. The decoys had to be constructed so as to have balance in the water and “swim” in a realistic manner. (photo by Amoose)



The Lac du Flambeau Museum has assembled an exhibit of hand-carved fish decoys which represent the “Flambeau style” decoy. The art of decoy-carving has been handed down from father to son through generations. While some similarities reappear, each generation also adds a touch of its own to the style of decoy. The display was assembled with the assistance of community members, including elders and contemporary craftsmen, many who have donated examples from their own collection for display. (photo by Amoose)



Ziigwan — It is Spring

Zhaawani-noodin, Ogaawag, Ginoozheg, Jiimaan, Wewebanaabii, Migiskanaak, Zagaskwaajimeg, Giigoozensag, Ishkigamizigan, Gitigaan.

(Wouth wind, Walleyes, Northerns, Boat, S/he goes fishing with a line. Fishing rod, Leeches, Minnows, Maple Sugar Camp, Garden)

Bezhiig—1

OJIBWEMOWIN
(Ojibwe Language)

Double vowel system of writing Ojibwemowin

Alphabet vowels: A, AA, E, I, II, O, OO

Consonants: B, C, D, G, H, J, K, M, N, P, S, T, W, Y, Z, glottal stop'

Double Consonants: CH, SH, ZH

—Aglottal stop is a voiceless nasal sound as in mazina'igan.

—Generally the long vowels carry the accent.

—Respectfully enlist an elder for help in pronunciation and dialect differences.

DOUBLE VOWEL PRONUNCIATIONS

Short vowels: A, I, O

Daga — as in about

Niswi — as in tin

Ogaa — as in only

Long Vowels: AA, E, II, OO

GemaaA — as in father

Gemaa — as in jay

Ziigwang — as in see

Boozin — as in moon

Niizh—2

Circle the 10 underlined Ojibwe words in the letter maze. (translations below)

A. Inashke! Giigooyikewinini idash giigooyikewike.

B. Aandeg gaagiigido dash ondaanimad.

C. Aabaji' zagaskwaajime gemaa aabaji' giigoozens.

D. Wewebanaabii ningozis, ziigwng.

E. Gitigaaning gitige nindaanis.

F. Eya! Niwii-mikaan Niwii-mikaan i'iw iskigamizigan.

D A S H
Z A N Z M O
I N A S H K E
I D P J L I N H
G E Y A O Y K P J
W G I T I G E G M I
A Q E F B T W U A S V
N C X M V E Q C U L I
G R K D A A B A J I ' H
W E W E B A N A A B I I
D S E I A F T W G R W B

Niswi—3

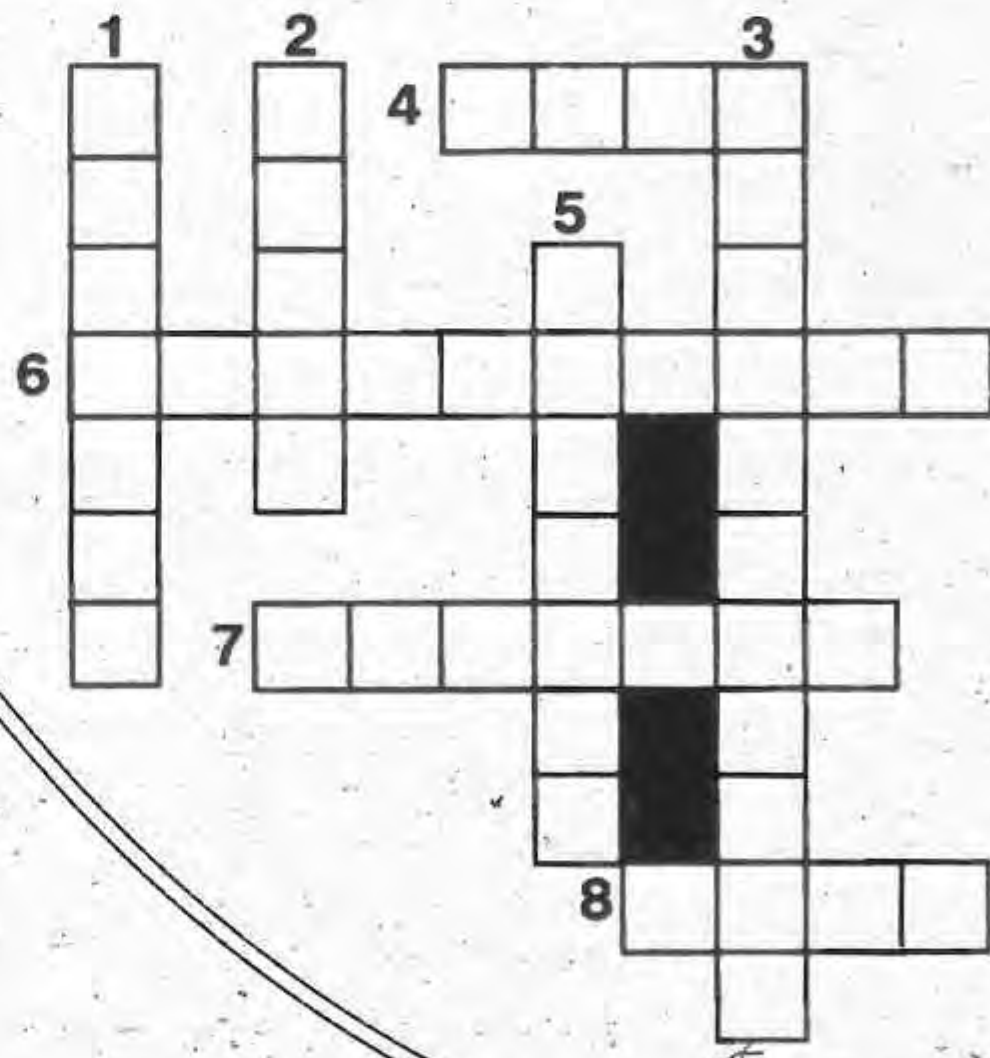
IKIDOWIN
ODAMINOWIN
(word play)

Down:

1. It is spring
2. Or
3. Fishing rod
5. Boat, canoe

Across:

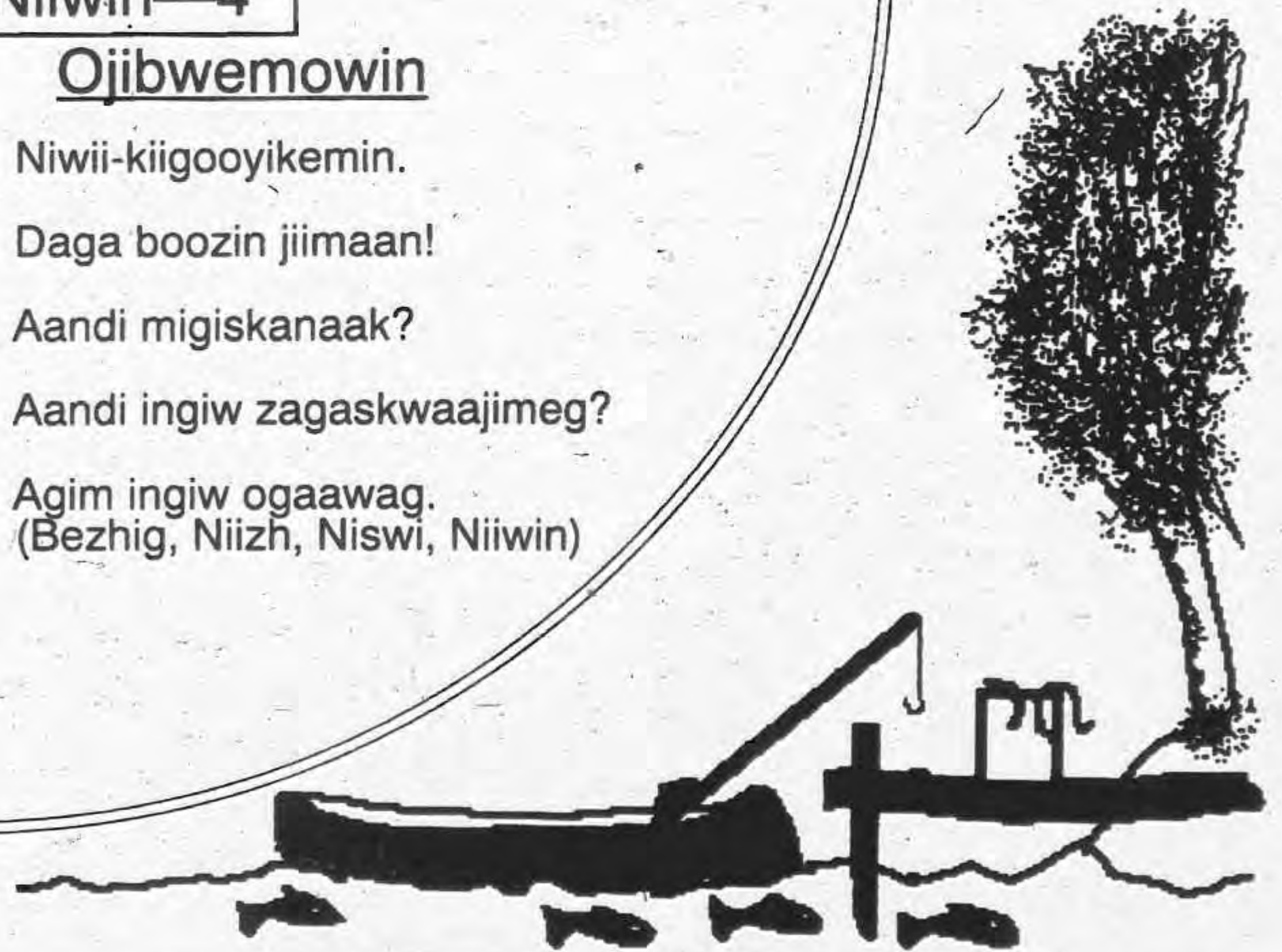
4. Count him/her
6. S/he speaks
7. Walleyes
8. Please



Niiwin—4

Ojibwemowin

1. Niwii-kiigooyikemin.
2. Daga boozin jiimaan!
3. Aandi migiskanaak?
4. Aandi ingiw zagaskwaajimeg?
5. Agim ingiw ogaawag.
(Bezhiig, Niizh, Niswi, Niiwin)



Translations:

Niizh—2 A. Look, behold! A fisherman and fisherwoman. B. Crow speaks and the wind comes in from a certain direction. C. Use a leech or use a minnow. D. He fishes with a line, my son when it is spring. E. In the garden she plants things, my daughter. F. Yes, I want to find that sugar bush.

Niswi—3 Down: 1. Ziigwan 2. Gemaa 3. Migiskanaak 5. Jiimaan Across: 4. Agim 6. Gaagiigido 7. IOgaawag 8. Daga

Niiwin—4 1. We want to go fishing. 2. Please get in the boat! 3. Where's the fishing rod? 4. Where's those leeches? 5. Count those walleyes! One, Two, Three Four.

There are various Ojibwe dialects, check for correct usage in your area. Note that the English translation will lose it's natural flow as in any foreign language translation. This may be reproduced for classroom use only. All other uses by author's written permission. All inquiries can be made to MASINAIGAN, P.O. Box 9, Odanah, WI 54861 or e-mail pio@win.bright.net.

Coloring contest difficult to judge

Six winners selected

Odanah, Wis.—Masinaigan's coloring contest for elementary students was a nightmare for judges Gerry DePerry, GLIFWC deputy administrator, and Rose Wilmer, GLIFWC executive secretary.

Wilmer and DePerry studied the 175 submissions, breaking them into each grade level, K through 5. Each entry was actually beautiful, so the selection process was very difficult.

However, Masinaigan is proud to announce a winner for each grade level. They are:

- Kindergarten: Irene Churchill from Hayward, WI
- First grade: Larissa Jarvey from Escanaba, MI
- Second grade: Lilly Duffy from Bayfield, WI
- Third grade: Lesley Burg from Bayfield, WI
- Fourth grade: Andrea Albers from Amherst Junction, WI
- Fifth grade: Mike Eggers from Bayfield, WI

Congratulations to each winner and thanks to all of the kids who submitted such wonderful coloring to the contests. Each of the winners received \$50.00 from GLIFWC as a reward for their efforts.

Anit and okeau

(Continued from page 15)

Kohl speculated that decoys were used because live bait could be rare or difficult to find at times, and there was little that was edible that could be spared for bait.

Held by a long string which was attached to stick of wood, about 18" long, the okeau was lowered into the water. It was weighted with lead to make it sink.

Some had small tails of birchbark attached to make it more life like and others were stained blue to more resemble a real fish. Decoys also had to be delicately balanced in order to make them move correctly in the water.

Peering through the hole in the ice, the fisherman would wiggle the decoy in front of his prey, moving it slowly upwards, until it could be easily speared.

Throughout the Lake Superior region, Ojibwe people continue to use the traditional methods of their ancestors on inland lakes and Lake Superior, and the art of decoy making continues to be practiced and passed-down from generation to generation.

At Lac du Flambeau (LdF) an exhibit has been devoted to decoys in the Lac du Flambeau Museum, and numerous tribal members carve decoys, following the "Flambeau Style."

As in other communities, the techniques and designs of LdF carvers were passed down from father to son. At LdF the design of the decoys has developed into a

distinct art form often referred to as the "Flambeau Style."

Flambeau carvers use basswood, pine or cedar. According to the LdF Museum's publication, the decoy has "a curved tail stained or painted in muted red, yellow and green." Variations in carving detail, color and eye decoration indicate both family and/or generational differences.

There were those grandfathers who carved decoys with attention to form and detail and those who carved to create only a rough likeness of living fish. However, all who carved did so for function.

"Each fisherman depended on his decoys to perform successfully. The final measure of a decoy was, and still is, whether it lures a musky to the hole in the ice." (LdF Museum)

As new materials became available to carvers at LdF, they were incorporated into the design of the okeau. Early decoys were finished with a covering of soot and deer or bear grease as a water repellent, preventing the decoy from becoming water logged. Small indentations in the wood formed eyes.

In later years, brown and black shoe polish became popular as a finish and red nail polish decorated eyes and gills. In more recent years, decoy carvers rub the decoy with oil or acrylic paint, and some okeau are finished with a combination of early and modern substances.



GLIFWC selected six winners, one for each grade K-5, for their coloring submissions. Above, Rose Wilmer, GLIFWC executive secretary, and Gerry DePerry, GLIFWC deputy administrator, pose with three winners from the Bayfield area. Winners are, from the left, Mike Eggers, grade 5; Lilly Duffy, grade 2; and Lesley Burg, grade 3. Not pictured are: Irene Churchill, grade K; Larissa Garvey, grade 1; and Andrea Albers, grade 4. (Photo by Amoose)

Youths of the Winter-Wind

Once upon a time, as the story goes, some firstborn sons lived in a very large town. And, as often as the days came around, they played games. One day, one of them announced that there would be a game of lacrosse—half the firstborns were to play against the other half.

Someone took out the ball they were to use—the color was green. He said, "We'll play toward the East and you toward the West." They then picked out those who could run the fastest.

The next morning they began, but it was a long time before anyone could score. Finally, in the afternoon, Winter-Wind made a goal in the West.

Winter-Wind said to the firstborn he had beaten, "Well, I've beaten you. Whenever the wind blows from the East, foul weather will hang in the sky and rain will fall. That's what I've won from you." And that's what happens even today: when the wind blows from the East, that's a sign for a bad day—all because a certain firstborn was once beaten in a contest.

That firstborn wasn't pleased. Over and over he wanted to play again. "Come on," he said, "let's have another game!" "Very well," said Winter-Wind.

The next day, they took their places for another game of lacrosse. The firstborn said, "I'll play toward the North and you play toward the South."

All day long they carried the ball back and forth and all around. This time the color of the ball was red. Finally, when evening was coming on, Winter-Wind scored a goal in the South.

Winter-Wind said, "I've beaten you again. Whenever the wind blows from the North, your youths will flee, but my youths won't be afraid of me."

Now, the youths were all birds. They were the ones who played the game. The losers are the birds of summer—the ones that go south in wintertime, because they fear winter. The winners are the birds that spend the winter here—Winter-Wind played on their side. And that's why some birds go south in the wintertime, and some don't go away—because they were the youths of Winter-Wind.

With this, the firstborn gave up the contest, and they all lived together again. (From a story told by Chief John Pinesi of Fort William, Ontario, published in William Jones, *Ojibwa Texts*, ed. Truman Michelson.)

Ojibwe Words

- Aaniin ezhwebak agwajjiing? How's the weather outside?
- Zoogipon. It's snowing.
- A'aw goon ningizo. The snow is melting.
- Iskigamiganing indizhaa. I'm going to the sugar bush.
- Ani-ayaabawi-giizhigad. The days are getting warmer.
- Namegos nayinaagozi omaa nibiikaanang. The trout is seen clearly in the water.
- Aamigwag giigooyag. The fish are spawning.

(Reprinted from A Phrase a Day in Ojibwe, 1997 Calendar, produced by the Ojibwe Language Society)

Giizhik: The tree of life



By Beth Lynch, GLIFWC Botanist

Odanah, Wis.—Imagine that in your travels to some far away, unfamiliar place you discover an isolated town full of people who are quite healthy, happy, and productive. You notice nothing unusual about the town except that there are no babies or children. What does this mean for the future of this town? If no one moves to this isolated town, who will replace the older people when they die? Such is the case with northern white cedar, giizhik, the 'tree of life'.

Natural cedar stands are not harmed by diseases or insect pests. However, it is rare to see seedlings or young cedar trees in the woods. (Occasionally conditions along road right-of-ways permit the growth of a dense patch of young cedar.)

Foresters responsible for regenerating forests after they have been logged have noticed this lack of cedar regeneration and are trying to figure out why there is a problem. After examining many of the variables, they have a couple of ideas.

The primary suspect is the large number of white-tailed deer, which is also blamed for problems with regeneration of hemlock, paper birch, and white pine.

During the winter, deer congregate in deer yards located in sheltered cedar or hemlock stands. While they are there they browse everything that is within their reach, creating the characteristic 'browse line' about six feet from the ground. Cedar trees grow extremely slowly, so it is the rare individual that can grow out of reach of the deer before being killed.

One could ask, if deer and cedar have existed together for thousands of years, how can deer be responsible for the lack of cedar regeneration? First, there are many more deer in the northern forests now than there used to be. Second, the composition of the forests



Giizhik: The Tree of Life

has changed so much that cedar swamps that may have once been isolated from deer by large areas of unsuitable deer habitat are no longer isolated.

Another reason that cedar regeneration is problematic may be related to modern management techniques. Cedar seedlings require a specific 'microsite' for germination and growth. Rotting logs and stumps provide the moisture, warmth, and nutrients needed by cedar seedlings. In wet cedar swamps, cedars grow on hummocks above the high water mark. If harvesting equipment and techniques destroy or fail to provide these microsites, then this may prevent cedar regeneration.

Fortunately, cedar does not regenerate solely by seed. Vegetative reproduction through the growth of roots from any part of a cedar branch or stem can also produce new trees. For example, cedar trees lean as they grow older and eventually end up with the trunks nearly level to the ground.

As the tree leans, the side branches become more vertical and eventually become rooted, and begin growing as new trees. Rows of small cedar trees originating from the old trunk are the visible effect of this type of vegetative reproduction. Who knows how many generations of cedar trees may have preceded the row of small trees visible today?

In addition to its beauty and sweet-smelling leaves, cedar is valued for many other reasons. It is an important plant in Ojibwa life and is used in ceremony, for medicinal purposes, and its branches are used for temporary bedding.

The 16th century explorer, Jaques Cartier, was taught by Indian people how to use cedar leaves to treat scurvy. This is the origin of the common name, *Arbor-vitae*, or tree of life. Among the Ojibwe, an infusion of cedar leaves is used to treat coughs and headaches, and to purify the blood. Cedar cones may be sucked to soothe a sore throat. Another headache treatment involves using a cedar compound that is pricked into the temples with needles. Cedar twigs were used to fumigate houses for small pox.

In Michigan there is a significant cedar leaf oil industry. Cedar leaf oil is distilled from the boughs and is used in medicines and perfumes. Small amounts of boughs are also harvested for use in commercial floral arrangements.

Cedar wood is notable for its resistance to rot and termites. For this reason it is valued for fence posts, shingles, canoe-building, and other uses where wood is susceptible to rot. It is also used for pulp and the manufacture of particle board.

Cedar trees are also valuable for their contributions to their native ecosystems. Because they grow on steep slopes they play a critical role in watershed protection. Cedar stands also provide shelter and browse for a variety of wildlife species. One can only begin to imagine the ways in which dead cedar trees and stumps may be used by birds, insects, amphibians, and plants.

Wildlife biologist to serve Michigan ceded territory joins GLIFWC staff

Odanah, Wis.—Miles Falck officially started work with GLIFWC on January 6, 1997—a snow day. The newly hired wildlife biologist for Michigan ceded territory got a slight reprieve from beginning his duties.

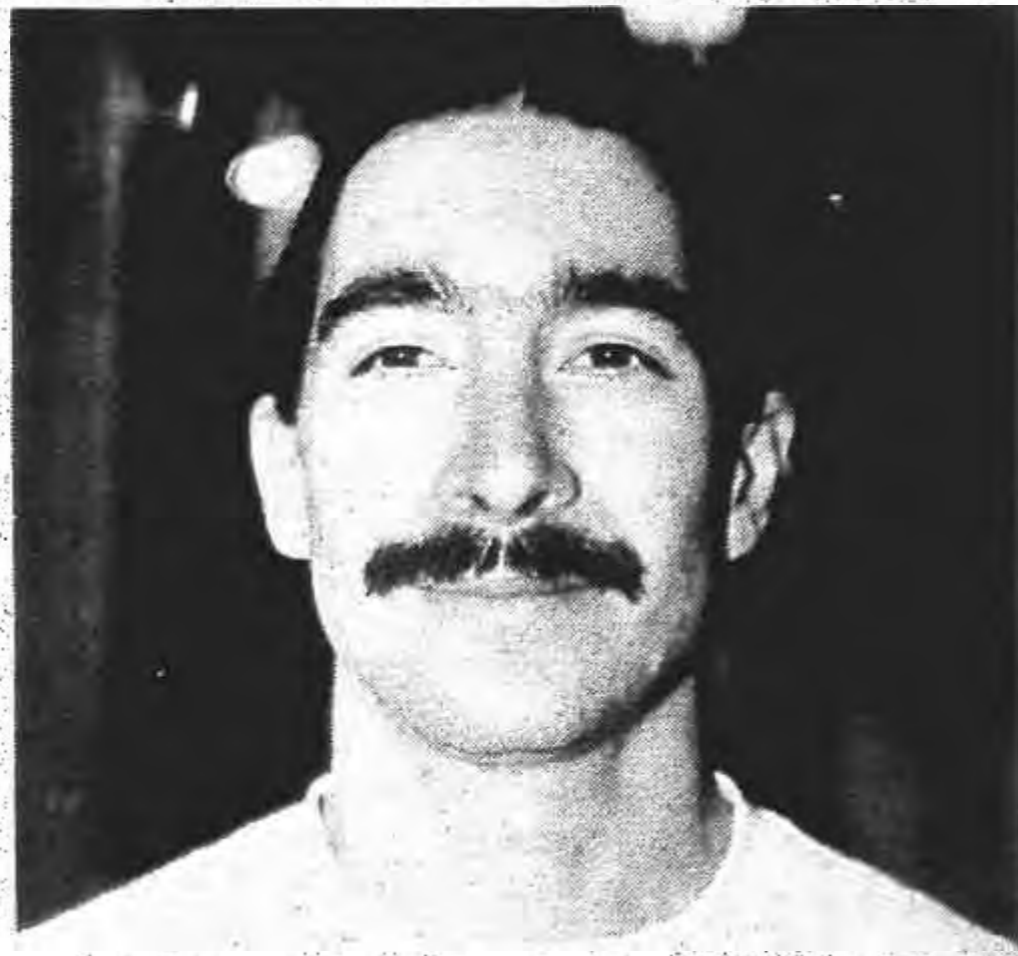
Falck has spent the first couple months with GLIFWC becoming acquainted with wildlife issues in Michigan as well as other agencies concerned with wildlife management in the state. Part of his position requires him to be a liaison with agencies such as the MI Department of Natural Resources (MDNR), the U.S. Forest Service (USFS), and the Federal Regulatory Commission (FERC) which deals with dam re-licensing.

He has also visited the Keweenaw Bay Indian Community, has scheduled a trip to the Bay Mills Indian Community in early March, and will be setting up a visit at the Lac Vieux Desert Indian Community in order to become acquainted with tribal programs and needs.

Field work in the Upper Peninsula is on Falck's work plan for the summer. He will be surveying potential wild rice re-seeding lakes and continuing purple loosertrife surveys. In addition, Falck and GLIFWC Botanist Beth Lynch will be studying the whitetail deer herbivory, or researching the impact of the deer population on understory plants of interest to the Ojibwe communities.

Prior to joining GLIFWC staff, Falck completed his Master of Science degree in wildlife and fishery biology at Colorado State University, Fort Collins, CO. While there, he also worked in a cooperative with the Bureau of Biological Resources Division of the U.S. Geological Surveys, studying the repairing of small mammal population dynamics. His undergraduate work was at the UW-Stevens Point in wildlife biology.

Falck, who grew up in Neena, WI, is a member of the Oneida Tribe. Falck is single and lives in Gile, MI. He enjoys hunting and fishing activities during his free time. Welcome to GLIFWC Miles!



Miles Falck, GLIFWC wildlife biologist.

GLIFWC hires data base manager

Odanah, Wis.—Jenny Krueger, Red Cliff tribal member, has been with GLIFWC since April 1996 when she was hired as a temporary data clerk for spring spearing season.

Although the '96 spearing season has come and gone, Krueger is still with GLIFWC, still on a temporary basis. Her current position as data base manager for the Biological Services Division extends until the end of 1997.

As a data base manager Krueger is responsible for entering all the data collected from various field research related to fisheries, wildlife, and wild plant management activities. Once data is entered, Krueger processes it into a form meaningful to resource managers, such as statistical reports and/or graphs.

Krueger is a graduate of Ashland High School and holds an Associate degree program for Administrative Assistants from Wisconsin Indianhead Technical College, Ashland.

Krueger lives in Washburn with her husband Gary. She enjoys outdoor activities, such as hunting, fishing and four wheeling.



Jenny Krueger, GLIFWC data base manager.

The Upper Saint Croix National Scenic Riverway—A new opportunity?

By Peter David
GLIFWC wildlife biologist

The initial inclination of tribal members interested in exercising their off-reservation treaty rights might be to head out towards the Chequamegon-Nicolet National Forest. But in northwestern Wisconsin, another interesting opportunity exists.

Beginning at the dams on Lake Namekagon and the St. Croix Flowage, and following the Namekagon and St. Croix Rivers down to St. Croix Falls, is a beautiful ribbon of public land known as the Upper Saint Croix National Scenic Riverway.

Containing 200 river miles of relatively free-flowing, high quality water, the Riverway is a tremendous natural resource that presents many opportunities to tribal harvesters.

Some sections of the Riverway are very familiar to tribal harvesters. Wild rice grows in several areas, including the Phipps

and Pacwawong flowages, where it has been harvested for many decades. The latter site takes its name from an Ojibwa word referring to a bay, and those who have riced there will appreciate the appropriateness of the name.

The Riverway holds other opportunities for tribal harvesters as well. Perhaps the least well known is the opportunity to trap. Although the Riverway is currently closed to recreational trapping by non-Indians, it has recently been clarified that the closure does not apply to subsistence trapping by tribal members.

Unfortunately, confusion over this issue has limited the exercise of this right in the past. Possibly as a result of the low trapping pressure which has existed on the Riverway, beaver populations have grown significantly, especially in the upper reaches.

A survey of the Namekagon river conducted by the Park Service last summer found an active beaver lodge for each river mile surveyed from the Namekagon Dam to the junction with the St. Croix. Some

biologists are concerned that this high population may be having negative impacts on other components of the ecosystem, including the trout fishery and the mussel fauna.

The St. Croix River contains the greatest diversity of mussel fauna in the Upper Mississippi River system, and the Namekagon is a nationally recognized trout water.

Wildlife management issues such as this are just part of the range of issues that are currently being examined in the process of updating the Riverway's "General Management Plan." When completed, this plan will help steer the management philosophy for the Riverway for the next 1520 years.

Three potential alternatives are now being reviewed in the draft management plan. All three alternatives have many shared components. These range from common natural resource management goals, such as protecting threatened and endangered species, to policy directions such as strengthening dialogues with the tribes and

GLIFWC, and recognizing the existence of treaty rights.

But the alternatives have significant differences as well, especially with respect to the level and types of recreational use which will be acceptable along particular stretches of the river. These differences may affect opportunities for particular types of experiences along the river, impacting opportunities for solitude, motorized water-use, camping, or other riverway uses.

Management Plan development is not expected to be completed until early fall, 1997, and the Park Service is currently soliciting public input. GLIFWC is working with the Park Service to help ensure the tribal perspective is included in the development of the Management Plan.

If you are interested in commenting, information on plan alternatives can be obtained from the Park Service by contacting: St. Croix National Scenic Riverway, 401 Hamilton Street, P.O. Box 708, St. Croix Falls, WI 54024-9912. □



Bad River trapper Matt O'Claire brings in a fisher off his trap line. (Photo by Amoose)

Tribal off-reservation open seasons

January—March

- all trapping (ends March 31 for most species)
- all small game hunting including unprotected species
- firewood gathering
- all wild plant gathering (except ginseng)
- maple sap gathering
- unattended line (until ice-out)
- commercial fishing (ends March 30)

March—May

- all trapping (ends March 31 for most species)
- hunting for beaver, coyote rabbit, squirrels, hares and unprotected species
- firewood gathering
- all wild plant gathering
- spring spearfishing (ice-out)
- commercial fishing

Consult your tribal rules and regulations which are available at your on-reservation registration station for more detailed information.

Tulalips again forced to cancel shellfish harvest

Federal marshals might accompany Tulalip shellfish harvesters the next time the tribe decides to exercise its treaty shellfishing rights on privately-owned Hat Island.

For the second time this year, the tribe canceled a shellfish harvest due to threats of violence from Hat Island residents. Based on a two-year-old federal court decision affirming the tribes' right to harvest shellfish available on beach property, the tribe had scheduled a harvest for the evening of Nov. 13 and 14 during low tides.

However, tribal survey crews were physically threatened by persons on the

island when they attempted to confirm beach markers in preparation for the harvest.

"We found it necessary to cancel the harvest out of concern for the safety of our people," said Francy Sheldon, Director of the Tribal Fisheries Department. "We are in the process of consulting with federal officials now to seek federal enforcement of tribal treaty fishing rights. We will not abandon our right to harvest on Hat Island, which is a traditional harvesting place of deep cultural significance to us."

(Reprinted from Northwest Indian Fisheries Commission News.)

Teams form as part of White Pine Mine

Environmental Analysis for Environmental Protection Agency permit

By Sue Erickson, Staff Writer

Odanah, Wis.—Representatives from tribes as well as other stakeholders are participating in teams which have been formed as part of the Environmental Protection Agency's (EPA) Environmental Analysis (EA) process regarding a permit for a proposed solution mine at White Pine, Michigan.

The Copper Range Mining Company (CRC) applied for a permit to operate a Class V underground injection well involving underground injection of sulfuric acid in January 1997.

Because the solution mining process involves the injection of acid into the mine, EPA regulates it under its Underground Injection Control (UIC) Program. The UIC has begun a permit review.

In addition to the permit review process, the EPA has begun an Environmental Analysis (EA) to examine issues that would not ordinarily be addressed by a permit review.

Thus, there are two independent processes currently underway studying the impact of sulfuric solution mining at the White Pine site. One is known as an Environmental Analysis and the other as the permit review process.

The permit review process being performed by the UIC Branch covers the technical aspects of the proposed mining operation. They seek to discover if the project may in anyway result in the migration of fluids into underground sources of drinking water or otherwise adversely affect public health.

Therefore, the permit review relates to issues of geology and hydrology of the area, waste containment issues, and the effectiveness of the financial agreement with the mining company. (See White Pine Mine, page 24)



Transportation safety is one issue being addressed by teams in the Environmental Analysis of the proposed sulfide solution mine at White Pine, Michigan. Safe transportation issues were raised last summer by the Bad River Band of Chippewa when they discovered Wisconsin Central Railway was hauling large shipments of sulfuric acid across the reservation on tracks the Band considered unsafe. Band members and supporters physically blocked the tracks. (Photo by Amoose)

State metallic mining council appointed

Madison, Wis.—Department of Natural Resources Secretary George Meyer today announced the appointment of eight members to the State Metallic Mining Council. The council was established by state law to advise the department on matters related to mining. One of the council's responsibilities involves reviewing and commenting on department proposals to establish or change administrative rules relating to mining issues.

The council is advisory to the DNR and will not take the place of normal public participation opportunities on the proposed legislation, such as public hearings and public informational meetings.

Meyer said the council has not been active for 15 years, but is being reestablished to review two proposals the department has drafted at the request of the State Legislature. One proposal would require mining companies to establish a trust fund for the purpose of cleaning up any environmental damage caused by metallic mining. The other seeks to make groundwater quality standards and pollution response procedures related to mining more consistent with regulations for landfills and wastewater treatment facilities.

Meyer noted that not all seats on the council have been filled. The department has requested that the state's Native American Indian tribes recommend an appointee to represent their interests. Meyer also sought representation from the state's environmental community, but the organizations and individuals contacted declined to participate.

Appointments to the council include:

- James Buchen, Vice President of Wis. Manufacturers & Commerce;
- Dr. Douglas Cherkauer, Professor of Geology at the UW-Milwaukee;
- Richard Chier, Chairman of the Wis. Conservation Congress Environmental Practices Committee;
- Susan Courter, Michels Materials, Brownsville, Wis.;
- Rodney Harrill, President of the Crandon Mining Company;
- Erhard Huettl, Chairman of the Forest County Board of Supervisors;
- Thomas Myatt, General Manager of the Flambeau Mining Company;
- Dr. James Robertson, State Geologist and Director of the Wis. Geological & Natural History Survey.

Under state law, council members are appointed to three year terms on a staggered basis. They receive no payment but are eligible to file for reimbursement, within state guidelines, of meal and travel expenses associated with their work on the council.

(Reprinted from Wisconsin DNR News & Outdoor Report)

Crandon Mine Battle takes to the internet

The conflict over Exxon's proposed Crandon mine has taken to the World Wide Web. The following list of web sites, provided by the Midwest Treaty Network, can be used for research into the mine proposal, the companies proposing the mine, the organizations opposing the mine, and the government agencies that would have to permit the mine.

Anti-mine

Midwest Treaty Network
(mine briefs/maps)
www.alphacdc.com/treaty/content.html

Menominee Nation Mining Impacts Office
www.menominee.com/a-one/mccombs

River Alliance of Wisconsin
www.igc.apc.org/wisrivers/crandon.html

Wisconsin Stewardship Network
www.execpc.com/~wsn/mining.html

The Threatened Wolf River
www.lawrence.edu/dept/anthropology/wolf/wolf.html

Pro-mine

Crandon Mining Company
www.crandonmine.com

American Zinc Association
www2.zinc.org/zinc

Exxon Corporation
www.exxon.com

Rio Algom Canada, Ltd.
www.amex.com/weblink/rom/index.htm

The Northern Miner
www.northernminer.com

Government agencies

Wisconsin Department of Natural Resources
badger.state.wi.us/agencies/dnr/crandon

U.S. Environmental Protection Agency
www.epa.gov/Region5/crandon.htm

U.S. Army Corps of Engineers
www.hnd.usace.army.mil

Lawmakers blast Thompson's mining proposal

Madison, Wis. (AP)—Proposals the governor billed as getting tough with mining companies do little to address environmental concerns, Democrats say.

Gov. Tommy Thompson's proposed 1997-99 state budget would require mining companies to identify and use existing technology to make sure any discharges into the environment comply with state groundwater and surface water pollution rules.

The Republican governor's budget also would direct the Department of Natural Resources to appoint a panel of scientists to advise state officials on mining.

The Crandon Mining Co. is seeking state, local and federal permits to mine 55 million tons of zinc and copper in Forest County.

Flambeau Mining Co. runs a 32-acre, open-pit copper mine near Ladysmith.

"I want to be very clear: If a mining company can't prove its operation is safe, it will not receive a mining permit in Wisconsin," Thompson said in his budget address to the Legislature on February 12th.

The governor also proposes providing economic development grants and loans to help communities rebuild their economies after mining companies leave.

"The governor has at long last acknowledged that old mining laws are too weak to protect the environment," said Rep. Spencer Black, D-Madison. But Thompson's solution doesn't address the problem, he said.

"The decision about whether they get this permit will be made by a political

agency (DNR) controlled by the governor, and not science," Black said.

The state's mining industry is subject to a less restrictive set of groundwater standards than other industries must follow because of successful lobbying efforts, Black said.

"If he were serious about making sure that he wanted to protect the resources from the mining interests, he would have restored the office of the public intervenor," said Assembly Minority Leader Walter Kunicki, D-Milwaukee.

The public intervenor's office was moved from the Justice Department to the Department of Natural Resources, eliminating its power to sue, and its staff was cut to one full-time position in Thompson's 1995-97 state budget.

That budget also made the DNR secretary's job one appointed by the governor rather than a citizen board.

Last year, Crandon Mining and other mining proponents spent \$385,800 lobbying the Legislature on mining and other issues.

Several mining proposals failed to get legislative votes last year, including one by Black that would require mining companies to provide an example of a similar mine run for 10 years without polluting surrounding waters before they could move forward with a proposed mine.

Other mining bills would have lifted the mining companies' exemption from the state groundwater laws, banned mining in state parks and barred mining companies with criminal records from mining in Wis.

Mining regulatory laws being introduced to the State Legislature this session

By Sue Erickson, Staff Writer

Odanah, Wis.—The apparent lack of sufficient regulation by state and federal laws over metallic mining operations has been a key issue for many concerned with the potential negative impacts of mines. While claims have been made that state regulations will protect the environment from degradation caused by mining activities, others feel that loopholes in the law make current regulations far from satisfactory.

Several new laws are being introduced into the Wisconsin Legislature this session which address the need for stricter regulation of mining activities. These have been summarized by GLIFWC Policy Analyst Ann McCammon-Soltis and appear below.

A classic example of how legislation apparently protecting the environment does not apply to mining is the federal "Bevill exemption." The Bevill exemption, passed in 1980 as a Congressional amendment to the Resource Conservation and Recovery Act (RCRA), excludes wastes from the extraction, beneficiation, and processing of ores and minerals from hazardous waste regulation. (see title 4, Code of Federal Regulations, Part 261.4 (b) (7)) Consequently, the appearance of protection through regulation is not a reality.

In Wisconsin tribes could be affected by two separate copper mines currently under review for potential permits. One is the Crandon Mining Company's (owned by Exxon and Rio Algom) proposed copper sulfide mine near Crandon, Wisconsin; the other is the sulfide solution mine proposed by the Copper Range Company to operate at the White Pine Mine site in Michigan, near to the border of Wisconsin. The proposed legislation to be introduced in the Wisconsin Legislature this session are:

Mining Moratorium bill. This bill would prohibit the DNR from issuing metallic mining permits for the mining of a sulfide ore body until the DNR determines that a similar mine has operated successfully for at least 10 years without polluting ground and surface water, and that a sulfide mine has been closed for at least 10 years without polluting ground or surface water.

The Mining Moratorium bill recently was approved in committee and will be introduced into the State Assembly on March 10.

Mining Bad Actor bill. This bill would require the DNR to deny a mining permit if the applicant or a related person has been penalized for violating mining laws within the past 10 years, unless they have been pardoned or terminate the relationship with the violator. The bill would also require a permit denial if the applicant has demonstrated, by a pattern of behavior that resulted in the violation, an unwillingness or inability to comply with environmental laws.



Citizens concerned about the impact of mining on Wisconsin waters and natural resources have taken their issues to the Capitol many times throughout the past several years. Above, many arrived last year when the mining moratorium bill was supposed to come to the floor of the Assembly, but the bill was thwarted. (Photo by Sue Erickson)

Mining in State Parks bill. This bill would prohibit mining in state parks, wildlife refuges, and other state conservation lands. The prohibition would not apply to sand, crushed stone, clay, gravel or peat mining.

Mining Variance bill. This bill would prohibit the DNR from granting exemptions from its rules related to mineral prospecting, mining, and storage and disposal of mining waste.

Wastewater Discharge bill. This bill would prohibit the discharge of wastewater from the mining of a sulfide ore body into the Wisconsin River.

Another bill is being drafted by Representative Barbara Linton's office which would virtually ban mining by underground injection of acid. The bill would limit the number of gallons that could be injected, and the limit will be set so low that large scale underground injection mining would not be economical.

Persons concerned about establishing more regulations on mining activities should contact their state legislators in regard to these bills.

Looking back—looking ahead: Indian affairs in the 104th and 105th congresses

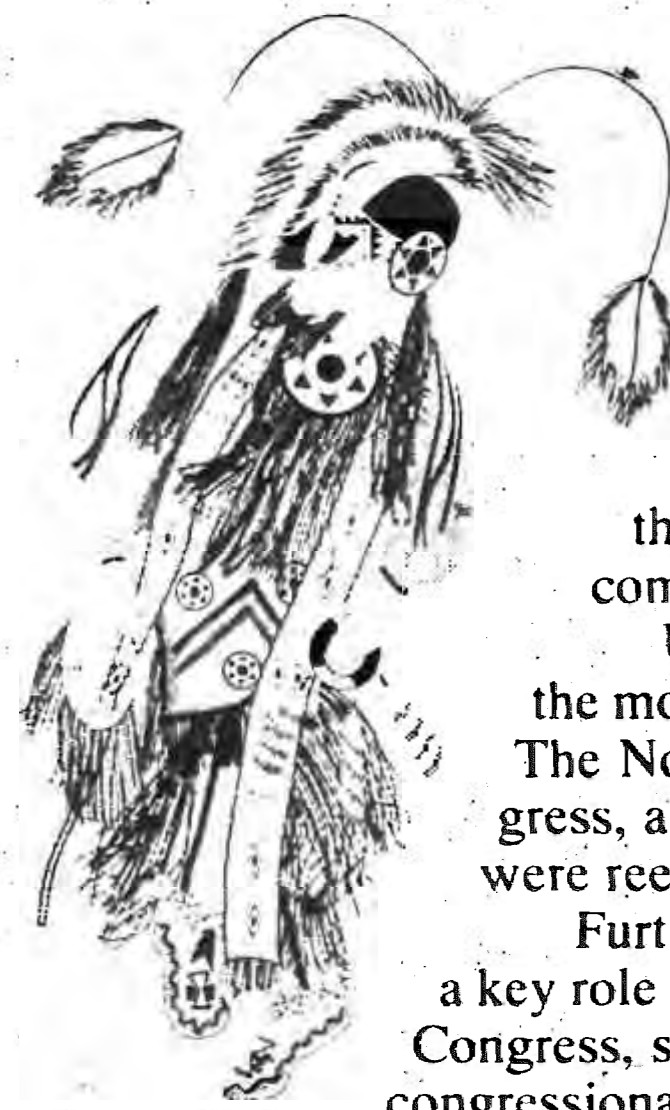
The 104th Congress was not kind to the First Americans. But the damage might have been far greater had it not been for a small, bipartisan coalition of congresspersons who were able to persevere on behalf of Native Americans.

Unfortunately, the 105th Congress does not offer much hope for change. Many of the worst proposals that were defeated in the last Congress are likely to be raised again.

Several legislative proposals that would have undermined tribal sovereignty were considered in the 104th Congress. Funding for Indian education, social services, housing, economic development, and natural resource programs did not receive much-needed increases.

As the federal safety net was dismantled for all Americans, little concern was given to the impact of welfare overhaul on tribal sovereignty, U.S. trust responsibilities, or the unique circumstances of Native Americans.

However, thanks to strong advocacy by both Native and non-Native groups and the active leadership of Senators McCain (AZ) and Inouye (HI) (chair and vice-chair of the Senate Indian Affairs Committee), Indian programs and policies were not hit as hard as many feared they would be. Funding was cut deeply, but not as severely as originally proposed.



Proposals to waive tribal sovereign immunity and to require tribal taxation agreements with states were ultimately held back or removed from various bills. Attempts to amend the Indian Child Welfare Act in ways that would have fundamentally undermined the spirit of this important law were stopped and a more acceptable compromise was worked out.

Unfortunately, the end of the 104th will not bring an end to the more egregious of its legislative initiatives in Indian Affairs. The November election brought relatively little change to Congress, and many proponents of the worst legislation in the 104th were reelected to office in the 105th.

Further, the Clinton Administration, which some saw as playing a key role in defeating the most mean-spirited proposals in the 104th Congress, seems to be trying to close the gap between itself and the congressional leadership across a wide range of policy areas. This may not bode well for Indian Country. Many tribal advocates predict that the 105th Congress will be even more difficult than the 104th proved to be.

Contributing to uncertainty is the change in leadership of the Senate Committee on Indian Affairs (SCIA). Senator McCain, who chaired the committee in the 104th, will likely be approved as chair of the Commerce, Science, and Transportation Committee.

A recent change in Senate rules will prevent him from continuing as chair of the Indian Affairs Committee. Senator Ben Nighthorse Campbell (CO), the only Native American serving in the Senate, is expected to be named as the new chair. While Sen. Campbell's voting record on Indian affairs has been generally positive, and he has been an active member of the SCIA since his election to the Senate, it is not known at this time what his priorities as Chair will be.

Tribal sovereignty: the long road ahead

Tribal sovereign immunity

Senator Slade Gorton (WA) offered an amendment to the FY97 Interior Appropriations bill that would have subjected tribes to suits in state and federal courts in cases where private property owners alleged that a tribal action or proposed action would interfere (or threaten to interfere) with use of their property. The amendment stemmed largely from complaints made by non-Indian residents of reservations that they had no legal recourse beyond tribal courts in cases where they felt they had not received due process from a tribal government. For example, a non-Indian resident who objected to reservation game and fish regulations could not sue the tribe in state or federal court unless the tribe agreed to waive its sovereign immunity. Tribes feel strongly that this right is fundamental to their sovereignty. Furthermore, most tribes lack the financial resources to adequately defend tribal decisions in state or federal courts, especially if a law opened the floodgates for such litigation.

Senator Gorton agreed to withdraw the sovereign immunity blanket waiver from the Interior bill during full Appropriations Committee markup in exchange for an agreement by Senator Inouye that a hearing would be held by the SCIA on the issue. The hearing was held on September 24, 1996. Senator Gorton and others have indicated that this matter will be revisited in the 105th Congress, with the focus on tribal tort reform and on due process concerns under the Indian Civil Rights Act.

State and local taxation on reservation lands

Historically, tribes have had a status that was unique, but roughly parallel to that of state governments in relation to the federal government. States could not tax reservations

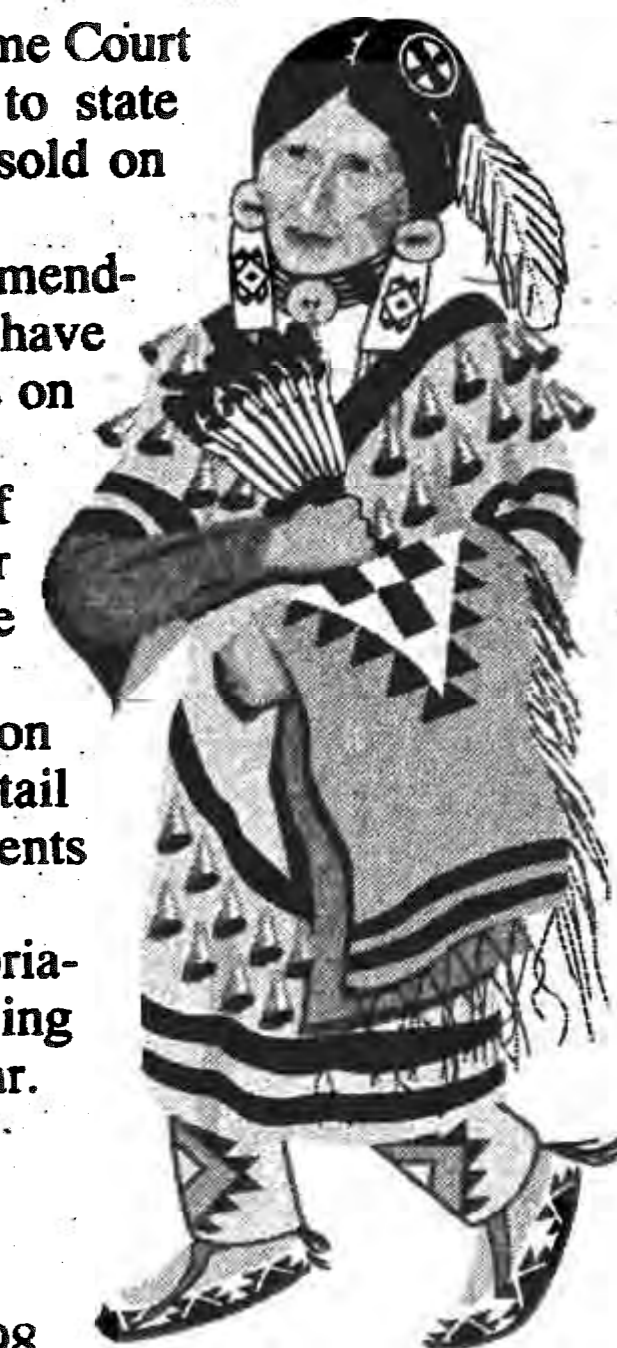
just as they could not tax other states. However, the Supreme Court has recently weakened tribal sovereignty with respect to state governments by allowing states to levy taxes on goods sold on Indian lands.

In the 104th, Representative Istook (OK) offered an amendment to the FY97 Interior Appropriations bill that would have expanded the tax authority of state and local governments on reservation land.

The amendment would have prohibited the Bureau of Indian Affairs (BIA) from transferring any land into trust for a tribe unless an agreement was first made between the tribe and state and local government officials.

The agreement would have had to provide for collection and payment of state and local sales and excise taxes on retail sales to non-members of the tribe by retail establishments located on the land to be taken into trust.

The House passed the amendment as part of the appropriations bill, but it was dropped from the final omnibus spending measure. A similar proposal is likely to be revived this year.



Other legislation

FY98 Budget

The Administration is required by law to submit its FY98 budget request on February 3, 1997. Under the congressional budget resolution passed in the 104th Congress, domestic discretionary spending for non-military programs is projected to remain similar or slightly below the FY97 enacted levels.

No increase in discretionary funds for Indian programs is anticipated. Advocates will be working to include language in the FY98 budget resolution that would acknowledge the trust relationship between the federal government and tribes, and to permit slight funding increases for tribal programs the BIA and the Indian Health Service (IHS).

BIA Reorganization

There is general agreement in Congress that the Bureau of Indian Affairs (BIA) needs to be restructured. However, there is little agreement about the type and scope of changes that are needed. Funding for the BIA has been reduced sharply, but many observers contend that the agency has been and continues to be inefficient and wasteful.

Broad proposals to eliminate the BIA entirely and convert Indian affairs funding to tribal block grants have been advanced. However, critics of this plan feel that, despite concerns about BIA operations, the agency remains an important symbol of the unique government-to-government relationship between tribes and the federal government. No doubt some BIA reform measures will be advanced in the 105th. Tribal advocates will examine these carefully to assure that neither tribal sovereignty nor the U.S. government's trust responsibility to tribes will be compromised.

Indian Trust Funds

Recent allegations regarding BIA mismanagement of tribal trust funds will likely be addressed in the 105th. These trust funds are made up of payments earned by tribes and individual Indians from oil, gas, and coal production, grazing leases, and timber sales from their allotted lands.

Investigations suggest that the BIA has been unable to account for \$2.4 billion from tribal accounts managed by the BIA. Hearings have already been held, and a special House Task Force was formed to investigate the issue. The Department of the Interior has proposed a settlement regarding the trust fund balances, and various options for improving BIA management will be considered in the coming year.

Human Needs

The 104th Congress passed sweeping changes in the nation's welfare law. These changes tore away many elements of the federal economic safety net that once protected people when they fell upon hard times.

As flaws in this draconian bill come to light, Congress and the President may consider additional modifications to its far-reaching provisions. Proposals to reform and restructure Medicare and Medicaid are also likely in the 105th as legislators seek additional places to reduce spending.

Advocates will be working to ensure adequate funding for Indian health care through Medicaid, the IHS, and tribally owned and operated facilities. Tribal advocates will be working to assure that, under the new law, federal funding will come directly to tribal government rather than being distributed through state government block grants. (Reprinted from Friends Committee on National Legislation (FCNL) *Indian Report*.)





Legislation with Native American provisions passed by the 104th Congress

Bill No.	Sponsor	Title of Legislation	P.L. Date	P.L. No.
H.R. 402	Young, D.	Amendments to the Alaska Native Claims Settlement Act	11/2/95	104-42
H.R. 421	Young, D.	Amendments to Alaska Native Claims Settlement Act to provide for purchase of common stock of Cook Inlet Region	5/18/95	104-10
H.R. 497	Wolf	National Gambling Impact & Policy Commission Act	8/3/96	104-169
H.R. 517	Richardson	Amendments to P.L. 95-550	5/18/95	104-11
H.R. 740	Skeen	Bill to confer jurisdiction to federal claims court with respect to Pueblo of Isleta Indian Tribe	9/18/96	104-198
H.R. 1358	Torkidsen	Bill to convey to Massachusetts the National Marine Fisheries Service laboratories	1/6/96	104-91
H.R. 1627	Biley	Food Quality Protection Act	8/3/96	104-170
H.R. 1944	Livingston	Additional disaster assistance for antiterrorism activities	7/27/95	104-19
H.R. 1975	Calvert	Federal Oil and Gas Royalty Simplification Act of 1995	8/13/96	104-185
H.R. 2036	Oxley	Land Disposal Program Flexibility Act	3/26/96	104-119
H.R. 2126	Young, C.	Defense Appropriations for Fiscal Year 1996	12/1/95	104-61
H.R. 2464	Hanson	Amendment to P.L. 103-93	10/1/96	104-223
H.R. 2512	Johnson, T.	Crow Creek Infrastructure Development Trust Fund of 1995	10/1/96	104-223
H.R. 2726	Gallegly	Bill to make technical corrections in laws relating to Native Americans	2/12/96	104-109
H.R. 2854	Roberts	Freedom to Farm Bill	4/4/96	104-127
H.R. 2880	Livingston	Balanced Budget Down Payment Act	1/26/96	104-99
H.R. 3019	Livingston	Omnibus Appropriations Bill for Fiscal Year 1996	4/25/96	104-134
H.R. 3034	Miller	Amendments to Indian Self-Determination and Education Assistance Act	4/25/96	104-133
H.R. 3068	Gutknecht	Request of Prairie Island Indian Community to revoke their charter under IRA	10/9/96	104-261
H.R. 3103	Archer	Health Insurance Reform	8/21/96	104-191
H.R. 3136	Archer	Line Item Veto Act, Debt ceiling Limit Bill, Senior Citizens Right to Work Act	3/29/96	104-121
H.R. 3215	Hayworth	Amendment to Title 18 to repeal provision relating to federal employees contracting or trading with Indians	8/6/96	104-178
H.R. 3230	Spence	National Defense Authorization Act of FY 1997	9/23/96	104-201
H.R. 3378	Young, D.	Amendments to Indian Health Care Improvement Act	10/19/96	104-313
H.R. 3448	Archer	Minimum Wage Increase Bill	8/20/96	104-188
H.R. 3603	Skeen	Agriculture Appropriations for Fiscal Year 1997	8/6/96	104-180
H.R. 3610	Young, C.	Defense Appropriations for Fiscal Year 1997	9/30/96	104-208
H.R. 3666	Lewis, Jerry	Housing and Urban Development Appropriations for Fiscal Year 1997	9/26/96	104-204
H.R. 3754	Packard	Legislative Branch Appropriations for Fiscal Year 1997	9/16/96	104-197
H.R. 3864	LaTourette	GAO Management Reform Act of 1996	10/19/96	104-316
H.R. 3973	Young, D.	Study of Recommendations of Policies Affecting Alaska Natives	10/9/96	104/270
H.R. 4167	Williams	Boxing Safety Act	10/9/96	104-272
H.R. 4194	Hyde	Administrative Disputes Resolution Act of 1996	10/19/96	104-320
H.R. 4236	Young, D.	Omnibus Parks and Public Lands Act of 1996	11/12/96	104-333
S. 1	Kempthorne	Unfunded Mandate Reform Act of 1995	3/22/95	104-4
S. 349	McCain	Reauthorization for Navajo-Hopi Relocation Housing Program	6/21/95	104-15
S. 377	McCain	A bill to amend a provision of Part A of Title IX relating to Indian Education	3/23/95	104-5
S. 441	McCain	Reauthorization of appropriations under Indian Child Protection and Family Violence Prevention act	6/21/95	104-16
S. 640	Warner	Water Resources Development Act	10/12/96	104-303
S. 641	Kassebaum	Ryan White CARE Reauthorization Act	5/8/96	104-146
S. 919	Coats	Child Abuse Prevention and Treatment Act Amendments of 1995	10/3/96	104-235
S. 1316	Kempthorne	Safe Drinking Water Act Amendments	8/6/96	104-182
S. 1341	McCain	Saddleback Mountain-Arizona Settlement Act	2/6/96	104-102
S. 1834	McCain	Reauthorization of the Indian Environmental General Assistance Program Act	10/2/96	104-233
S. 1970	McCain	National Museum of the American Indian Act Amendments of 1996	10/9/96	104-278
S. 1973	McCain	Navajo-Hopi Land Dispute Settlement Act	10/11/96	104-301
S. 2198	Stevens	Bill to Provide for an Advisory Committee on Intergovernmental Relations	10/19/96	104-328

Bad River and Red Cliff bands begin second ten-year fishing agreement for Wisconsin waters of Lake Superior

By Sue Erickson, Staff Writer

Odanah, Wis.—In December 1996 a new ten year commercial fishing agreement between the Red Cliff and Bad River bands and the State of Wisconsin was signed.

It will be effective until the year 2005, according to Ervin Soulier, director, Bad River, Natural Resources Department.

The agreement replaces the first ten-year agreement which expired in 1996 and applies only to the Wisconsin waters of Lake Superior, including management units W-1 and W-2.

The new agreement provides quotas for tribal commercial and subsistence fishermen and non-Indian commercial and recreational use. It also specifies regulations for commercial fishing activities and provides for enforcement of the agreement's provisions.

Soulier says that Bad River had two primary goals when entering into negotiations on the new ten-year agreement. One was to expand fishing opportunity for small boat fishermen and the other was to relieve some of the regulatory burden on tribal commercial fishermen. He feels progress was made towards both goals.

Regulation of tribal commercial fishing activities has many levels of control, Soulier says. For instance, fishing opportunity is controlled through established refuges, through net size restrictions, quotas, and limits on net footage used by fishermen.

In addition to these, the old agreement had a "trigger mechanism," which the tribe felt was unduly burdensome given all the other regulatory controls in place. In the new ten year agreement the trigger mechanism was lifted and is no longer part of the regulatory control system, Soulier says.

Provision for a tribal small boat fishery was also made by establishing a new tribal small boat zone in the southwest corner of the Gull Island Refuge. According to Soulier, providing more opportunity to small boat fishermen is important in order to be sure that Lake Superior's fishery resources are more accessible to the entire tribal community.

In exchange for eliminating the trigger mechanism and the new small boat fishing zone, the State received an area designated for recreational use between Bayfield and Madeline Island. In that area tribal commercial fishing is limited to waters which are 19 fathoms or deeper. This is actually a small central strip of water between the mainland and the island.

Under both the old and new agreement state and tribal fisheries personnel are required to perform frequent on-board harvest monitoring. Fishery technicians record data for important fish species, such as lean lake trout, whitefish, lake herring, siscowet, and others.

This Catch Per Effort (CPE, meaning number of fish per 1000 ft. of net) data is used to determine effort restrictions that are designed to ensure that harvest quotas are not exceeded, Soulier says.

Quotas established in the new agreement provide the State users with a total of 44,800 lake trout annually; Bad River with 27,400 annually; and Red Cliff with 29,400 annually in the Wisconsin waters of Lake Superior.

Assessment fisheries also operate under quota. State assessment, including the National Biological Survey, is allotted a total of 1,800 lake trout and tribal assessment a total of 1,000 lake trout. Combined quotas make a total of 104,400 lake trout. In the previous five years the total combined quota was 81,200 lake trout annually.

The Bad River band licenses five big boat fishermen and twenty-two small boat fishermen. Red Cliff licenses twelve big boat fishermen and twenty-eight small boat fishermen.

Target species are whitefish and herring, because the market is more constant for these fish, Soulier says. Lake trout is currently a less important fish to commercial fishermen because the market for lake trout is more seasonal.



Red Cliff commercial fisherman Don Day shows a youth how to construct a gillnet during a one day workshop at the Red Cliff Youth Center. Day quickly attached the net to the rope, but the youth found the process much slower. However, they were there to learn. (Photo by Sue Erickson)

White Pine Mine continued

(Continued from page 20)

The EAn process is broader in scope and seeks to incorporate more stakeholder involvement. The EAn looks at sociological, economic, cultural, as well as environmental impacts of the proposed mine.

Earlier public hearings brought reams of questions and concerns to the attention

of the EPA in regard to a broad spectrum of issues regarding the White Pine Mine's proposed operation. Wide-ranging public involvement convinced the EPA to perform the EAn in addition to the permit process.

In order to address the multiple issues, the EPA appointed teams to study each of four areas. The teams have the responsibility to provide information and review and comment on reports prepared by EPA contractors.

The contractors will review information and data and will write the EAn, says Donna Lynk, Bad River realty specialist and member of the Environmental Analysis Tribal Culture and Resources Group.

Tribal participation is present on all four teams formed, including: 1.) Tribal Culture and Resources Group; 2.) Transportation Analysis Group; 3.) Economic Impact Analysis Group; and 4.) Environmental Impact Analysis Group.

Each team has a group leader from the EPA. Team composition varies as far as representation, however, with representatives from CRC, Wisconsin Central Railroad, several federal agencies, and EPA contractors.

Tribal representatives come from Bad River, Red Cliff, and Keweenaw Bay Ojibwe bands, GLIFWC, and the Bureau of Indian Affairs.

Since the draft EAn is due on July 1,

1997, the teams must address many of the issues this spring, Lynk says. Public hearings are estimated to begin in August 1997 with public comment concluding in September 1997. The EAn is scheduled to be completed by November 1, 1997.

Numerous concerns over environmental safety issues related to CRC's White Pine Mine initially surfaced last summer when the Bad River band halted shipments of sulfuric acid across the reservation lands, questioning the safety and maintenance of the tracks owned by Wisconsin Central Railway.

The sulfuric acid was en route to the White Pine Mine to be used in leaching copper from the old copper mine site.



Let sleeping logs lie?

Tribes question impact of underwater log removal

By Sue Erickson
Staff Writer

Odanah, Wis.—A sudden flurry of applications for underwater logging permits in Lake Superior has raised some questions for both the Red Cliff and Bad River bands of Ojibwe about the impact of the procedure on the lake's ecosystem and natural resources.

Major concerns cited by the Bad River band include potential disturbance of fish habitat, particularly spawning grounds, and the risks associated with disturbing the sediment, such as the re-suspension of pollutants in the water.

Over 190 applications for underwater log salvage permits have been submitted to the State Commissioner of Public Lands recently, flooding the small state office responsible for reviewing the applications and making a permit determination, according to Ann Barnes, Bad River Environmental Specialist.

Most of the applications are from Lake Superior Water-Logged Lumber, and a few are from Jake, Inc.'s, both from the Ashland, Wis. area.

1991 legislation sponsored by Rep. Barbara Linton set up a regulatory base for underwater logging in Wisconsin waters of Lake Superior and removed a legal provision (chattel law) requiring a year's waiting period before possessing abandoned property, in this case, the submerged logs.

However, Linton says that at the time she had no conception that the demand for the logs would grow to this extent. Linton stated in a March 5th interview that she is considering further legislation that may more adequately regulate the industry.

Linton said that sportsmen and charter operators have also expressed concern over the potential adverse impact of log removal.

Roger LaPenter, owner of Anglers All, Ashland, stated that he is adamantly opposed to underwater logging because of the potential disruption of fish habitat and

sediment. LaPenter has contacted a variety of sports groups statewide, such as Trout Unlimited and Badger Fly Fishermen, who have written letters in opposition, he says.

Although the State Commissioner of Public Lands makes the permit determinations, the permits are only issued after being reviewed by the Wisconsin DNR, and the State Historical Society, Barnes says. Separately, applications are also sent to the U.S. Army Corps of Engineers for review.

A February 27th meeting in Madison brought together tribal representatives, individuals from the industry, Rep. Linton, and state and federal agencies involved in the permitting process. Barnes was pleased that a government-to-government relationship was acknowledged throughout the meeting.

Because of the lack of clear guidelines in the permitting process, Barnes said that those involved will be looking for areas to log this summer that would not be objectionable to any party including tribes.

This would allow the industry to progress, while review of more controversial areas takes place.

In the meantime, better methods of reviewing the permits will be sought, including interagency coordination and more complete legislation.

"Bad River's major concern is about the overall impact on sensitive areas such as the Kakagon Slough, Honest John Slough and any negative affects it might have on the fishery and subsistence harvest," Barnes said. "The Tribe will look at it on an ecosystem basis."

Bad River Biologist Tom Doolittle, repeats Barnes' concern about the impact on the Tribe's subsistence and commercial fishery in Lake Superior. "Some of the areas targeted by the industries are in critical fishery sites," he says, "staging, nursery, and spawning areas could be affected."

Species such as lake sturgeon, who feed in the summer along the mouth of the Bad River, as well as walleye, northern pike and salmonids could all be potentially affected by the logging endeavor.

Doolittle says that some sites may be fine, while others may not be, such as the area around the Ashland oredock in Chequamegon Bay where sediment may have creosote mixed with sawdust, slab wood, and possibly contaminants.

Disturbance of the logs and sediment could put the contaminants back into the water and could affect fish, birds, and human health in some areas, Doolittle states.

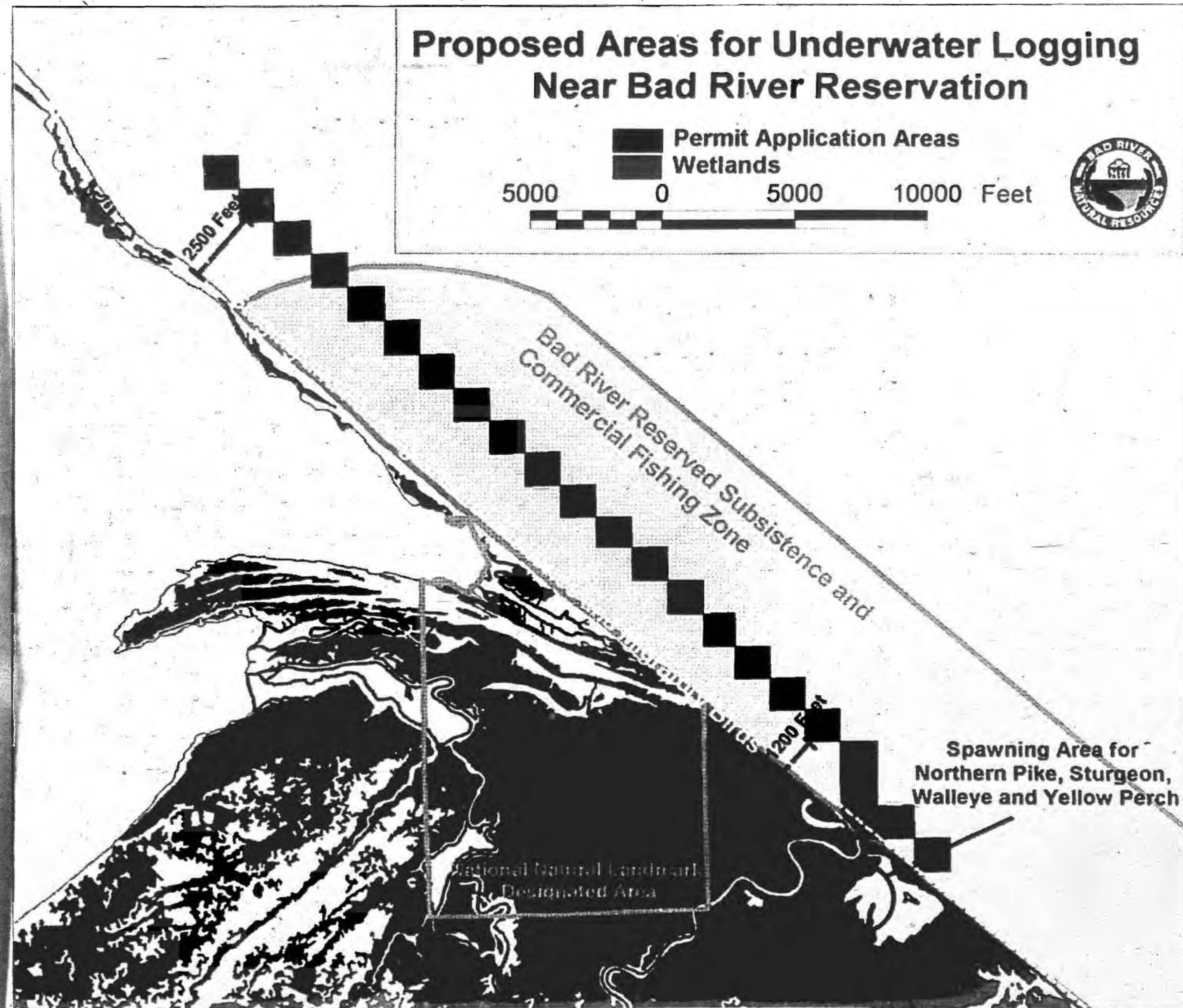
He feels actions such as these could directly conflict with important initiatives such as the Binational Forum's program to promote zero discharge and the virtual elimination of persistent toxic chemicals in Lake Superior. This should be considered by permit reviewers.

Doolittle also questions compliance with the National Oceanic and Atmospheric Association (NOAA) guidelines for divers' safety, especially in deep or badly polluted waters.

"Bad River recommends that the permits be reviewed case by case and by all parties involved," Doolittle states, noting that the Tribe has cultural ties to the Lake and to the logging era in addition to stakes in the fishery, wild rice beds, and other equally important tribal natural resources.

Bad River's official name is the "Bad River Band of Lake Superior Chippewa Indians," Doolittle comments. The long-standing importance of the lake and its resources to the community is reflected by its inclusion in the Band's name.

The Megis Shell guided the Ojibwe people to the Lake Superior region hundreds of years ago. They have lived on its shores for centuries and depended on its bounty. Keeping Lake Superior healthy, is part of keeping the community healthy.



Tribal wardens "break the ice" during ice rescue training sessions



Bay Mills, Mich.—The first of two ice rescue training sessions this winter was completed at the Bay Mills Indian Community in Michigan last February. The second session ran in Ashland, Wisconsin during March. GLIFWC Sgt. Jack Lemieux instructed both courses, which combine classroom training and hands-on-experience during cold water rescue. Above, participants, clad in wet suits, pose on the ice with instructor Jack Lemieux (in camouflage gear).



Bill Scofield, Bay Mills warden, prepares to rescue a "victim" who has fallen through the ice during the ice rescue training session for tribal wardens in Bay Mills, Michigan. Scofield will secure his rescue line to the victim so he/she can be pulled out of the water to safety.

—Photos by Amoose

Wildlife management plan continued

(Continued from page 5)

The Bands' initial five-year wildlife plan provides for the harvests of bear, deer, moose, wild turkeys, and furbearers. The Bands agree to manage many species on a quota basis, including bear, antlerless deer, wild turkey, fisher, bobcat, and otter. The wildlife plan adopts the procedures for determining wildlife harvestable surpluses that the Bands and State have agreed to.

The plan provides that antlerless deer harvest will be managed consistent with the State's current management unit system. The process presently used by the State for establishing antlerless deer quotas for each unit will continue with full participation by the Bands.

Quotas

The plan limits the Bands' total annual antlerless deer quota to 900 deer (see Figure 1) and to no more than 50% of the total quota in any management unit. This represents about 7% of the State's average annual antlerless deer harvest in the ceded territory.

Bear harvest is limited to 35 each year, with a maximum of 10 in bear management unit 45 and 25 in unit 52. Wild turkey harvest is limited to 50% of the harvestable surplus of bearded turkeys in the State's turkey management zones.

Similarly, annual fisher, bobcat and otter treaty quotas may not exceed 50% of the harvestable surpluses for these species in the ceded territory. Tribal moose harvest will be closed in deer registration block 184 pending further study and harvest in the remainder of the ceded territory is limited to 5 moose per year.

Notification

As with fish harvest declarations, the plan also requires the Bands to notify the State of their treaty quota declarations for wildlife species at various times of the year. For example, the Bands must notify the State of their antlerless deer quotas no later than August 10 of each year.

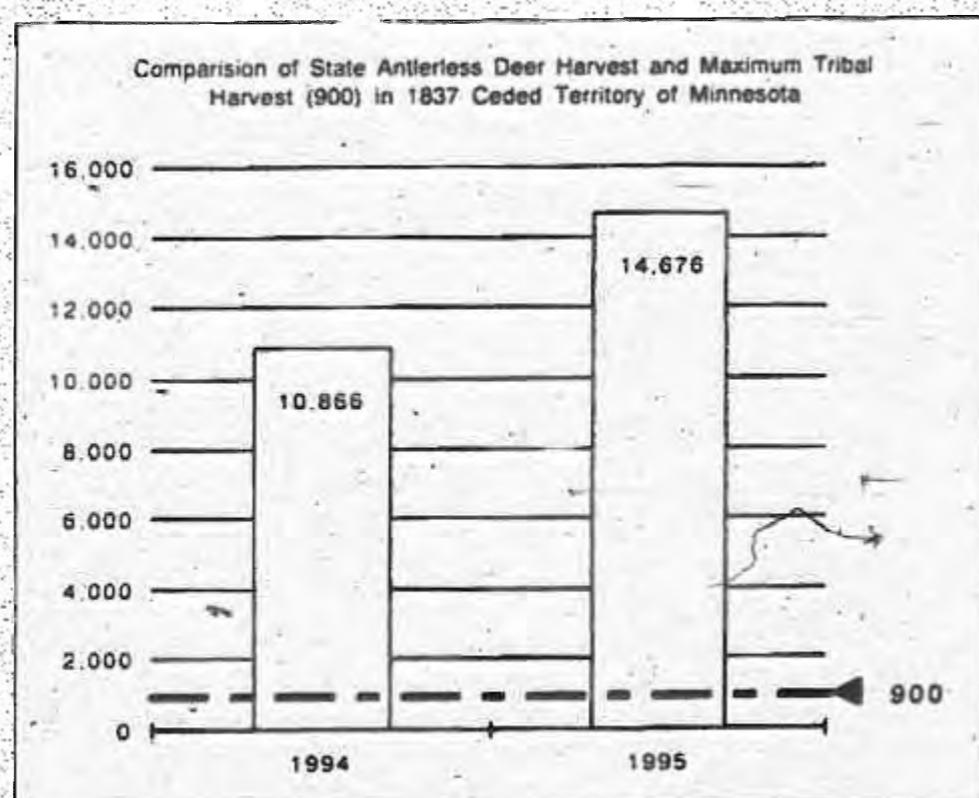


Figure 1.

Tribal conservation codes

In the lawsuit, the Bands proposed a set of regulations that they would adopt to govern exercise of the treaty rights. This proposal—referred to as the Model Code—sets forth specific rules that would apply to the wide range of hunting, fishing and gathering activities that members may undertake.

These rules are based upon the requirements of the resource management plans and are summarized in more detail in another article (see 1837 treaty regulations). The federal court has approved the Model Code.

Before treaty harvest may begin, the Bands must enact regulations into tribal law that are based upon the Model Code. These tribal regulations will control treaty harvest activities, not state regulations.

Members will need tribal permits, not state permits. Members will be governed by the regulations adopted by their own band, and any alleged violations of those regulations will be prosecuted in their band's court.

The Bands have agreed to authorize their tribal conservation wardens, GLIFWC's wardens and the Minnesota DNR's wardens to enforce the ceded territory conservation codes. As discussed in another article (see enforcement, page 8) ceded territory law enforcement training is underway and enforcement plans are being developed by all agencies involved.

Cooperative management agreements

Five agreements between the Bands and the State govern cooperative management in the Minnesota 1837 ceded territory. These agreements establish two joint Band/State committees, one for fishery issues and the other for wildlife and wild plant issues.

These agreements require regular, on-going information exchange regarding the status of natural resources, scientific investigations, and harvest data. Population assessments, surveys and the research will be coordinated, and results will be shared, jointly analyzed, and made available to the public.

The fisheries and wildlife/wild plant committees are the primary cooperative management bodies where information will be exchanged, harvestable surpluses will be determined, possible regulatory changes will be discussed, and issues will be resolved.

The Bands and State have agreed to mediate any unresolved disputes. If mediation fails, either party may ask the court to resolve the matter pursuant to the court's continuing jurisdiction.

Tribes showcase multi-faceted programs in Madison

By Sue Erickson, Staff Writer

Madison, Wis.—Tribal and state representatives from Wisconsin enjoyed a State Recognition Reception at Inn on the Park, Madison on March 5th.

Sponsored jointly by the Great Lakes Inter-Tribal Council (GLITC) and the Great Lakes Indian Fish and Wildlife Commission (GLIFWC), the event provided an opportunity to showcase many tribal programs, discuss issues, and become better acquainted.

During a brief program GLIFWC recognized Jack Troyer, former Forest Supervisor for the Chequamegon and Nicolet National Forests, for his work with the tribes on forestry management issues.

A resolution from the GLIFWC Board of Commissioners commended Troyer for his recognition of tribal sovereignty and pursuing a government-to-government relationship with the tribes.

Recognition was also given to the Chippewa Flowage, Round Lake, Lac Courte Oreilles Association, with representatives Al Reineman, Hayward, and Mic Isham, LCO, standing up for the group.

The group has been instrumental in a number of joint lake/fishery management projects successfully carried out over the past several years.

Patty Loew, Wisconsin Public Television, Madison, was also recognized, along with her husband, David Braga, Bragavision, who was unable to be present, for their outstanding work on GLIFWC video projects.

During the course of the evening attendees were able to enjoy a taste of traditional Ojibwe cuisine, including venison, lake trout, walleye, wild rice and fry bread.

They were also able to visit displays on tribal programs including natural resource management, education, tribal colleges, elder programs, social services, and casinos.



Mic Isham, Lac Courte Oreilles, receives a gift of wild rice from Jim Schlender, GLIFWC executive administrator (right) and Tom Maulson, GLIFWC Chairman of the Board and Lac du Flambeau Tribal Chairman, for his work with the Chippewa Flowage, Round Lake, Lac Courte Oreilles Association. (Photo by Amoose)



Patty Loew, Wisconsin Public Television, Madison, was also recognized, along with her husband, David Braga, Bragavision, for their outstanding work on GLIFWC video projects. (Photo by Amoose)

Basic issues and facts

(Continued from page 13)

by the amount of quota remaining or by other agreed-upon formulas. When the quota for any species of fish has been taken, whether by spearing or by netting, gill netting in that water body must cease for the remainder of the season.

The Bands' regulations may be enforced by GLIFWC, Band and Minnesota DNR wardens.

The Bands have authorized GLIFWC, Band and DNR wardens to enforce their ceded territory codes. Ceded territory enforcement of the codes is being coordinated by GLIFWC which developed an enforcement plan to ensure that sufficient wardens will be on-duty during spearing and netting activities. The Bands regulations will be enforced into Band courts.

Joint Band/State technical committees will be the primary cooperative management bodies.

These committees are comprised of Band and State representatives. Their primary purpose is to facilitate free and open communication regarding resource management in the ceded territory. They will be responsible for trying to reach agreement on resource issues, making harvestable surplus determinations, coordinating resource surveys and research,

reviewing proposed changes in regulations, and attempting to resolve any disputes before mediation is invoked.

Treaty harvest in Wisconsin has not harmed the resources and presently takes place without the threat of violence or protest.

Since the mid-1980's when the Voigt decision reaffirmed the 1837 and 1842 treaty rights in Wisconsin, treaty harvest has been undertaken without harm to the resources under strict regulations. Wisconsin ceded territory regulations are basically the same as the Bands' regulations for Minnesota, including the strict on-site fish counts and other monitoring for open-water spearing and netting. The types of anti-treaty violence and protests that took place in the initial years are no longer experienced, and treaty harvest takes place peacefully.

Treaty harvest has not hurt property values or tourism in Wisconsin.

Studies have shown that: 1) lake front property values in the most heavily-speared Wisconsin counties have increased considerably since 1983, the year of the Voigt decision, and 2) tourism has increased substantially in Wisconsin since the reaffirmation



Tribal hatcheries released more than 58 million fish into both on and off-reservation waters in 1996

Fish hatcheries play an important role in co-managing inter-jurisdictional fishery resources. Midwestern tribes have responded to the modern day challenges of multi-jurisdictional resource management in their unique role as users and managers on over 900,000 acres of reservation inland lakes, treaty ceded territories and the Great Lakes.

There are currently fifteen tribal fish hatcheries and/or rearing components in the Minneapolis Area of the Bureau of Indian Affairs (BIA).

Red Lake and Lac du Flambeau are the oldest hatcheries, being established in 1929 and 1936, respectively.

These reservations in serving tribal subsistence and commercial needs are also contributing significant fish stocks to reservation waters fished by over 95% non-Indian anglers.

The USFWS and state Departments of Natural Resources also play an active role in stocking fish as a management tool in reservation waters.

Tribal Hatchery/Rearing Component	Fry	Walleye Fgl.	Yrl.	Muskellunge Fry	Muskellunge Fgl.	Yellow Perch	Lake Sturgeon	Largemouth Bass	Whitefish	Brook Trout**	Rainbow Trout**	Lake Herring	Lake Trout	White Sucker	Total
Bad River	8,909,800														8,909,800
Fond du Lac															0
Grand Portage															0
Keweenaw Bay													115,000		115,000
Lac Courte Oreilles	6,800,000	3,000		120,000	30										6,923,030
Lac du Flambeau	15,000,000	32,875		1,500,000	677					17,250				10,000,000	26,550,802
Lac Vieux Desert															0
Leech Lake	6,200,000	57,386				689			199,495			42,310		1,848,000	8,347,880
Menominee	400,000*	20,000					1,820*	450*			3,200*				425,020
Mole Lake															0
Red Cliff	560,000	7,662									14,018		51,827		633,507
Red Lake						13,000		5,000*			8,000*				26,000
Sault Ste. Marie	4,100,000	110,683	41,954												4,252,637
St. Croix	1,600,000	178,732													1,778,732
White Earth		120,000													120,000
TOTALS	43,569,800	530,338	41,954	1,620,000	1,396	13,000	1,820	5,450	199,495	42,468	42,310	166,827	11,848,000		58,082,408

*Fish produced or obtained by the U.S. Fish & Wildlife Service (USFWS)

**Total number of one or combination of trout species

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MASINAIGAN (Talking Paper) is a quarterly publication of the Great Lakes Indian Fish & Wildlife Commission, which represents eleven Chippewa tribes in Michigan, Minnesota and Wisconsin. GLIFWC's member tribes are listed to the right.

Subscriptions to the paper are free, write: MASINAIGAN, P.O. Box 9, Odanah, WI 54861, phone (715) 682-6619, or e-mail: pio@win.bright.net. Please be sure and keep us informed if you are planning to move or have recently moved so we can keep our mailing list up to date.

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Letters to the editor and guest editorials are welcomed by MASINAIGAN. We like to hear from our readership. The right to edit or refuse to print, however, is maintained. All letters to the editor should be within a 300 word limit.

Letters to the editor or submitted editorials do not necessarily reflect the opinion of GLIFWC.

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